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STATE OF MICHIGAN  
COUNTY OF OTTAWA

IN RE: FAIRVIEW ESTATES DRAIN  
BOARD OF DETERMINATION

Proceedings commenced at 10:00 a.m., on Wednesday,  
April 10, 2019, at the Holland Charter Township, 353 North  
120th Avenue, 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, Chief Deputy to Water Resources Comm.
  
- Mr. Ken Souter, Board Chairman
- Mr. Jerry Hunsburger, Board Secretary
- Mr. Rich VanderKlok, Board Member
  
- Mr. Steve Bulthuis, Manager, Holland Charter Township
  
- Mr. Ken Bosma, P.E., Engineer, Prein & Newhof
  
- Mr. Jerry Olman, Ottawa County Road Commission

1 Holland, Michigan

2 April 10, 2019 - 10:05 a.m.

3 PROCEEDINGS

4 WATER RESOURCES COMM. JOE BUSH: Well it's 10:05.

5 So welcome everyone to this Board of Determination. Welcome  
6 to Holland Township. A large crowd, two people. Well thanks  
7 for coming.

8 You're probably wondering what this is about. I'll  
9 go ahead and do introductions.

10 I'm Joe Bush, the Ottawa County Water Resources  
11 Commissioner, Drain Commissioner. Today's guests and people  
12 who are here, we have Jerry Olman. He's from the Ottawa  
13 County Road Commission. We've got our Holland Township  
14 Manager.

15 And then Ken Bosma, he's from Prein & Newhof, the  
16 engineer that will be kind of explaining kind of what the  
17 subdivision or this area looks like. And then we'll get into  
18 detail, him or I, on how we got to where we're at.

19 And then there is a three-panel Board that I pick  
20 through state statute, through Drain Code. And that  
21 three-panel Board is these three gentlemen. And I'll  
22 introduce them in a minute.

23 You're probably wondering why are these three guys  
24 up here, and where do they come from, and who appointed them.  
25 I appointed them.

1           We also have Margie, she's our court recorder.  
2 Everything is court recorded on every BOD that I do. And  
3 that way you can always look at it later and kind of  
4 reference what's going on, why we have the meeting, if you  
5 have further questions. And it's just part of the legal  
6 process in case it ever got to a court for some other reason  
7 that we don't know about, I always court record everything.  
8 So Margie has been doing these for quite a few years for me,  
9 and it's just one of those things that if you need to  
10 follow-up and look back on something, then everything is  
11 court recorded.

12           And then we have Chad. Chad is my new chief  
13 deputy. My other chief deputy retired after 32 years. So  
14 Chad is our new guy and we're kind of training him so he's  
15 here to join us today as well.

16           So currently I'll go ahead and introduce these  
17 three gentlemen. To our right we have Rich. He's from  
18 Georgetown Township.

19           Then in the center we have Ken. Ken is from Port  
20 Sheldon Township. He's a retired road commission engineer.

21           And then we have -- oh, my gosh.

22           BOARD MEMBER JERRY HUNSBURGER: Jerry --

23           WATER RESOURCES COMM. JOE BUSH: -- Jerry

24 Hunsburger. I was ready to call him Jerry somebody else.

25 Jerry Hunsburger, Jerry is from Park Township and Jerry is on

1 the Board over there.

2           These three-panel people I pick through Drain Code  
3 that have no affiliation with this area we're talking about  
4 on the map or anything in Holland Township.

5           I have to pick the Board for the BOD, the Board of  
6 Determination outside of the area. And then these guys are  
7 here to determine the necessity of this being a county drain  
8 or not.

9           You're like, well what's a county drain? A county  
10 drain is a watercourse, enclosed or open, that I have  
11 jurisdiction over to do maintenance.

12           Currently Holland Township has been going through,  
13 since I've been elected, I've been here since 2013, that  
14 there is orphan drains. And orphan drains mean the Road  
15 Commission doesn't own them, the Township doesn't own them, I  
16 don't own them. And there is no way to fund it through a  
17 special assessment, if there was one, or there is no way to  
18 fix it.

19           So right now if you go on your road, there is a big  
20 sink hole and there is a collapse, the Road Commission might  
21 go fix it, but it's really not -- it's public water going  
22 into it, it's everybody's water.

23           And there is a lot of these that were put in in the  
24 '60s and '70s, and we're starting to see this trend of more  
25 infrastructure failing.

1           So it's like well, okay, who fixes it? Who  
2 maintains it?

3           The Road Commission, they'll look at it and go,  
4 well it is some road water but it could be a lot of private  
5 water as well.

6           And the County looks at it and says, that was not  
7 really approved -- maybe that was approved through my office  
8 back in the '90s or '80s, but there really wasn't any  
9 agreement to pay for it.

10           And then the Township looks at it and says, it's  
11 really not ours either.

12           So through this process, this is the legal way to  
13 establish an orphan drain. And then I hired an engineer.  
14 And they do brief, a real brief synopsis of what does it look  
15 like, it's a snapshot of it. And there is the drain  
16 district.

17           So the highlighted area is everybody's water, we  
18 call them a drain district or a watershed, everybody's water  
19 or anybody's water that goes into it or out of it benefits  
20 from that storm sewer. And we're just talking storm sewer,  
21 not your drinking water, not your sanitary.

22           This is just storm sewer, and this is a way for the  
23 future, if one of you two individuals would call me and go,  
24 hey, Joe, the drain is plugged up.

25           You call the Township they're going to say, call

1 Joe. You call the Road Commission, they might come out, but  
2 it depends on where the location of the failure is, and they  
3 might say, well it's going to cost them money. And call Joe.

4 Because this is what we do everyday, we have a  
5 thousand of these. So we work together in collaboration to  
6 fix problems for our constituents. But on the secondhand  
7 it's an orphan, it's kind of like, who pays.

8 So today the Township is paying to have this  
9 meeting. And there is no special assessment as we know it  
10 because we don't know of any problems. But we're holding a  
11 public hearing in case you guys know of a problem that we  
12 don't know about. Then that's why you can come up, talk to  
13 the mic and tell the Board that you have a problem.

14 Because otherwise if nobody tells us, we don't know  
15 what we don't know. So that's why we hold this public  
16 hearing.

17 Usually sometimes we get a roomful and it's like,  
18 we didn't know about all these issues. Because the engineer,  
19 I don't pay him to go look for the issues, because people  
20 usually call me when there is issues. He goes out and just  
21 tries to find and delineate the watershed boundaries to make  
22 sure we have the right people paying in the future, but not  
23 now.

24 Because the Township picks these orphan drains up,  
25 as part of their cost, to put them under my so-called

1 umbrella, just for future maintenance purposes. So as of  
2 today there is no assessment because the Township, you know,  
3 they're willing to pick these up.

4 A lot of townships are doing these orphan drains  
5 because the infrastructure is failing.

6 So these three gentlemen, what they do is they'll  
7 not determine a project or anything. They'll just say, yep,  
8 I see a necessity for Joe to have this under his umbrella; or  
9 they don't. That's why we're here today.

10 I usually give them the oath. Once they get --  
11 once they do that, they will run the meeting. And then  
12 they'll ask me or Chad or Ken Bosma -- they'll ask us the  
13 questions or whatever.

14 When you do come up to the mic, if you want to  
15 talk, just state your name and address loudly for our court  
16 recorder so she can put that in the documentation.

17 And then these three gentlemen just run the meeting  
18 to the end once they pick a chair and a secretary. So that's  
19 why we're here today.

20 So I appreciate your time, and I'll go ahead and  
21 give the oath, and then they'll take the meeting on from  
22 here.

23 Gentlemen, please rise. Raise your right hand.

24 Do each of you solemnly swear to faithfully perform  
25 and discharge the duties imposed upon you as members of the

1 Board of Determination appointed by the Water Resources  
2 Commissioner of Ottawa County to determine the necessity of  
3 drainage improvements in a certain drain to be known and  
4 designated as the Fairview Estates Drain in the Township of  
5 Holland, in said county as required by law?

6 BOARD MEMBER KEN SOUTER: I do.

7 BOARD MEMBER JERRY HUNSBURGER: I do.

8 BOARD MEMBER RICH VANDER KLOK: I do.

9 WATER RESOURCES COMM. JOE BUSH: Thank you.

10 BOARD MEMBER JERRY HUNSBURGER: I'd like to make a  
11 motion that Ken Souter chair this Board of determination.

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

13 BOARD MEMBER KEN SOUTER: Moved and supported that  
14 I chair this particular meeting.

15 All in favor, say aye.

16 BOARD MEMBER RICH VANDER KLOK: Aye.

17 BOARD MEMBER KEN SOUTER: Aye.

18 BOARD MEMBER JERRY HUNSBURGER: Aye.

19 BOARD CHAIRMAN KEN SOUTER: We also need a motion  
20 to elect a secretary.

21 BOARD MEMBER RICH VANDER KLOK: I would move that  
22 Jerry Hunsburger be secretary.

23 BOARD CHARIMAN KEN SOUTER: I'll second that  
24 motion.

25 All in favor, say aye.



1 BOARD MEMBER JERRY HUNSBURGER: Aye.

2 BOARD CHAIRMAN KEN SOUTER: Aye.

3 BOARD MEMBER RICH VANDER KLOK: Aye.

4 BOARD CHAIRMAN KEN SOUTER: Then we also -- we  
5 don't really have a major problem with this when we don't  
6 have a hundred people out here, but it's one of the items we  
7 need a motion on, a motion to limit public comment to about  
8 three minutes per person, just to keep the meeting time and  
9 order. And I don't think that will be a problem here, but  
10 let's have a motion for that.

11 BOARD SECRETARY JERRY HUNSBURGER: I'll make that  
12 motion.

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

14 BOARD CHAIRMAN KEN SOUTER: Moved and supported to  
15 limit three minutes, each person that wants to comment.

16 All in favor, say aye.

17 BOARD SECRETARY JERRY HUNSBURGER: Aye.

18 BOARD CHAIRMAN KEN SOUTER: Aye.

19 BOARD MEMBER RICH VANDER KLOK: Aye.

20 BOARD CHAIRMAN KEN SOUTER: Let's start out,  
21 Township, do you have any comments on this particular thing?

22 HOLLAND CHARTER TOWNSHIP MANAGER STEVE BULTHUIS:  
23 Really nothing to add beyond what Joe had mentioned already.  
24 It's the Township's desire to continue to take these orphan  
25 drains that we have and establish them as county drains.

1           So this is another step in that process of  
2 converting the orphans drains.

3           BOARD CHAIRMAN KEN SOUTER: And at this point you  
4 have not received any major complaints about this particular  
5 drainage system?

6           HOLLAND CHARTER TOWNSHIP MANAGER STEVE BULTHUIS:  
7 Correct.

8           BOARD CHAIRMAN KEN SOUTER: Okay. Thank you.

9           Then I'd like to have Ken Bosma actually kind of go  
10 over the drainage district and the years it was built and all  
11 the other good stuff.

12           ENGINEER KEN BOSMA: Okay. This will be rather  
13 brief again because we were not aware of any issues ahead of  
14 time.

15           But just a little bit of background on this.  
16 Fairview Estates, as Joe indicated, is an orphan drain. So  
17 again, the reason why we're going through this is so that  
18 there is some jurisdiction that can be able to maintain the  
19 system should there be an issue over time.

20           And that's the process, currently nobody has  
21 control over a storm sewer system right now and how to pay  
22 for it, if there is an issue.

23           In part Holland Township has been going through  
24 this process for the last several years, particularly since  
25 about 2013 when we had a lot of flooding going on in the

1 area, kind of overwhelmed with what's going on with the storm  
2 sewer systems.

3 So what they're starting to do is look at areas  
4 that have no jurisdiction on the storm sewer and converting  
5 these orphan drain into country drains.

6 So Holland Township petitioned for this back on  
7 February 21 to the Water Resources Commissioner to begin this  
8 process that we're going through today.

9 This Board of Determination is part of the Drain  
10 Code and a requirement step that we have to have in order for  
11 it to be considered, and if need be, approved as a county  
12 drain.

13 Fairview Estates, the area that's generally  
14 included in this, there are three plats that are enveloped in  
15 this district as we have defined it. And just to kind of  
16 briefly go through it, there are three phases of Fairview  
17 Estates that were built in the '80s. As you can see, '85,  
18 '88, and '89.

19 Why we're going through this process is new plats  
20 now days will not go through this process because in about  
21 the mid '90s this kind of changed where the Water Resources  
22 Commission has been able to obtain approvals through the  
23 developers ahead of time so that we don't have to go through  
24 this process anymore.

25 But prior to the mid '90s, which is where Fairview

1 Estates began, there was no process for that to -- for these  
2 county drains to be taken over.

3 So this is again the district that we're looking  
4 at. How we came up with this district is we looked at  
5 construction drawings that we have on file, that will kind of  
6 give us high points and low points. We looked at -- we  
7 already had the resources of the county GIS system which  
8 provides us with now one-foot contours so we can kind of  
9 evaluate which way the high points and low points are for  
10 drainage outside of the roadways. Also, looking at the  
11 drainage systems that we're aware of.

12 So you'll see here on the left side, or the west  
13 side of 112th Avenue, there is an area included and kind of  
14 looks like some storm sewer, but that is actually a private  
15 system just identified on our map. It would not be what we  
16 would consider part of the route and course.

17 Everything that we have that we would consider the  
18 route and course, should this become a county drain, begins  
19 at James Street which is right at this point (indicating), up  
20 here to Summer Drive (indicating). And then Summer Drive up  
21 through Spring Court (indicating), and then also Winter Drive  
22 here (indicating). That would be what we would consider the  
23 route and course as to what's included in there as far as  
24 public sewer should this become county drain.

25 This is just kind of an aerial view of the same

1 area. So if anybody wants to identify where their house is  
2 or whatever feature may be, that's an opportunity there.

3 Obviously the next steps that we have is you will  
4 have an opportunity, the public, to give testimony. And then  
5 the Board determines if it is necessary to make this a county  
6 drain or not.

7 Again, if they decide not to make it a county  
8 drain, then no one again has jurisdiction over it of how it  
9 gets fixed.

10 And then we would also like to hear from you, as I  
11 think Joe mentioned, if there are any issues. We are not  
12 aware of any, but if you have issues, that's an opportunity  
13 for you to bring that up as well.

14 In the future, if there is a -- once this is  
15 established as a county drain, in the future if there is a  
16 problem somewhere in here, anything that costs more than  
17 \$5,000 per mile per drain in here, would have to go through a  
18 process with a public hearing as well to make those  
19 improvements. But at that point it would already be a county  
20 drain, then it's just more to determine should a project move  
21 forward, and then how maybe it would be assessed.

22 I also want to note that Joe did note that this  
23 process today is really covered by the townships and that.  
24 There is no assessment to the individual property owners to  
25 make this process change. That was a policy that the

1 Township adopted in about 2015, again after the events of the  
2 2013 storm events that kind of went through this process of  
3 we want to start cleaning these up in the Township.

4 BOARD CHAIRMAN KEN SOUTER: Question, Ken.

5 ENGINEER KEN BOSMA: Yes.

6 BOARD CHAIRMAN KEN SOUTER: You said that  
7 everything on the east side of the road is part of the  
8 drainage system we're looking at right now. You show in red  
9 part of the area on the west side of the road that has a  
10 storm system.

11 Does that storm system -- you don't show it  
12 connecting to the drainage system in the roadway as such.  
13 You got a gap there.

14 Is that actually a connection or is that a -- some  
15 kind of a leaching system that they installed?

16 ENGINEER KEN BOSMA: Are you talking about this  
17 (indicating).

18 BOARD CHAIRMAN KEN SOUTER: I'm talking everything  
19 to the west --

20 BOARD SECRETARY JERRY HUNSBURGER: West side of  
21 112th.

22 BOARD CHAIRMAN KEN SOUTER: -- you have the storm  
23 sewer, all of that dead ends without tying into anything.

24 ENGINEER KEN BOSMA: Yeah, there is a -- they have  
25 a retention basin on site, and it outlets into the drain.

1 BOARD CHAIRMAN KEN SOUTER: That's a retention  
2 basin where it's outletting and then it does outlet into the  
3 storm sewer?

4 ENGINEER KEN BOSMA: Correct.

5 BOARD CHAIRMAN KEN SOUTER: Okay, thank you.

6 Jerry, do you have -- Jerry from the Ottawa County  
7 Road Commission.

8 OTTAWA COUNTY ROAD COMMISSION JERRY OLMAN: As far  
9 as the Road Commission goes we would be in favor of having  
10 the Water Resource Commission takeover this system so we have  
11 an agency that will oversee the system, and we have a point  
12 of contact for any maintenance or repairs for it.

13 I looked back over the last five years and I  
14 couldn't find anything where we had to go in and do any  
15 repairs to the system. So it's apparently functioning fine  
16 from what I can tell.

17 I did have one question for Ken. The outfall, is  
18 that tied directly into another county drain?

19 ENGINEER KEN BOSMA: Yes. So the Drain Number  
20 Three comes in and goes around this way (indicating). And  
21 that is already connected in there (indicating).

22 OTTAWA COUNTY ROAD COMMISSION JERRY OLMAN: So  
23 we'll have --

24 ENGINEER KEN BOSMA: When James Street improvements  
25 were made years ago, that connection was tied in.

1                   OTTAWA COUNTY ROAD COMMISSION JERRY OLMAN: Thank  
2 you. That's all I have.

3                   BOARD CHAIRMAN KEN SOUTER: All right. Then I  
4 would like to open the meeting up to public comment. And we  
5 have two people that apparently must live in the district,  
6 otherwise they just kind of like to go to meetings. But I  
7 take it they live in the district. And I'd like to hear from  
8 them, if they've got any problems with the drainage there,  
9 we'd like to know about that definitely.

10                  Let's start off with you, sir. And give your name  
11 and your address, where you live, maybe even kind of let us  
12 know where you live there.

13                  MR. ROGER TERPSTRA: My name is Roger Terpstra.

14                  BOARD CHAIRMAN KEN SOUTER: Okay.

15                  MR. ROGER TERPSTRA: I live at 11141 Autumn Drive,  
16 that's just around the corner from Spring Court. And it  
17 would be in the District Number Three when they added on.

18                  BOARD CHAIRMAN KEN SOUTER: Okay.

19                  MR. ROGER TERPSTRA: And my water runs to the west.  
20 Oops, I'm sorry.

21                  My water runs to the west. It doesn't go down the  
22 other way because after you go around on Spring Court you go  
23 up about five feet, and then it goes slight down the other  
24 way.

25                  And when I built my house, and I've lived there for



1 26 years and I got a sump pump in my basement and a drain  
2 around the house and I never had one drop of water in there.

3 BOARD CHAIRMAN KEN SOUTER: Love it.

4 MR. ROGER TERPSTRA: I love it.

5 BOARD CHAIRMAN KEN SOUTER: What is your address  
6 again?

7 MR. ROGER TERPSTRA: 11141.

8 BOARD CHAIRMAN KEN SOUTER: Okay.

9 MR. ROGER TERPSTRA: So I'm not really objecting to  
10 it. I'm just thinking our surface water is not going that  
11 way.

12 BOARD CHAIRMAN KEN SOUTER: Okay.

13 MR. ROGER TERPSTRA: I don't have a problem.

14 BOARD CHAIRMAN KEN SOUTER: Ken?

15 ENGINEER KEN BOSMA: That is a high point in the  
16 road and we did look at it. It's a tough one to definitely  
17 see but we did feel, we determined looking at it even  
18 after -- we were out there on a rain event and with the  
19 driveway location, we felt that site was that direction to  
20 the east.

21 BOARD CHAIRMAN KEN SOUTER: You're right at the  
22 peak. But you don't have any problems?

23 MR. ROGER TERPSTRA: I don't have any problems.

24 BOARD CHAIRMAN KEN SOUTER: That's what we really  
25 like to hear.

1 MR. ROGER TERPSTRA: Thank you.

2 BOARD CHAIRMAN KEN SOUTER: You bet you.

3 The gentleman in the back?

4 UNIDENTIFIED ATTENDANT: No, we're good. Thank  
5 you.

6 BOARD CHAIRMAN KEN SOUTER: You're good? Very  
7 good. Thank you.

8 There is no other public here, right?

9 BOARD SECRETARY JERRY HUNSBURGER: Any  
10 correspondence?

11 BOARD CHAIRMAN KEN SOUTER: Any correspondence that  
12 we have had on the drain?

13 WATER RESOURCES COMM. JOE BUSH: Zero.

14 BOARD CHAIRMAN KEN SOUTER: Zero. Okay.

15 We're proceeding through this one pretty fast.

16 I would say then we'll then close the public  
17 portion of that -- that public comment portion of the  
18 meeting.

19 And I'd say we go on to a decision at this point.  
20 And I would entertain a motion on this.

21 BOARD MEMBER RICH VANDER KLOK: I would make the  
22 motion that the construction, establishment of the drain is  
23 necessary and conducive to public health, convenience and  
24 welfare.

25 BOARD SECRETARY JERRY HUNSBURGER: I would second

1 the motion.

2 BOARD CHAIRMAN KEN SOUTER: It's been moved and  
3 seconded to approve this petition.

4 All in favor, say aye.

5 BOARD SECRETARY JERRY HUNSBURGER: Aye.

6 BOARD CHAIRMAN KEN SOUTER: Aye.

7 BOARD MEMBER RICH VANDER KLOK: Aye.

8 BOARD CHAIRMAN KEN SOUTER: Opposed?

9 Thus completes our part of this, I think.

10 Do you have any closing comments, Mr. Drain  
11 Commissioner?

12 WATER RESOURCES COMM. JOE BUSH: No. I just want  
13 to say thanks for taking the time to come to Holland Township  
14 and kind of listen to the procedure.

15 And if any of your neighbors or anybody has a  
16 concern, you can always have them call my office, or go to  
17 MIOttawa.org and you can always e-mail me too. I'd be more  
18 than happy to hear from somebody if there is a problem.  
19 That's what we're here for. Thank you.

20 BOARD CHAIRMAN KEN SOUTER: At this point then the  
21 drain is your responsibility?

22 WATER RESOURCES COMM. JOE BUSH: Correct.

23 BOARD CHAIRMAN KEN SOUTER: And from now on --

24 WATER RESOURCES COMM. JOE BUSH: They can call me.

25 BOARD CHAIRMAN KEN SOUTER: -- they can call.

1 That's great.

2 I would say we're adjourned.

3 BOARD SECRETARY JERRY HUNSBURGER: Thank you.

4 BOARD MEMBER RICH VANDER KLOK: Thanks.

5 (Board of Determination concluded at 10:25 a.m.)

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