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STATE OF MICHIGAN

COUNTY OF OTTAWA

IN RE: JAMESWOOD ESTATES DRAIN

BOARD OF DETERMINATION

Proceedings commenced at 10:00 a.m., on
June 28, 2022, at the Holland Charter Township Fire Station
No. 1, 131 Riley Street, Holland, Michigan, held before
Dawn M. Houghton, CSR-3071, 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. Marie Snyder, Secretary

Mr. Rich VanderKlok, Board Chairman
Mr. Josh Westgate, Board Secretary
Mr. Ken Souter, Board Member

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

Mr. Jerry Olman, Ottawa County Road Commission

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Holland, Michigan

June 28, 2022 - 10:00 a.m.

PROCEEDINGS

WATER RESOURCES COMM. JOE BUSH: Well, good morning everyone. Welcome to the Holland Charter Township Fire Barn for one of our Board of Determinations, one of six today.

My name is Joe Bush, the Ottawa County Water Resources Commissioner, also known as the Drain Commissioner.

So we appreciate you taking the time to come and learn a little bit about why we're here and the process and what happens next.

A lot of times we have these in the afternoon because it is during business hours, because it is a legal process through the Drain Code, so it is Michigan law that I hold a Board of Determination -- Determination, sorry, after I get a petition.

So, some people have said, well, who filed a petition? Who wants this particular drain or whatever? How does this work?

Well, years ago, when I got elected, Holland Township said that they wanted to establish orphan drains. What does it mean, "orphan"? Orphan means the township, the road commission, or the county has no jurisdiction over the infrastructure. Whether it's an open channel or whether it's a storm sewer in the road, technically, nobody owns it.

1 These get approved, like today, if it happened in
2 2022, all these projects, subdivisions, commercial
3 developments, they get approved through my office. Back in
4 the day, you look in the '70s, '80s, '90s, some of these did
5 not get reviewed, some of them did.

6 This happened to be an orphan drain that was
7 identified from Prein & Newhof doing a kind of survey of what
8 Holland Township looks like on their county drain list,
9 what's established, what is not.

10 This is one of the ones that is not established as
11 a county drain. So the way to establish it is have the
12 people petition, or the township. But the township has been
13 putting a list of anywhere from six to seven, eight orphans a
14 year to establish, and this happened to be one of ours today
15 on the list. This is number one of the six that we're doing
16 for Board of Determination.

17 Once I get a petition, I have to put a public
18 hearing. That's why you're invited today. Everybody in this
19 watershed or drain district that's highlighted in red gets a
20 notice that we're having a meeting, and it's a public
21 testimony time to say you're having a problem or you're not
22 having a problem.

23 As of today, there's no known problems. We've had
24 preliminary inspection from the engineering firm, Prein &
25 Newhof, to go out and just kind of look at it, survey it.

1 And when I say, "survey," not really go out and do a full
2 survey. It's a survey of the infrastructure. They kind of
3 look at it, check things out, make sure that -- and then any
4 other issues that we've had, whether people called in or not,
5 or the road commission, or anything else. They look at our
6 files.

7 This particular subdivision, I've not known any
8 issues. I don't think -- the presentation from Prein &
9 Newhof later, they'll also say that there's no known issues.

10 Today's process is basically for the three-panel
11 board that I appoint through the Drain Code says, yeah, this
12 should be a -- a county drain or not.

13 With that being said, when I do appoint people for
14 the Board of Determination, I pick people who have been doing
15 this for a long time and have experience in, Number 1, Drain
16 Code, what their job is today.

17 There is no project. There is no cost. There is
18 nothing except a determination. That's what today's meeting
19 is all about.

20 And, again, make sure that if you do have issues,
21 because we don't know about it, but if you're here today,
22 that you know of an issue, today's the day to bring it up to
23 make sure we're aware of it. Because that does help.

24 Everything today is court recorded word for word.
25 I've been doing this since 2013 when I got elected. That's

1 not required by law, but it definitely helps out down the
2 road to record it, what did the three-panel board say, what
3 did Joe say, and what did the public say, or road commission,
4 or engineering firm. We can always go back and check it.

5 Those are always on my website, usually about four
6 to six weeks after today's meeting. And if you don't have
7 access to Internet or something, we can always mail you a
8 hard copy, too. But everything is court recorded.

9 Dawn Houghton is our court reporter today, so she
10 is more than happy to get down anything you say for future
11 reference. It helps out everybody.

12 So, when I do appoint a three-panel board, these
13 are gentlemen or ladies that know, again, Drain Code; they
14 understand drainage; and they understand how to run a
15 meeting. That's important. And they understand what their
16 job is, again, for today.

17 It's not to say, yeah, we're going to do this or
18 we're going to do that, or there's a project, it's going to
19 cost X. That's not their job. Their job is basically saying
20 yes, we see a need, it's an orphan, or there are issues and
21 it should be moved forward under Joe's jurisdiction, under
22 another one of his thousand county drains to oversee for
23 maintenance in the future. So, yeah, so I appreciate these
24 gentlemen's time.

25 I'll go ahead and do introductions. We do have

1 Jerry Olman from the road commission. The road commission
2 tries to participate in all these BODs, because we have a lot
3 of these throughout the county. Today we're in Holland
4 Township. But, Jerry, we appreciate the road commission's
5 support and partnership in all these BODs that we have.

6 Then we have Prein & Newhof. We have Lucas Timmer
7 and Ken Bosma, the two engineers that do a lot of Holland
8 Township's BODs and their orphans. So they got a list of,
9 again, what they are, and where they're located, and what the
10 issues are.

11 And then, again, we have Dawn, our court reporter.

12 And then I'll introduce our three-panel board. And
13 from right to left, we have Ken Souter. He is from Port
14 Sheldon Township. He was the -- an engineer at the road
15 commission for nearly 40 years.

16 BOARD MEMBER KEN SOUTER: 30. No, 38.

17 WATER RESOURCES COMM. JOE BUSH: 38. I knew it was
18 close to 40 years.

19 And then we have Rich VanderKlok. He is from
20 Georgetown Township.

21 And we have Josh Westgate from Jamestown Township,
22 or, well, he's Jamestown Township Chief Deputy Supervisor,
23 but he's from Wright Township. So, he's got a lot of
24 responsibilities. But we appreciate these gentlemen here
25 today to make a determination.

1 Again, once these gentlemen get the oath, they'll
2 run the meeting, and then any questions go to them, and then
3 they're happy to ask whatever, whoever needs to answer the
4 question, engineering firm, myself, whatever, road
5 commission.

6 But, again, these three gentlemen have done a lot
7 of these meetings, and, again, they definitely understand why
8 we're here.

9 So, I'll go ahead at this time, go ahead and raise
10 your right hand, Gentlemen.

11 Do you each solemnly swear that you will faithfully
12 perform and discharge the duties imposed upon you as required
13 by law as members of the Board of Determination, appointed by
14 the Ottawa County Water Resources Commissioner, to determine
15 the necessity to locate, establish, and construct the
16 proposed Jameswood Estate Drain located in Holland Charter
17 Township in said county; Gentlemen?

18 BOARD MEMBER RICH VANDER KLOK: I do.

19 BOARD MEMBER JOSH WESTGATE: I do.

20 BOARD MEMBER KEN SOUTER: I do.

21 WATER RESOURCES COMM. JOE BUSH: Thank you.

22 BOARD MEMBER RICH VANDER KLOK: Our first order of
23 business is the election of a chairperson for the Board of
24 Determination.

25 BOARD MEMBER KEN SOUTER: Make a motion that Rich

1 be chair.

2 BOARD MEMBER JOSH WESTGATE: I'll second that.

3 BOARD MEMBER RICH VANDER KLOK: Motion made and
4 supported that Rich VanderKlok be chair.

5 All those in favor, say aye.

6 BOARD MEMBER JOSH WESTGATE: Aye.

7 BOARD MEMBER KEN SOUTER: Aye.

8 BOARD MEMBER RICH VANDER KLOK: Aye. That's
9 carried.

10 Then we'll need a motion for the election of a
11 secretary, and I would move that Josh be appointed as
12 secretary.

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

14 BOARD CHAIR RICH VANDER KLOK: Moved and supported
15 that Josh serve as secretary.

16 All those in favor, say aye.

17 BOARD MEMBER KEN SOUTER: Aye.

18 BOARD MEMBER JOSH WESTGATE: Aye.

19 BOARD CHAIR RICH VANDER KLOK: Aye. That is
20 carried.

21 And then, also, for rules of public comment, those
22 of you who are here to make comment regarding this particular
23 Jameswood Estate Drain, you will have three minutes to speak,
24 and what we would ask would be that you give your name and
25 your address, and then you can address the Board of

1 Determination.

2 BOARD SECRETARY JOSH WESTGATE: I'll make a motion
3 that public comment be limited to three minutes.

4 BOARD MEMBER KEN SOUTER: I'll support that.

5 BOARD CHAIR RICH VANDER KLOK: Moved and supported,
6 limit comments to three minutes.

7 All those in favor, say aye.

8 BOARD MEMBER KEN SOUTER: Aye.

9 BOARD SECRETARY JOSH WESTGATE: Aye.

10 BOARD CHAIR RICH VANDER KLOK: Aye. It's carried.

11 And we've had the procedural history, and now we're
12 going to hear the engineering report.

13 Lucas, are you doing that?

14 ENGINEER LUCAS TIMMER: I am, yep. Thank you,
15 Board.

16 My name is Lucas Timmer. I'm an engineer with
17 Prein & Newhof. We were hired by the Ottawa County Water
18 Resources Commissioner to do the preliminary engineering work
19 on the Jameswood Estates Drain.

20 And just for clarity, too, one of the exhibits says
21 the Jamestown Estates Drain, so just to make sure, this drain
22 is Jameswood, not Jamestown.

23 So, the Jameswood Estates Drain is an existing
24 storm water drain system that is without authorized local and
25 county governmental jurisdiction, and administrative,

1 procedural, and funding mechanisms to address current or
2 future needs for maintenance and improvements.

3 So, essentially, this is an orphan drain. There's
4 no government entity that has the legal framework to be
5 responsible for the infrastructure. So this process is, in a
6 sense, a legal formality so that this infrastructure can then
7 become established as part of the county drain commission.

8 Holland Township filed a petition to establish a
9 drainage district on March 3, 2022. And that's part of the
10 process to get this to become, from an orphan drain, to be a
11 county drain.

12 And we're here today because Michigan Drain Code
13 requires us to have this Board of Determination to notify
14 both the township, the residents, and the county of this
15 potential for this to become a county drain.

16 So the preliminary engineering that we did is we
17 first reviewed utility record drawings. So we reviewed the
18 record drawings for -- for Jameswood Estates Number 2 and
19 Number 3. We reviewed your water main, sanitary sewer, and
20 storm sewer plans. We also reviewed your plat maps. So,
21 Jameswood Estates Number 2 was established in 1989, and
22 Number 3 was established in 1994.

23 We then delineated a drainage district, which is
24 essentially a watershed boundary, by using GIS contour data,
25 which is one-foot contour data, and we also used the

1 available aerial data that we had from GIS to determine what
2 our watershed should be.

3 We then go out and visit the site to locate the
4 drain infrastructure, and also to confirm drainage patterns
5 that we notice from our watershed delineation on GIS. So, in
6 the back, we have a larger map that you can see of the
7 proposed drainage district and the drain infrastructure.

8 On this presentation, you can see the blue lines
9 here are the storm sewer infrastructure that we are proposing
10 to turn over to become a county drain. You can see the
11 infrastructure drains, some back yards, and it goes through
12 an easement to a detention pond. And we also have some
13 infrastructure here that also drains back into this pond.

14 The red line here is the drainage district
15 boundary, so that's the watershed boundary. So all parcels
16 within this boundary are considered included in that drainage
17 district and thus contribute runoff to that storm sewer
18 system.

19 So, following this, we'll have a time for public
20 testimony. We are not aware of any drainage issues. We did
21 a very quick review out in the field. We didn't necessarily
22 see anything that indicated there are problems, but you, as
23 the property owners, may know more things about drainage
24 issues than we do.

25 The Board will then determine the necessity of the

1 petition based on health, welfare, and/or convenience. After
2 hearing the testimony, if deemed necessary by the Board, then
3 this existing system will become a county drain, and will
4 then have a governmental unit responsible for it.

5 If deemed not necessary by the Board, then no
6 further action will occur; the system will remain an orphan
7 system.

8 So, this is the most likely scenario here. If the
9 drain is deemed necessary by the Board and there's no
10 drainage issues, which we're not aware of any issues at this
11 time, then the costs of getting this established as a county
12 drain will be covered by Holland Charter Township, Ottawa
13 County, and Ottawa County Road Commission.

14 If there are issues that we discover from you guys
15 today that this -- that require some form of fix, what would
16 then happen is we would do a project design, and we also look
17 into easement acquisition if it was at all necessary.

18 Upon completion of the design, the project will be
19 let to contractors for bids through the public bidding
20 process. After the project has bid and project costs are
21 determined, a Day of Review will be held to view
22 apportionments.

23 Construction then would commence on a project. And
24 then the cost of this project, if there was needed to be a
25 project, would be assessed to Holland Township at large,

1 Ottawa County, and Ottawa County Road Commission, and also
2 then the parcels within that drainage district, so those
3 costs are then split between those entities.

4 If drainage issues occur in the future, then a
5 petition would be needed by either the township or the
6 residents of the drainage district to maintain the county
7 drain if the project costs are more than \$5,000 per mile.

8 So, Drain Code allows Joe's office to maintain the
9 drain if the costs are less than \$5,000 per mile, per Drain
10 Code, without this petition and Board of Determination
11 process.

12 If there was ever a major project or major issue,
13 we would go through this Board of Determination process
14 again, because that cost would likely then be more than the
15 \$5,000 per mile. So, assessments for all future projects
16 will be made to Ottawa County, the road commission, Holland
17 Township, and property owners.

18 That's the end of my presentation. Thank you.

19 BOARD CHAIR RICH VANDER KLOK: Okay. Thank you,
20 Lucas.

21 BOARD MEMBER KEN SOUTER: Got a quick question,
22 Lucas.

23 ENGINEER LUCAS TIMMER: Yes.

24 BOARD MEMBER KEN SOUTER: Okay. The way I'm
25 looking at this particular subdivision, it looks like

1 everything goes to the pond?

2 ENGINEER LUCAS TIMMER: Correct.

3 BOARD MEMBER KEN SOUTER: There is no high outlet
4 for the pond or anything? It's all totally a leaching pond
5 and stays within that?

6 ENGINEER LUCAS TIMMER: Correct.

7 BOARD MEMBER KEN SOUTER: Are there easements on
8 the plat for that pond?

9 ENGINEER LUCAS TIMMER: There are easements that
10 were established as part of the plat for both the ponds and
11 storm sewers that run through the back yards.

12 BOARD MEMBER KEN SOUTER: Okay.

13 ENGINEER LUCAS TIMMER: Thanks, Ken.

14 BOARD CHAIR RICH VANDER KLOK: Now we'll open it
15 for public testimony. And if you'd like to make comment,
16 again, give us your name and your address, and feel free to
17 make your comment. Gentleman in the back?

18 TIM MOUW: My name is Tim Mouw, 2482 Oak Forest
19 Drive, which happens to be -- I get to be in this meeting and
20 the next one because you drew the line right down the middle
21 of my property. But I honestly have no comment or no
22 drainage issues. I'm just here to witness what's happening.

23 BOARD MEMBER KEN SOUTER: Okay. Thank you.

24 BOARD CHAIR RICH VANDER KLOK: Thank you. Yes,
25 sir?

1 LEWIS STEPHENS: My name is Lewis Stephens. I live
2 at 2512 Oak Forest Drive. From the looks, I'm right on the
3 edge south. I have no issues. I'm more or less here to find
4 out, because I didn't understand the letter, I wasn't sure if
5 you were planning on building a drain, or if it's just what
6 -- what exactly was going on.

7 BOARD CHAIR RICH VANDER KLOK: Sure.

8 LEWIS STEPHENS: So that's what I'm here to find
9 out, if that's what's the intention. If there -- sounds like
10 there's already a drain there, and I've not had any issues in
11 the five years I've been here.

12 BOARD CHAIR RICH VANDER KLOK: Okay. Good. Thank
13 you. Did you have -- did your answer get -- did you get the
14 answer to your -- you wondered what's going on, that there's
15 no -- this is an orphan drain, so there's no project or
16 anything.

17 LEWIS STEPHENS: Right. My only question is then
18 where he said that it could remain an orphan drain, if that
19 happens, then it -- and nobody takes control of it, in the
20 future, then, if there is an issue, what happens then?

21 BOARD CHAIR RICH VANDER KLOK: I think, as Lucas
22 said, there would have to be a new petition.

23 LEWIS STEPHENS: Okay.

24 BOARD CHAIR RICH VANDER KLOK: A new petition would
25 need to be made in order for this process to be repeated

1 then.

2 LEWIS STEPHENS: Okay. So right now, there's no
3 plans to go through and dig up my back yard?

4 BOARD CHAIR RICH VANDER KLOK: Nope.

5 LEWIS STEPHENS: Okay.

6 BOARD CHAIR RICH VANDER KLOK: You're right.

7 LEWIS STEPHENS: That's good.

8 BOARD CHAIR RICH VANDER KLOK: Okay. Jerry, do you
9 have anything on this one?

10 ROAD COMMISSION JERRY OLMAN: From the road
11 commission end of it, I'm not aware of any issues that we've
12 had to address in there for the storm sewer, so -- but also,
13 the road commission would be in favor of establishing this
14 district and establishing the storm sewer system as a county
15 system.

16 BOARD CHAIR RICH VANDER KLOK: Okay. Thank you,
17 Jerry.

18 Motion to conclude public comment.

19 BOARD MEMBER KEN SOUTER: So moved.

20 BOARD CHAIR RICH VANDER KLOK: Is that supported?

21 BOARD SECRETARY JOSH WESTGATE: I'll support.

22 BOARD CHAIR RICH VANDER KLOK: Moved and supported
23 to close public comment.

24 And now, Board members, any additional comments,
25 Ken or Josh?

1 BOARD MEMBER KEN SOUTER: The only thing I would
2 say is if that many years that it's been functioning, and
3 it's been functioning and we're not hearing any complaints
4 about things happening, we got one that works now.

5 So, I think the drain commissioner can -- makes
6 sense that the drain commissioner takes these over. Then, if
7 there is a problem, we know who to call.

8 BOARD CHAIR RICH VANDER KLOK: Correct.

9 BOARD SECRETARY JOSH WESTGATE: Correct. I have
10 the same comments that it looks like the system was designed
11 well, and it makes sense to bring this underneath the
12 authority of the Water Resources Commissioner's office.

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

15 I would make a motion that the proposed James --
16 Jameswood Estate Drain, as petitioned on March 3, 2022, is
17 necessary and conducive to the public health, convenience, or
18 welfare. I think that motion is supported.

19 BOARD SECRETARY JOSH WESTGATE: I will second.

20 BOARD CHAIR RICH VANDER KLOK: Moved and supported.
21 Any further comment?

22 All those in favor, say aye.

23 BOARD SECRETARY JOSH WESTGATE: Aye.

24 BOARD MEMBER KEN SOUTER: Aye.

25 BOARD CHAIR RICH VANDER KLOK: Aye. That is

1 carried.

2 And, Joe, do you want to say anything about the
3 appeal process or --

4 WATER RESOURCES COMM. JOE BUSH: Yeah. Yep.

5 Thanks, Board.

6 Just one clarification. If I said Jamestown
7 earlier --

8 BOARD CHAIR RICH VANDER KLOK: You did say
9 Jamestown.

10 WATER RESOURCES COMM. JOE BUSH: -- I meant
11 Jameswood. So, my apologies. I was talking about Jamestown
12 on the way here on the phone, so it just happened to stick in
13 my mind.

14 So, Jameswood, I apologize, so we can correct that
15 for the BOD.

16 The other one is you can appeal today's public
17 hearing with the circuit court. You've got ten days from
18 today if somebody wanted to do an appeal of today's decision
19 from this BOD.

20 And I do appreciate everybody's time this morning.
21 Some people get nervous, like we're going to do a project or
22 we're going to rip up back yards or streets. That's not the
23 intent. A lot of these orphans is to get it established.

24 Unless you get a room full of people with a lot of
25 issues, and that's happened, too, because infrastructure does

1 have a breaking point and it does fail, but on this one, I
2 don't hear of any issues, so I appreciate everybody coming
3 out to kind of learn.

4 And this is what it is. So, and in the future,
5 depending on if there's issues, you know who to call. So,
6 thank you.

7 BOARD CHAIR RICH VANDER KLOK: Okay. Thanks, Joe.

8 That being our business for this particular drain,
9 then I would declare the meeting adjourned.

10 (Board of Determination adjourned at 10:21 a.m.)

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