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STATE OF MICHIGAN  
COUNTY OF OTTAWA

IN RE: FAIRFIELD FARMS DRAIN  
BOARD OF DETERMINATION

Proceedings commenced at 11:00 a.m., on Thursday, July  
30, 2020, at the Holland Charter Township Fire Department,  
Station 1, 131 Riley Street, Holland, Michigan, held before  
Marjorie A. Covey, CSR-2616, Certified Shorthand Reporter and  
Notary Public.

APPEARANCES:

- Mr. Joe Bush, Ottawa County Water Resources Commissioner
- Mr. Chad Meints, Water Resources Chief Deputy
- Ms. Sara Hirst, Secretary to Water Resources Comm.
  
- Mr. Bill Cargo, Board Chairperson
- Mr. Ken Souter, Board Secretary
- Mr. Rich VanderKlok, Board Member
  
- Mr. Steve Bulthuis, Manager, Holland Charter Township
  
- Mr. Lucas Timmer, Engineer, Prein & Newhof
- Mr. Ken Bosma, Engineer, Prein & Newhof

1 Holland, Michigan

2 July 30, 2020 - 11:01 a.m.

3 PROCEEDINGS

4 WATER RESOURCES COMM. JOE BUSH: Well good morning,  
5 gentlemen. Thanks for coming to the Board of Determination  
6 at Holland Fire Department. Usually it's at the Holland  
7 Township, but this morning we have the fire department.

8 So thanks for coming for the Fairfield Farms Drain  
9 Board of Determination.

10 You're probably like, what is this, what's this all  
11 about, why are we here this morning.

12 So a little bit of history; Holland Township has  
13 been petitioning us for orphan drains. This is declared as  
14 an orphan drain so the township, road commission, who is  
15 usually here, they couldn't be here this morning, or the  
16 county, we don't have any jurisdiction, nor is it part of our  
17 infrastructure as part of the county drain legally.

18 So we're here today to hold a Board of  
19 Determination. And what that means is I have to pick three  
20 people, and these three gentlemen have been on many, many  
21 board meetings.

22 You're probably like, why is it at 10 o'clock in  
23 the morning, why not at night? Well to get their schedules  
24 and then to get these scheduled and get her schedule -- we  
25 have a court reporter because everyone of these board of

1 determinations are court recorded word for word for your  
2 protection and my protection, so we can look at it later and  
3 say, what did I say, what was said, what is Joe doing or the  
4 township or whatever, so everything is court recorded word  
5 for word.

6 So when we get petitions, we have to hold a Board  
7 of Determination by Drain Code and that's why we're here this  
8 morning and that's for an orphan drain. Sometimes it's for  
9 an orphan, sometimes for an extension of a branch.

10 Some of you might have been in the Drain 52 notice  
11 that went out and that's adding a branch to another existing  
12 drain. The particular branch that we're looking at doing is  
13 an orphan drain.

14 Part of Noordeloos Creek, and we can answer  
15 questions later, but part of Noordeloos Creek is an orphan  
16 and I don't have any jurisdiction over it.

17 And the people petitioned me for that. People in  
18 the downstream end petitioned me so I have to hold a Board of  
19 Determination by Drain Code.

20 But this one today that we're dealing with that's  
21 up there and on this board is the Fairfield Farms Drain.

22 So over the past, since I've been elected we've  
23 been establishing --

24 UNIDENTIFIED SPEAKER: Can you define what you mean  
25 by orphan?

1                   WATER RESOURCES COMM. JOE BUSH: So orphan means  
2 that nobody has any ownership.

3                   So there is some storm sewer in the road and there  
4 is some storm sewer that goes through some people's property,  
5 I don't know if either of you gentlemen live on -- when you  
6 look at the screen up there, there you go. Lucas had a  
7 pointer.

8                   So that if anything fails in that blue line system,  
9 which is the drain as it is today, then the road commission  
10 typically won't fix it unless it's something really, really  
11 bad, and it's a safety issue; or in the backyard drainage  
12 there is a pipe failure, a sink hole, the pipe collapses, an  
13 orphan means nobody will be able to fix it.

14                  Typically the people in the bottom end don't want  
15 to take everybody else's water and have to pay for it at the  
16 same time.

17                  So an orphan means I don't have any easements, I  
18 don't have a route and course, nor is it under my  
19 jurisdiction. It's under nobody's, not even usually the  
20 association.

21                  And the township can't spend public funds, or  
22 Ottawa County or the road commission, without it being a  
23 county drain. So that's what this process is today.

24                  And Bill, who will probably be the chair of this  
25 three-panel board today, he can kind of walk through that

1 quickly of what that means.

2           Yeah, that's an orphan. That means it's just out  
3 there. And there is about 70 of these left, orphans. We've  
4 been trying to tackle 10 to 15 a year. And the township is  
5 petitioning me those because infrastructure over time ages  
6 and has issues.

7           At some point or another there will be issues on  
8 this storm sewer, and we want to make it to be a county drain  
9 hopefully, if these three gentlemen decide that, so then if  
10 there is an issue, they call me, we have a staff, we have the  
11 contractors on hand to go and fix it and get prices and do  
12 all the legal stuff and actually pay for it.

13           So that's kind of what an orphan is.

14           UNIDENTIFIED SPEAKER: Thank you.

15           WATER RESOURCES COMM. JOE BUSH: You're welcome.

16           So the township has been doing this, and the  
17 township been covering the costs. Like today's Board of  
18 Determination, there is a cost for this and for the  
19 engineering and everything else. And the township picks that  
20 cost up, because they feel that they want to do what's best  
21 for their constituents, for a master plan to get all the  
22 infrastructure for storm sewers under our jurisdiction so  
23 there is somebody to call when there is an issue.

24           This is one of many. We have another one after  
25 this one and we had one before you guys, another orphan

1 drain.

2           So that's why we're here. Then I have to, for a  
3 Board of Determination, I have to pick a three-panel board.  
4 And I have to pick people who are not affiliated with  
5 anything with this area, they don't live here, they don't  
6 live in Holland Township and they don't have any properties  
7 or rentals or anything to do with this drain district.

8           And then I have to pick people who are usually  
9 pretty familiar with Drain Code and understand how drainage  
10 works and kind of understand why we're here today. And most  
11 of them were in local government or have been or are part of  
12 the road commission and understand drainage, which is  
13 probably one of the most important pieces in understanding  
14 public comment and testimony. Because they want to hear both  
15 sides of the issues.

16           So that's why we're here today. And once I give  
17 the oath to these three gentlemen, they will be actually be  
18 running the hearing. It won't be me. If there is any  
19 questions, you can refer them to me through them or the  
20 engineers, and then that's after the oath.

21           So currently I'll go ahead and do introductions and  
22 we will go from my right to left.

23           On the far right is Rich VanderKlok, and he is from  
24 Georgetown Township, he's a board member over there.

25           In the center is Bill Cargo. He's actually Grand

1 Haven Township's superintendent or manager.

2 And then on the left is Ken Souter. Ken has 40  
3 years at the Ottawa County Road Commission in the engineering  
4 department, and he's retired now.

5 But these three gentlemen have been on many, many  
6 boards and they understand everything that we talk about when  
7 it comes to drainage, Drain Code, how local government works,  
8 and they're very good at kind of explaining why they're here  
9 today.

10 Again I just want to repeat they have no  
11 affiliation with anything in this drain district and this is  
12 all through Drain Code.

13 And then we have Margie, everything is court  
14 recorded. That is not required by Drain Code, but I want  
15 everything to be recorded so we can go back and reference  
16 something, whether it's five, ten years from now. You go to  
17 miottawa.org, you can look under all the board of  
18 determinations. There is meeting minutes and that's her  
19 court recorded minutes. So you can just kind of reference  
20 those down the road.

21 And then Steve Bulthuis, he is the Holland Township  
22 Manager. And the engineers today are Ken Bosma and Lucas  
23 Timmer, and they're both from Prein & Newhof who they usually  
24 do a lot of these BODs for us. They're very familiar with  
25 Holland Township and kind of -- he'll have a presentation and

1 walk through that process.

2           So when you do, if you have public comment, please  
3 come to the podium, give your name and address and speak  
4 loudly.

5           I do have my mask down; according to the executive  
6 order, if you're giving a presentation, you can have your  
7 mask off so people can hear you. But I'll put it back on for  
8 the protection of people but that's why it's not currently  
9 on.

10           I think that's all I have for now, but I'll give  
11 these gentlemen the oath and they'll run the meeting and move  
12 forward.

13           So thank you for your time this morning.

14           Gentlemen, please rise, raise your right hand.

15           Do you each solemnly swear that you will faithfully  
16 perform and discharge the duties imposed upon you, as  
17 required by law, as members of the Board of Determination,  
18 appointed by the Ottawa County Water Resources Commissioner  
19 to determine the necessity to locate, establish and construct  
20 a proposed Fairfield Farms Drain located in Holland Charter  
21 Township, in said county, gentlemen?

22           BOARD MEMBER BILL CARGO: I shall.

23           BOARD MEMBER RICH VANDER KLOK: I will.

24           BOARD MEMBER KEN SOUTER: I will.

25           WATER RESOURCES COMM. JOE BUSH: Thank you.



1           BOARD MEMBER BILL CARGO: The first thing we need  
2 to do as a board is the election of the chairperson and  
3 secretary.

4           Do I have a motion to elect a chairperson?

5           BOARD MEMBER RICH VANDER KLOK: I would move that  
6 Bill Cargo be elected as chair.

7           BOARD MEMBER KEN SOUTER: I'll second that.

8           BOARD MEMBER BILL CARGO: We have a motion and  
9 support to elect Cargo as chairperson.

10          All in favor, say aye.

11          BOARD MEMBER KEN SOUTER: Aye.

12          BOARD MEMBER BILL CARGO: Aye.

13          BOARD MEMBER RICH VANDER KLOK: Aye.

14          BOARD CHAIRPERSON BILL CARGO: And it is passed  
15 unanimously.

16          I will make a motion that Ken Souter be appointed  
17 as the secretary for this board of review.

18          Do I have support?

19          BOARD MEMBER RICH VANDER KLOK: I'll support that.

20          BOARD CHAIRPERSON BILL CARGO: And so we have a  
21 motion by Bill, supported by Rich for Ken to be the  
22 secretary.

23          All in favor, say aye.

24          BOARD MEMBER KEN SOUTER: Aye.

25          BOARD CHAIRPERSON BILL CARGO: Aye.

1 BOARD MEMBER RICH VANDER KLOK: Aye.

2 BOARD CHAIRPERSON BILL CARGO: And that again is  
3 passed unanimously.

4 Now we also have a rule for public comment.  
5 Typically this is more important when we have very large  
6 audiences, today there is not. But you can summarize War And  
7 Peace in three minutes. And so we ask people to limit their  
8 comment to three minutes.

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

11 BOARD MEMBER RICH VANDER KLOK: I'll make that  
12 motion.

13 BOARD SECRETARY KEN SOUTER: I'll second that  
14 motion.

15 BOARD CHAIRPERSON BILL CARGO: A motion by Rich,  
16 supported by Ken to limit public comments to three minutes  
17 per person.

18 All in favor, say aye.

19 BOARD SECRETARY KEN SOUTER: Aye.

20 BOARD CHAIRPERSON BILL CARGO: Aye.

21 BOARD MEMBER RICH VANDER KLOK: Aye.

22 BOARD CHAIRPERSON BILL CARGO: And that is also  
23 unanimously adopted.

24 Now we're going to start out with comments from the  
25 township, the township superintendent or manager is here

1 today.

2 Steve, do you have any comments on this orphan  
3 drain?

4 HOLLAND TOWNSHIP MANAGER STEVE BULTHUIS: Yeah,  
5 good morning.

6 I just want to reiterate what was noted earlier,  
7 that the township has systematically been trying to take the  
8 orphan drains within the township and move them under the  
9 jurisdiction of the Ottawa County Water Resources  
10 Commissioner's office and that was the reason for the  
11 petition.

12 BOARD CHAIRPERSON BILL CARGO: And from what I  
13 understand, I think it was alluded to earlier, if this is an  
14 orphan drain, not under the control of any public entity,  
15 typically we can not spend public monies on a private drain.  
16 Is that true?

17 HOLLAND TOWNSHIP MANAGER STEVE BULTHUIS: Yes, it  
18 is.

19 BOARD CHAIRPERSON BILL CARGO: I also understand  
20 that for normal maintenance, minor maintenance, \$10,000 or  
21 less, that Holland Charter Township would simply pay that out  
22 of their general fund and not assess the property owners?

23 HOLLAND TOWNSHIP MANAGER STEVE BULTHUIS: That is  
24 correct.

25 BOARD CHAIRPERSON BILL CARGO: I appreciate that,

1 thank you, Steve.

2 Then we also have the engineering firm of Prein &  
3 Newhof, and one of their engineers, Lucas, is going to be  
4 giving a presentation, and he's gotten very good at this and  
5 can get through this fairly quickly, so we will have you walk  
6 through this fairly quickly.

7 ENGINEER LUCAS TIMMER: Thank you, Bill.

8 My name is Lucas Timmer, I'm an engineer with Prein  
9 & Newhof. We were hired by the Ottawa County Water Resources  
10 Commissioner to do some preliminary engineering on the  
11 Fairfield Farms orphan drain.

12 During the presentation I'll ask you to refrain  
13 from asking questions. You'll have an opportunity during  
14 public testimony to ask any questions about what was  
15 presented to you today.

16 The Fairfield Farms Drain is an orphan drain  
17 system. The definition of an orphan drain is that it is an  
18 existing storm water drain system that is without authorized  
19 local and county governmental jurisdiction and  
20 administrative, procedural and funding mechanisms to address  
21 current or future needs for maintenance and improvements.

22 As Steve mentioned, Holland Township is taking a  
23 proactive approach of establishing the orphan drains within  
24 Holland Township to make them county drains so that these  
25 orphan drains can then have a governmental unit connected to

1 it if it were to become an established county drain.

2 So as part of that process the township had to file  
3 a petition to establish a drainage district on June 3, 2020.  
4 And following that we were then required to have this  
5 Michigan Board of Determination meeting that gives residents  
6 within the drainage district the opportunity to present their  
7 case and also for the engineer to present their case on this  
8 orphan drain system.

9 So for Fairfield Farms Drain we began our  
10 preliminary engineering by reviewing utility record drawings,  
11 utilities being storm sewer, water main, sanitary sewer. And  
12 we also reviewed plat maps. Fairfield Farms plat was  
13 established in 1993. And as part of that establishment  
14 process it did not go through the formal process of getting  
15 the storm sewer as an established county drain. So right now  
16 the storm sewer as mentioned is an orphan system.

17 What we then did is we delineated a drainage  
18 district or a watershed boundary using county GIS contour  
19 data and aerials. Watersheds essentially are whatever runoff  
20 contributes to the storm water system, you would be  
21 considered included in that watershed.

22 We then visited the site to locate drain  
23 infrastructure and to confirm drainage patterns just to  
24 ensure what we did in the office matched up with what we were  
25 seeing on site.

1           So this slide here shows the red watershed boundary  
2 (indicating). Everyone within this watershed is considered  
3 contributing runoff to the proposed Fairfield Farms Drain.

4           The Fairfield Farms Drain currently starts up at  
5 Churchill Court. It runs to the south here (indicating),  
6 towards Deerfield Drive. It runs west along Deerfield Drive  
7 (indicating).

8           It drains into an easement between these two  
9 properties into this pond here that's located outside the  
10 plat (indicating). The pond then drains to the south in an  
11 unnamed watercourse that eventually drains into Drain Number  
12 52, or what's proposed to be Drain Number 52 or Noordeloos  
13 Creek.

14           So I'm guessing there is some questions on how you  
15 can be in more than one watershed. You guys are in the  
16 Fairfield Farms watershed, and then there are bigger  
17 watersheds that compromise these smaller watersheds.

18           So not only are you in the Fairfield Farms  
19 watershed, you would be in the Noordeloos Creek watershed,  
20 you'd be in the Lake Michigan watershed, you'd be in the  
21 Atlantic Ocean watershed, if that makes sense.

22           The next slide here just shows the drainage  
23 district boundary and the route and course with an aerial.

24           We do have a map located over here (indicating), so  
25 if you want to point out to the board where you live during

1 your public testimony, feel free to come to this board and  
2 point out where your parcel is located.

3 So following this presentation, the board will have  
4 a couple quick questions to the engineer, but then there will  
5 be an opportunity for public testimony.

6 The board will then determine after public  
7 testimony whether it's necessary for this petition to -- for  
8 the drain to be established based on public health, welfare  
9 and/or convenience.

10 If they deem that it's necessary for this orphan  
11 system to become a county drain, then it will become a county  
12 drain.

13 If after testimony they determine that it's not  
14 necessary, then no further action will occur, and the  
15 existing storm water system will remain as an orphan system  
16 with no governmental unit attached to it.

17 Steve mentioned this as well, but I would want to  
18 mention the second bullet point here (indicating). From what  
19 we've heard and seen we're not aware of any drainage issues  
20 in this drainage district. We're not aware of any problems  
21 with the storm sewer.

22 So today if this drain is deemed necessary by the  
23 Board to become a county drain, and there are absolutely no  
24 drainage issues, the cost of getting this established as a  
25 county drain is covered 100 percent by Holland Charter

1 Township. The property owners will not be assessed for any  
2 of those costs.

3           However, if we do find out today or in the days  
4 ahead or years ahead that there are drainage issues, what  
5 would happen then is we would go through a process where the  
6 Ottawa County Water Resources Commissioner would have Prein &  
7 Newhof review feasible projects to improve drainage. We  
8 would then select a project, we would conduct project design  
9 and survey, easement acquisition.

10           We would then go through a project bid and  
11 construction. And what would happen then is we'd have a day  
12 of review of apportionment where everyone within the  
13 watershed boundary would be aware of an upcoming assessment  
14 for the project.

15           So an apportionment is a percentage of your total  
16 costs, so you'd know your total costs by the time we bid the  
17 project out. And assessments then would be made to Ottawa  
18 County, the road commission, Holland Township, and individual  
19 property owners, if there were to be a project.

20           Down the road, say you live in your neighborhood  
21 ten years from now and you notice the sewer has collapsed and  
22 you're having major flooding issues, what you'd have to do  
23 then is you would go through a petition process similar to  
24 what we went through today, and there would then be another  
25 Board of Determination where we discuss what issues are going



1 on.

2 And then you would then have the opportunity then  
3 for the drain to be maintained. And those assessments again  
4 would be made out to Holland Township, the Ottawa County Road  
5 Commission, the property owners within the district and  
6 Ottawa County.

7 It's worth mentioning though if there is ever a  
8 minor issue, say there is a catch basin that has a lot of  
9 sand in it so it's not draining properly, Drain Code allows  
10 the Water Resources Commissioner to do that work if it's less  
11 than \$5,000 per mile per drain, they can do that work without  
12 a petition.

13 And often times too, like what Steve mentioned,  
14 those costs for any minor projects, say it's a 5,000 or  
15 \$10,000 cost, the township would cover up to \$10,000 of that  
16 cost and pay for it without the need for that being assessed  
17 out to the property owners.

18 That's the end of my presentation.

19 BOARD CHAIRPERSON BILL CARGO: Ken?

20 BOARD SECRETARY KEN SOUTER: I have a question.

21 ENGINEER LUCAS TIMMER: Yes.

22 BOARD SECRETARY KEN SOUTER: You covered the storm  
23 drainage system within the street and the outlet and the  
24 lower pond. I also see on your map there is an upper pond on  
25 that property.

1           Is that an open ditch line on the back side of  
2 those lots, or is that a tile drain system there too?

3           ENGINEER LUCAS TIMMER: Good question, Ken. I did  
4 not cover this, I should have during the presentation.

5           So there is a pond located here (indicating) on  
6 Community Thorn Church's property. The outlet is a storm  
7 sewer system that goes through an easement through these  
8 backyards and ends up draining then into this unnamed  
9 watercourse that ends up getting its way into Noordeloos  
10 Creek.

11           BOARD SECRETARY KEN SOUTER: That would be part of  
12 this --

13           ENGINEER LUCAS TIMMER: Correct.

14           BOARD SECRETARY KEN SOUTER: Okay.

15           ENGINEER LUCAS TIMMER: The intent would be to  
16 establish this pond, this pond, and that storm sewer system  
17 as a county drain (indicating).

18           BOARD CHAIRPERSON BILL CARGO: Thank you.  
19 Rich, any questions?

20           BOARD MEMBER RICH VANDER KLOK: No.

21           BOARD CHAIRPERSON BILL CARGO: Okay.

22           I appreciate the time.

23           A quick question, Lucas. Up to this point, before  
24 we realized this was an orphan drain, it was assumed that  
25 this was a county drain when the plats were established back

1 in 1993, I understand?

2 ENGINEER LUCAS TIMMER: That is correct.

3 BOARD CHAIRPERSON BILL CARGO: Okay. It was just  
4 that they hadn't done the paperwork properly when they  
5 created this subdivision?

6 ENGINEER LUCAS TIMMER: That's correct.

7 BOARD CHAIRPERSON BILL CARGO: Thank you very much.  
8 At this stage we're going to open it up for public  
9 comments.

10 I'll just remind everybody in the audience, both  
11 members, to just state your name and address, and then we --  
12 you can come up to the podium, if you want to take off your  
13 masks so that you can be heard clearly by Margie especially,  
14 I would appreciate that.

15 So in the second row, the individual on my right,  
16 would you like to make any comments?

17 MR. STEVEN SCHREMS: I just have a question.

18 BOARD CHAIRPERSON BILL CARGO: If you'd come up to  
19 the podium and give your name and address.

20 MR. STEVEN SCHREMS: Steve Schrems, 10233  
21 Strawberry Lane.

22 My only question, is looking at the map, the  
23 properties identified as 126, that boundary line goes halfway  
24 in between the property lots. I'm just wondering why that  
25 was put like that, halfway through.

1           BOARD CHAIRPERSON BILL CARGO: Lucas, if you could  
2 explain the elevations there.

3           ENGINEER LUCAS TIMMER: Yes.

4           So the reason why we put it like that was this,  
5 these backyards of these six properties (indicating) drain to  
6 the east, and they do not then make their way into the storm  
7 sewer system along Fairfield Drive here.

8           So that's why they were considered half in the  
9 district because the front part of their yard would end up  
10 getting into that storm sewer system, and the back portion of  
11 their yard then ends up getting into this field, and then  
12 we're not aware of how this field is tiled, but it's possible  
13 it ends up draining to the south and doesn't get into the  
14 storm sewer system in the road.

15           Does that make sense?

16           MR. STEVEN SCHREMS: Yes, it does.

17           Would that make any determination of how future  
18 assessments are made within these boundaries, how much they  
19 would be assessed?

20           ENGINEER LUCAS TIMMER: Yes. So, and Joe, you can  
21 add in on this too, but how the day of review of  
22 apportionments work is it's based on the area of land you  
23 have within the drainage district. It's also based on your  
24 land type usage.

25           That's often how Joe will do this. There is other

1 things he considers when he's coming up with an apportionment  
2 roll.

3 But it's worth noting that these property owners  
4 with half of their property in, would likely be paying less  
5 than the properties with their full property in.

6 BOARD CHAIRPERSON BILL CARGO: Lucas, would it also  
7 be fair that if there is a drainage district to the east,  
8 those back properties would then be assessed, if there was  
9 ever a drain project for outside of this district, they would  
10 be included in that assessment area?

11 ENGINEER LUCAS TIMMER: That is correct, Bill.

12 If this field here were ever to become a  
13 neighborhood (indicating), these backyards then would drain  
14 into the -- this drainage district so then they would be a  
15 part of that drainage district.

16 BOARD CHAIRPERSON BILL CARGO: And they could also  
17 be a part of the larger, what is it called, the 5 --

18 ENGINEER LUCAS TIMMER: Drain Number 52.

19 BOARD CHAIRPERSON BILL CARGO: So if there was ever  
20 an assessment to Drain Number 52, the backyard would be  
21 assessed in one area and the front yard might be assessed in  
22 another?

23 ENGINEER LUCAS TIMMER: Probably -- I'm not sure  
24 what Drain 52's boundary is. It's possible that this field  
25 is in Drain 52's boundary already.

1           So that would mean their whole parcel would be in  
2 the Drain 52 watershed.

3           BOARD CHAIRPERSON BILL CARGO: I appreciate that.  
4           Any further questions or comments?

5           MR. STEVEN SCHREMS: Just to note that that large  
6 parcel to the east of us is up for sale, and it could be  
7 changing quickly.

8           BOARD CHAIRPERSON BILL CARGO: Could be changing,  
9 absolutely.

10          MR. STEVEN SCHREMS: Thank you.

11          BOARD CHAIRPERSON BILL CARGO: The good news is if  
12 it's developed as a residential development or any other type  
13 of development, it will immediately be brought into the Water  
14 Resources Commissioner's responsibility.

15          MR. STEVEN SCHREMS: Thank you very much.

16          BOARD CHAIRPERSON BILL CARGO: Yes.

17          And the gentleman next to him, do you have any  
18 questions or comments?

19          MR. MICHAEL LYON: Yes, I do.

20          BOARD CHAIRPERSON BILL CARGO: Name and address if  
21 you'd come up.

22          MR. MICHAEL LYON: Michael Lyon, 10255 Strawberry  
23 Lane. It would be parcel 28 on this map right here.

24          First is you mentioned that when this plat was  
25 drawn up back in '93, it was assumed to be part of the Ottawa

1 County's jurisdiction, but it wasn't. So were we being  
2 improperly charged the whole time, or assessed for the  
3 previous 26 years?

4 BOARD CHAIRPERSON BILL CARGO: I don't think you've  
5 been assessed anything over the past 26 years, have you?

6 MR. MICHAEL LYON: I don't know.

7 BOARD CHAIRPERSON BILL CARGO: No, you have not.  
8 I'm saying you haven't.

9 MR. MICHAEL LYON: Okay.

10 BOARD CHAIRPERSON BILL CARGO: So you haven't been  
11 improperly assessed.

12 They may have spent public monies to maintain this  
13 orphan drain, and that's what we're trying to correct today.  
14 Because I suspect the drain commissioner has been in there  
15 cleaning out pipes or cleaning out storm ditches by the  
16 Ottawa County Road Commission or drain commission. So  
17 they've probably been maintaining this, they just didn't  
18 realize it wasn't part of their county drain system. That's  
19 why it's now considered an orphan drain.

20 MR. MICHAEL LYON: Okay. A second comment slash  
21 question is that you mentioned earlier that this has been  
22 determined if there was 100 percent of functionality in the  
23 system here, the landowners would not be charged anything or  
24 assessed anything to be pulled into this new way of doing  
25 things without being charged.

1           But then -- so what -- it seems a little squishy to  
2 me, so I'm leaning into next Monday's thing. I'm kind of  
3 concerned that if, okay, yes, today is 100 percent, but then  
4 Monday, we're not 100 percent here. So we kind of blindly  
5 went into saying that we will not be charged anything; but  
6 oh, by the way of back door, we're getting charged something  
7 here.

8           BOARD CHAIRPERSON BILL CARGO: I do want to make a  
9 point that first of all Holland Charter Township will pay the  
10 cost of establishing this as a county drain if this Board  
11 determines it.

12           MR. MICHAEL LYON: Okay.

13           BOARD CHAIRPERSON BILL CARGO: So that cost is  
14 there.

15           The other thing I want to determine is there is  
16 nothing that we are aware of that is wrong within this  
17 drainage district which is going to be called the Fairfield  
18 Farms Drain. That said, you are also part of a larger  
19 drainage district which is the --

20           ENGINEER LUCAS TIMMER: Drain Number 52.

21           BOARD CHAIRPERSON BILL CARGO: -- Drain Number 52.

22           If there is something wrong or if there is a  
23 project needed for Drain Number 52, regardless of whether  
24 Fairfield Farms is brought into the county system, you would  
25 be under the county system for Drain Number 52.



1 MR. MICHAEL LYON: Okay.

2 BOARD CHAIRPERSON BILL CARGO: So this is simply  
3 saying they're dealing with the drain system within this very  
4 small section of what is going to be maybe a larger Drain  
5 Number 52.

6 MR. MICHAEL LYON: Okay. I was concerned of it  
7 being a backdoor way of trying to --

8 BOARD CHAIRPERSON BILL CARGO: Not a backdoor way.  
9 This is an orphan drain, completely separate as far as the  
10 issues related to Drain Number 52.

11 MR. MICHAEL LYON: Okay. So then going forward  
12 would there be like some per mill assessment in all these  
13 things?

14 BOARD CHAIRPERSON BILL CARGO: They typically don't  
15 do a per mill assessment. If there is an assessment, it  
16 normally is not based on millage or the value of your  
17 property, it's based on what your property contributes to  
18 that watershed.

19 So for instance an industrial area that has a lot  
20 of impervious land, would pay a higher assessment than a  
21 residential. And also the larger the lot, the larger the  
22 assessment, and these are fairly small lots up there.

23 MR. MICHAEL LYON: It's actually nothing bigger  
24 than half an acre. So do they do a soil drainage test?

25 BOARD CHAIRPERSON BILL CARGO: They don't normally

1 get that -- parse it down to that degree. They know what the  
2 soils are in the area, they can take a look at what the  
3 impervious area for each of these lots is by looking at the  
4 aerial photographs.

5 But they don't go and do a soil test on each lot.  
6 That would be expensive and probably wouldn't add anything to  
7 any assessment formula that the Water Resources Commissioner  
8 would establish.

9 MR. MICHAEL LYON: Okay, thank you.

10 BOARD CHAIRPERSON BILL CARGO: Appreciate it.

11 That said, since we only have two members of the  
12 public here today, I am now going to close the public comment  
13 period, and we will turn it over to the Board Members.

14 And I'm going to start on my left with Rich.

15 Rich, do you have any questions or comments you  
16 would like to make after this public testimony?

17 BOARD MEMBER RICH VANDER KLOK: I have no  
18 questions. I do feel that it would be wise to bring this  
19 into the Ottawa County Water Resources Commission and this  
20 drainage district. So I would be in favor of adding that.

21 BOARD CHAIRPERSON BILL CARGO: Ken, do you have any  
22 questions or comments?

23 BOARD SECRETARY KEN SOUTER: No, but the Fairfield  
24 Farms Drain is now 27 years old, I mean so things can start  
25 happening. It shouldn't, but things can start happening and

1 this will give them a way to correct those situations if and  
2 when it does happen. So I'm in favor of it.

3 BOARD CHAIRPERSON BILL CARGO: I would also note  
4 that again I am in favor of this mainly because of two  
5 things; one is that it was assumed for decades that this was  
6 part of the Ottawa County drain system, the fact that there  
7 probably has been maintenance that was done on this, and also  
8 on the fact that eventually everything fails. We know that  
9 infrastructure is going to fail.

10 I think Holland Charter Township is very generous  
11 when paying a portion of what I would consider minor  
12 maintenance, something less than 10,000.

13 And also if there is major maintenance that has to  
14 occur or replacement, you'd want the county to pay an  
15 at-large portion, you'd want the road commission to pay an  
16 at-large portion, and you'd want the township to pay an  
17 at-large township, which they can't do if it's not part of  
18 the county drain system.

19 So that said, I will make a motion that the  
20 location, establishment and construction of the Brookview  
21 Drain --

22 THE REPORTER: I'm sorry, what drain?

23 BOARD SECRETARY KEN SOUTER: You said Brookview.

24 BOARD CHAIRPERSON BILL CARGO: You know what? I  
25 did. Because that's the motion in front of me and it was now

1 now changed.

2 I want to say the Fairfield Farms. I'm going to  
3 say this again.

4 I will make a motion that the location,  
5 establishment and construction of the Fairfield Farms Drain  
6 is necessary and conducive to the public health, convenience  
7 or welfare.

8 BOARD SECRETARY KEN SOUTER: I'll second that.

9 BOARD CHAIRPERSON BILL CARGO: So we have a motion  
10 by myself, supported by Ken.

11 Is there any further discussion?

12 BOARD MEMBER RICH VANDER KLOK: No.

13 BOARD CHAIRPERSON BILL CARGO: In that case, all in  
14 favor, say aye.

15 BOARD MEMBER RICH VANDER KLOK: Aye.

16 BOARD CHAIRPERSON BILL CARGO: Aye.

17 BOARD SECRETARY KEN SOUTER: Aye.

18 BOARD CHAIRPERSON BILL CARGO: And it is passed  
19 unanimously.

20 Margie, thank you very much for catching that error  
21 on my part.

22 As far as the next step, I'm going to turn it over  
23 to the Water Resources Commissioner who will talk about the  
24 appeals process.

25 WATER RESOURCES COMM. JOE BUSH: So you can appeal

1 today's Board of Determination ten days after today with  
2 probate, if somebody felt like they needed to appeal it. But  
3 I don't know if you two gentlemen want to do that but you  
4 can, it's your right, with probate, so not through our  
5 office.

6 Also I just want to make sure -- those were great  
7 questions and I appreciate the time that you guys took this  
8 morning to understand it.

9 I think the Drain 52, when you say Drain 52 a lot  
10 of you guys might know it as Noordeloos Creek. And I don't  
11 have any jurisdiction, it's an orphan creek per se and there  
12 is a lot of trees in, a lot of stuff in it.

13 I just wanted to clarify that was petitioned by  
14 people on the lower end and we were just adding a branch  
15 potentially. We'll have the same setup, I think it will be  
16 via Zoom because we had over 5,000 people in the mailing. So  
17 it's a big watershed but we won't be able to hold it in  
18 person like this.

19 So that's part of Noordeloos Creek, everybody knows  
20 it as Noordeloos but we call it Drain 52 because that's what  
21 it was petitioned as a branch of 52, which is a drain further  
22 to the north off of 112th. So it's a branch so that's what  
23 that is. Hopefully that kind of clarifies it.

24 Again it's still an orphan creek. The Noordeloos,  
25 people have been wanting to petition that for a number of

1 years and nobody wanted to take the bull by the horns except  
2 now with all the flooding this year.

3 Earlier this spring, with the water tables, the  
4 groundwater issues, all the rain events, there has been  
5 people down on the lower end like, hey. And it's their right  
6 through Drain Code to petition me and they did.

7 So that's what we're doing next Monday. So I hope  
8 you can join in on the Zoom. But I appreciate your time this  
9 morning, so thank you.

10 BOARD CHAIRPERSON BILL CARGO: And so without  
11 objection, we're going to adjourn this board of review at  
12 approximately 10:33.

13 BOARD SECRETARY KEN SOUTER: 11:33.

14 BOARD CHAIRPERSON BILL CARGO: No objections, so we  
15 are adjourned.

16 (Board of Determination adjourned at 11:33 a.m.)  
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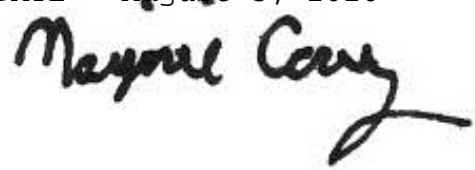
CERTIFICATION OF COURT REPORTER AND NOTARY PUBLIC

\_\_\_\_\_

STATE OF MICHIGAN )  
 ) SS  
COUNTY OF MUSKEGON )

I certify that this transcript, consisting of 31 pages, is a complete, true and correct record of the Board of Determination held in this case on July 30, 2020.

DATE: August 5, 2020



\_\_\_\_\_  
MARJORIE A. COVEY, CSR-2616  
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Notary Public Expires: October 14, 2021, Muskegon County, Michigan/Acting in the State of Michigan.

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