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STATE OF MICHIGAN
COUNTY OF OTTAWA

IN RE: NORTH SHORE DRIVE DRAIN
BOARD OF DETERMINATION

Proceedings commenced at 10:00 a.m., on Monday, October
19, 2020, via Zoom in Michigan, held before Marjorie A.
Covey, CSR-2616, Certified Shorthand Reporter and Notary
Public.

APPEARANCES:

- Mr. Joe Bush, Ottawa County Water Resources Commissioner
- Ms. Sara Hirst, Secretary to Water Resources Comm.

- Mr. Bill Cargo, Board Chairperson
- Mr. Ken Souter, Board Secretary
- Mr. Rich VanderKlok, Board Member

- Mr. Stacy Hissong, Attorney, Fahey Schultz
- Mr. Steve Koski, Attorney, Fahey Schultz

- Mr. Craig Bessinger, Manager, Village of Ferrysburg

- Mr. Paul Forton, Engineer, Spicer Group

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Via Zoom in Michigan

October 19, 2020 - 10:02 a.m.

PROCEEDINGS

WATER RESOURCES COMM. JOE BUSH: We'll go ahead and start the meeting for the North Shore Drive Drain Board of Determination public hearing.

I appreciate everybody who is online today who is listening in. I would much rather do these in person, but the governor's executive order, which we have Steve Koski from the Fahey Schultz attorney firm, he'll give a discussion about that later on why we're doing it via Zoom, and kind of the executive order by state law.

ATTORNEY STACY HISSONG: No more executive orders, but, yeah.

ATTORNEY STEVEN KOSKI: No more executive orders.

WATER RESOURCES COMM. JOE BUSH: But I'll let you guys talk about that from the legal end of it. I'll have you guys share that in a little bit.

So we're here today because in order to hold a public hearing we need to have a petition from either the people or a city or a township or road commission. And this one is coming from the city of Ferrysburg.

So once we receive a petition, we schedule a hearing and that's where we're at today. And then I pick a three-panel board. These three gentlemen that we have today

1 have done many, many of these Boards of Determination.
2 They're very experienced at it, but they also do not live in
3 the area, they have no land in the area, and they're not part
4 of the municipality of like the city of Ferrysburg or not on
5 city council or anything, so they're outside of the drain
6 district. But by state law I get to appoint three people and
7 these are the three gentlemen we have today.

8 During public comments, there will be a time to
9 state your name, address and your testimony. And everything
10 is court recorded. So I'll go ahead and start by introducing
11 a few of those folks today.

12 Margie is our court recorder today and she might
13 from time to time stop your testimony just to make sure that
14 she gets it all written down. Everything again is court
15 recorded, and you can see that later on our website. Or if
16 you don't have access to internet to get on the website, we
17 can give you a hard copy as well, a copy of the hard copy.

18 But Margie is very experienced at these as well,
19 she's been doing quite a few of these for me over the last
20 eight years.

21 And then we'll introduce Ken Souter. He's one of
22 our board members today. Ken is out of Port Sheldon
23 Township, very experienced, comes from the road commission,
24 over about 30 years over there in the engineering department.

25 Then we have Bill Cargo, he is the Grand Haven

1 Township superintendent or manager.

2 And then we have Rick -- or Rich VanderKlok who is
3 also very experienced in these. He is from Georgetown
4 Township as a board member over there.

5 And all these of these gentlemen understand Drain
6 Code pretty well and they understand drainage, and they
7 understand the other side because they have BODs in their own
8 municipalities similar to these. So they do understand how
9 this works.

10 Once these three gentlemen get the oath, after I
11 give them the oath, they'll run the meeting. They'll pick a
12 chair and then they'll pick a secretary and then they operate
13 the meeting.

14 If there is any questions later, then we'll -- they
15 would be addressed to them and then they will address either
16 I or the engineering firm who is Paul Forton today from
17 Spicer Group. He's the engineer that I picked to be in
18 charge of kind of the presentation. And if there is any
19 questions, again, be sure to talk to Paul Forton or ask those
20 questions during public testimony.

21 We have Craig Bessinger who is the city of
22 Ferrysburg superintendent or manager. He is with us today.
23 And then I think that's it.

24 Then we have Steve Koski and then Stacy Hissong,
25 which both of those people are from the Fahey Schultz law

1 firm that I use for the drain association as well as any
2 drain law or Drain Code stuff that comes up. So they're also
3 on today's call.

4 Steve will give us a kind of why we're doing it via
5 Zoom today, kind of where it's at. I know some things
6 changed last week, but we're still -- I want them to give a
7 heads up, or give them a heads up on why we're doing what
8 we're doing.

9 Again, I would much rather do these in person, I
10 like that personal relationship, but currently we can't do
11 that. So I just want to make sure that everybody knows that
12 I very much appreciate your morning.

13 Some people are like, well why do we do these in
14 the morning or afternoon. Well your court proceedings are
15 also during certain times, and we -- this is a court
16 proceeding, a public hearing, that is required by state law.
17 So that's why we have these during the afternoons. So again
18 I appreciate everybody's time.

19 At this time I'll go ahead and give the oath and
20 then I'll let the three gentlemen take over.

21 Gentlemen, please raise your right hand.

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

1 determine the necessity for the location, establishment and
2 construction of the North Shore Drive Drain located in the
3 city of Ferrysburg, in said county, Gentlemen?

4 BOARD MEMBER BILL CARGO: I shall.

5 BOARD MEMBER KEN SOUTER: Yes.

6 BOARD MEMBER RICH VANDER KLOK: I will.

7 WATER RESOURCES COMM. JOE BUSH: Thank you.

8 BOARD MEMBER BILL CARGO: Okay, the first thing we
9 need to do then is to --

10 WATER RESOURCES COMM. JOE BUSH: Mr. Chair, maybe
11 Steve can go ahead and give an update quickly on why we're
12 here today.

13 BOARD MEMBER BILL CARGO: I was going to put that
14 under rules of public comment, I thought that was under item
15 C.

16 WATER RESOURCES COMM. JOE BUSH: Okay.

17 BOARD MEMBER BILL CARGO: Is that okay, Steve?

18 ATTORNEY STEVE KOSKI: That's fine.

19 BOARD MEMBER BILL CARGO: Then first let's elect a
20 chairperson and a secretary.

21 Do I have any motions for a chairperson.

22 BOARD MEMBER RICH VANDER KLOK: I will make a
23 motion Bill Cargo serve as chair.

24 BOARD MEMBER KEN SOUTER: I will second that
25 motion.

1 BOARD MEMBER BILL CARGO: Okay, we have a motion
2 and a support for electing Cargo as chair.

3 All in favor, say aye.

4 BOARD MEMBER KEN SOUTER: Aye.

5 BOARD MEMBER BILL CARGO: Aye.

6 BOARD MEMBER RICH VANDER KLOK: Aye.

7 BOARD MEMBER BILL CARGO: All opposed?

8 And it is passed without objection.

9 Who wants to be the secretary for today's meeting?

10 BOARD MEMBER RICH VANDER KLOK: I'll make a motion
11 that Ken Souter be the secretary for --

12 BOARD MEMBER KEN SOUTER: I'll make --

13 BOARD CHAIRPERSON BILL CARGO: I'll support the
14 motion that Ken Souter be the secretary for today's Board of
15 Determination meeting.

16 Is there any other nominations?

17 BOARD MEMBER RICH VANDER KLOK: No.

18 BOARD CHAIRPERSON BILL CARGO: Okay. Then in that
19 case, all in favor, say aye.

20 BOARD MEMBER KEN SOUTER: Aye.

21 BOARD CHAIRPERSON BILL CARGO: Aye.

22 BOARD MEMBER RICH VANDER KLOK: Aye.

23 BOARD CHAIRPERSON BILL CARGO: Opposed?

24 And again that is adopted without objection.

25 At this stage I'm going to take a little break and

1 ask Steve to explain the rules of public comment and why we
2 are meeting today by Zoom rather than in person.

3 ATTORNEY STEVE KOSKI: Thank you, Mr. Chair. And
4 good morning everybody, thanks for being here for this Board
5 of Determination today.

6 This meeting is being held electronically and in
7 compliance with the Open Meetings Act as it relates to having
8 remote electronic meetings.

9 At the beginning of the Corona virus pandemic these
10 meetings were being held pursuant to an executive order from
11 the governor that made a special temporary exception to the
12 Open Meetings Act to allow for electronic public meetings.

13 And then a couple of weeks ago, the governor's
14 executive orders were found unconstitutional -- well they
15 were created in an unconstitutional way, by the Supreme
16 Court. So that authority became a little bit unclear. And
17 there was an update to the Open Meetings Act that was signed
18 into law by the governor that provides the authority to hold
19 these meetings during the pandemic through the end of this
20 year, and then potentially into next year as well. So then
21 we are operating under state law as of now under the Open
22 Meetings Act.

23 We will make every effort to ensure that everybody
24 has the ability to participate fully and that there is
25 transparency for everybody that is in attendance.

1 For the board, I know we did not do a roll call for
2 the first two, but when you vote for necessity at the end, we
3 do recommend that you have a roll call vote just so that for
4 the -- for your determination we have a complete record as to
5 who voted.

6 With respect to the public, we ask that you remain
7 muted during the meeting. There will be an opportunity for
8 public comment, which you saw on the agenda that we shared
9 earlier. That I -- and I will help the chairperson
10 facilitate that and we'll call upon each person that
11 indicates that they would like to comment.

12 And when you do comment, we ask that you state your
13 name and address for the record.

14 Again we have a court reporter here, Margie, and
15 this is also being recorded on Zoom. So we'll just want to
16 make sure that everything is clear for the record.

17 Public comment will be in accordance with rules
18 that are set forth by the board. Typically for these we
19 recommend a three-minute public comment period, and one
20 comment per person.

21 And if people want second comments, then the board
22 at that time can determine if they need to hear additional
23 testimony in order to make their determination. And the
24 board will set its rules here coming up after my discussion
25 here.

1 In order to indicate that you would like to
2 comment, we ask that you virtually raise your hand on Zoom.
3 And you'll find the Raise Your Hand button under the
4 participant's list. So you can hit the participant's button
5 on the bottom to pull up the participant's list, and then the
6 Raise Your Hand will appear under that list. Or if you
7 scroll over your name and use the drop-down menu, there will
8 be a Raise Your Hand option.

9 For those of you that are calling by telephone, you
10 can dial star nine to indicate that you would like to raise
11 your hand because if you're calling in by phone, your number
12 appears on the participant list.

13 So a little hand will appear next to your number so
14 I will -- it will indicate that you would like to comment.

15 You'll also see that there is chat function on here
16 and there is a chat button on the bottom of your screen.
17 That is set for participants to be able to only send me
18 messages.

19 And so if you're having an issue, you can let me
20 know. But the main reason for the chat is if people do not
21 want to give their public comment themselves, you can type it
22 into the chat box. Again, just please include your name and
23 address when you leave your comment and then I'll be happy to
24 read that into the record for you.

25 I think everybody sees the mute button, the mute

1 and un-mute, that is how, when it is your time to
2 participate, you can select that button, and that will
3 un-mute you. And then as soon as you're done with your
4 comment, again, we ask that you would go back on mute.

5 Again that's just because there is -- when there is
6 multiple microphones on, they pick up a lot of things. So we
7 don't want to cause -- we don't want to make it more
8 difficult for everybody to hear, and also again because we
9 have a court recorder here.

10 If you are calling in by telephone, you can dial
11 star six to mute and un-mute yourself. And I will remind you
12 of that when it does come time to -- or for public comment.
13 I'll remind you of all these procedures once we get to that
14 part of the agenda.

15 If you experience any connection issues, we
16 recommend that you just log out of the meeting and log back
17 in. That seems to solve a lot of audio or video issues.

18 If you still cannot get back in, we ask that you
19 dial in by telephone with the dial in information that's
20 provided on your notice.

21 If we lose any board members, we'll ask them to do
22 the same thing to try to log back in. And if they still
23 can't get in by their computer, to just call in. The
24 difference with the board member though is if we lose one, we
25 have to pause the proceeding to wait until we have the full

1 board in order to proceed.

2 So at this point I will turn it back over to the
3 chair. And again I will go over those procedures again in
4 case you forget anything that I just mentioned here.

5 BOARD CHAIRPERSON BILL CARGO: Okay, under the
6 agenda we talk about -- under agenda section III-A we talk
7 about role and function of the board. Is there somebody to
8 speak on the role and the function of the Board of
9 Determination here?

10 ATTORNEY STACY HISSONG: I would be happy to do
11 that.

12 BOARD CHAIRPERSON BILL CARGO: Thank you.

13 ATTORNEY STACY HISSONG: Thank you, Mr. Chair.

14 Again my name is Stacy Hissong. I'm one of the
15 attorneys for the Water Resources Commissioner's office. And
16 the purpose of this hearing, called a Board of Determination
17 is for the three-member Board of Determination to decide
18 whether a drain should be established under the jurisdiction
19 of the Ottawa County Water Resources Commissioner.

20 So in this situation we are looking at the
21 establishment of a brand new drain. And so there is a series
22 of proceedings that must take place in order for that
23 decision -- to get to the point we are at today, and also for
24 that decision to be made.

25 So in this situation there was an application to

1 lay out and designate a drainage district that was submitted
2 to the Water Resources Commissioner's office. After that
3 takes place, then the Water Resources Commissioner, Joe Bush,
4 appoints an engineer, in this case it was Paul Forton at
5 Spicer Group, to look at the application and then to come up
6 with a drainage district boundary, and a best guess, and I'm
7 going to say best guess, which engineers don't like to say,
8 but not even based on preliminary engineering but just taking
9 a look at the situation, where the problem is, what area
10 contributes water to that problem, and then a best guess at a
11 potential solution.

12 After that takes place there is what is called an
13 order laying out and designating the drainage district that
14 is filed, and in this case that was done.

15 A petition was then filed to locate and establish
16 the drain. Once that takes place, then that sets about the
17 Board of Determination which is this meeting.

18 So what takes place today is the three-member Board
19 of Determination made up of property owners and residents of
20 Ottawa County, but not from the area or the municipality
21 that's involved, receives evidence from the engineer and then
22 from the property owners that attend this meeting to help
23 them in making a decision about whether a drain project
24 should be constructed and a drain established that would be
25 under the jurisdiction of the drain commissioner.

1 So I'm going to unpack all that a little bit for
2 you. So a drain can be a pipe, it can be an open ditch, it
3 can be detention basins. It can basically be anything that
4 stores and transports water. And that can be taken under the
5 jurisdiction of the Water Resources Commissioner.

6 So we're looking at either taking over something
7 that's already in existence or creating something new to
8 assist with the drainage, storage and drainage of water in
9 the area that was proposed. So when I say drain that's what
10 we mean.

11 When I say drainage district, that means the area
12 from which the water that poses a problem is coming, and the
13 engineer will show you the properties involved in that. So
14 when we say a drainage district, that's what we mean.

15 We also use that term synonymously with the
16 watershed. So when we establish a drain, every drain has a
17 watershed or a drainage district, and that's the area of
18 property that contributes water to a system or a proposed
19 system, or a proposed drain.

20 Lucky for those folks, that also makes up the
21 special assessment district for the drain. So when a drain
22 is established, there is a drainage district or a special
23 assessment district that's made up of the watershed that
24 helps pay the cost of the drain. And entities included in
25 that are the county for benefit to county roads, the township

1 involved, or city involved for the benefit, for the public
2 health, and then the property owners who contribute water to
3 the system are all part of the entities that help pay for the
4 cost of the drain.

5 So what we have here today is should we establish a
6 drain and construct a project. And so the board's decision
7 today is simply yes, we should; or no, we shouldn't. Is it
8 necessary and conducive to the public health, convenience or
9 welfare to establish and construct a drain, or is it not
10 necessary.

11 In making those decisions, these three board
12 members are going to take the testimony of the engineers and
13 you, the property owners, that are most familiar with the
14 drainage issues involved in this area to aid them in making a
15 decision of yes or no.

16 If the decision is no, then these proceedings end
17 and no new petition can be submitted to the office of the
18 Water Resources Commissioner for at least a year.

19 If the decision is yes, then the Water Resources
20 Commissioner will work with the drain -- or with the
21 engineering to develop the potential for a project, including
22 design, easement acquisition where necessary, permitting and
23 then ultimately a scope of a project to be bid out, if it's
24 determined that that makes sense.

25 That does not -- a finding of necessity does not

1 completely 100 percent guarantee that there will be a
2 project, but it does guarantee that there will be, moving
3 forward, an engineer can just see if that makes the most
4 sense and to move forward with the potential establishment of
5 a drain.

6 Why doesn't it guarantee it? Because engineers can
7 work wonders but they're not magicians. There is some
8 situations where it is indeed not possible. But if the Board
9 of Determination says it's necessary, then the steps to go
10 through the process to find out, is it possible, and if
11 indeed it is, and it makes sense to actually move forward
12 with the establishment of the drain happens.

13 So that's what the board does, decide yes, take
14 that next step, or no.

15 What the board does not do is say "yes, but." Let
16 me give you a couple of examples of that.

17 Yes, but we should only have the drain consist of
18 this and nothing else. The board does not have the power to
19 do that. That is up to the Water Resources Commissioner to
20 determine the scope of the project.

21 The other "yes, but," that they can't do is to
22 decide yes, but we only think it's logical to spend this much
23 money and it's not necessary if it costs more than that.
24 That is also the, within the scope of the Water Resources
25 Commissioner, and not the Board of Determination to make

1 those decisions. And indeed there is not enough engineering
2 information today to aid in that type of decision.

3 So the board is only going to make the decision of
4 is something necessary, and is it not.

5 And then the final piece of information for the
6 property owners on this meeting today is, is the board going
7 to be able to tell you how much money your assessment might
8 be if that takes place.

9 Well if they don't know the scope of the project or
10 if they don't know how much the project is going to cost,
11 then it's impossible for them or anyone else at this point to
12 give you information on how much it will cost.

13 So we don't know how much this is going to cost, we
14 don't know exactly what the scope of the project will be yet
15 because the purpose of this meeting is to determine if we
16 should move forward into those next steps.

17 So with that, Mr. Chair, I said an awful lot. I'd
18 like to entertain questions from the board or from the
19 property owners as to the procedure only before we get into
20 the evidence as to the necessity.

21 BOARD CHAIRPERSON BILL CARGO: Stacy, I have a
22 question. One of the comments I often hear during these
23 Boards of Determinations for somebody that's living on high
24 ground or a hill and they often say, gosh, I have no problems
25 with flooding on my property, why am I included on this

1 drainage district. Could you explain why they should be
2 included or why not?

3 ATTORNEY STACY HISSONG: Thank you, Mr. Chair,
4 that's a question -- I work for 50 different counties doing
5 drain projects and that comes up almost every time. So thank
6 you for adding that to the mix.

7 So if someone is included as being in the drainage
8 district, but doesn't experience problems, the drainage
9 district or who helps pay for the drain is not made up of
10 just those who are experiencing problems, but actually those
11 that contribute water to the system.

12 So we may have a property owner who is high and
13 dry, so to speak, pardon the pun, but in this situation it
14 might actually be true, and they are part of the assessment
15 district potentially because the engineers have determined
16 that when rain water falls on their property, it indeed ends
17 up going to the system or the proposed system.

18 And so because they contribute water to the system
19 and to the problems, they're all responsible for a portion of
20 the costs. How much is, of course, the determination by the
21 Water Resources Commissioner.

22 BOARD CHAIRPERSON BILL CARGO: Thank you, I
23 appreciate that.

24 Do the board members have any questions of Stacy?

25 BOARD SECRETARY KEN SOUTER: Not at this time.

1 BOARD MEMBER RICH VANDER KLOK: None.

2 BOARD CHAIRPERSON BILL CARGO: Is there any members
3 of the public, Steve, that want to ask questions on the
4 procedures with Stacy?

5 ATTORNEY STEVE KOSKI: It looks like we have one
6 hand from the user John B, if you could un-mute yourself.

7 BOARD CHAIRPERSON BILL CARGO: And please give your
8 name and address, please, John.

9 MR. JOHN BELIAN: Good morning. My name is John
10 Belian. I own property at 19018 North Shore Drive. I reside
11 in the state of Minnesota, 1635 Chatham, Arden Hills.

12 Just a question on scope. Stacy, when you said --
13 let me put it another way. Does the board have -- will the
14 board determine the boundaries, the final boundaries of the
15 drainage district or are those still fluid as we come out of
16 the meeting?

17 ATTORNEY STACY HISSONG: Being from Minnesota,
18 Minnesota has its own set of state legislations about these
19 that are slightly different than Michigan, so I appreciate
20 your question very much.

21 So the engineer, and like I said this is a lawyer's
22 version of an engineer's term, gives its best guess at what
23 the watershed and the drainage district boundaries are going
24 to be without performing final engineering.

25 So, yes, it is fluid. Because if this is found

1 necessary and a project is indeed constructed, then once we
2 have a final determination of that scope, after easement
3 acquisition, after extensive permitting, then and only then
4 can we determine the true boundaries of the watercourse.

5 And if changes are made based on the engineer's
6 best guess, then we'll have a hearing specifically to go
7 through those changes to the watershed and to allow anyone
8 who contests that to have an opportunity to say their piece
9 with regard to that.

10 So excellent question, John, thank you very much.

11 MR. JOHN BELIAN: Thank you. Excellent answer,
12 appreciate it.

13 BOARD CHAIRPERSON BILL CARGO: Okay. With that,
14 I'm going to discontinue this portion of the meeting, and I'm
15 going to make a motion that public comments from this point
16 forward shall be limited to three minutes per person.

17 I'm making that because you can summarize a novel
18 in less than three minutes, so we want people to be succinct
19 in what their positions are and what their concerns are and
20 we'll try to provide answers.

21 So do I have support for my motion that public
22 comments shall be limited to three minutes per person?

23 BOARD MEMBER RICH VANDER KLOK: I will support
24 that.

25 BOARD CHAIRPERSON BILL CARGO: We have a motion and

1 support.

2 At this point I will do -- who is going to do the
3 roll call? Do you want me to do the roll call as the chair
4 or should we give that over to Steve?

5 ATTORNEY STEVE KOSKI: Whatever your preference is,
6 Mr. Chair.

7 BOARD CHAIRPERSON BILL CARGO: In that case, Steve,
8 I'll have you do the roll call votes.

9 ATTORNEY STEVE KOSKI: No problem.

10 Bill Cargo?

11 BOARD CHAIRPERSON BILL CARGO: Yes.

12 ATTORNEY STEVE KOSKI: Rich VanderKlok?

13 BOARD MEMBER RICH VANDER KLOK: Yes.

14 ATTORNEY STEVE KOSKI: And Ken Souter?

15 BOARD SECRETARY KEN SOUTER: Yes.

16 BOARD CHAIRPERSON BILL CARGO: And that motion then
17 is approved.

18 At this stage on the agenda I believe the next
19 thing we have is an engineer's presentation. And the
20 engineer I believe will also be providing slides that will
21 show up on people's computers that they can follow the
22 engineer with.

23 So with this, I'll turn it over to the engineer.
24 And, let me see, do I see him out there? Yes, there he
25 is.

1 Paul, if you will take over the meeting and make
2 your presentation at this time, I would appreciate it.

3 ENGINEER PAUL FORTON: Thank you, Bill.

4 It's actually been nice with the questions that
5 have already been asked, and, Stacy, your comments. I know
6 some of the larger topics have already been discussed.

7 But I love this idea of focusing on best guess.
8 And, guys, with the circumstances that we have here, we'll go
9 through that, and I'll elaborate more on that with each step
10 of the way here.

11 So, Margie, I guess to confirm, were you able to
12 receive the PDF of the presentation?

13 THE REPORTER: I was, thank you so much.

14 ENGINEER PAUL FORTON: I was able to e-mail that
15 along. And so if, Margie, if you do not receive that or have
16 not received it, let me know.

17 ATTORNEY STEVE KOSKI: She is on mute, but she did
18 mention that she received your e-mail.

19 ENGINEER PAUL FORTON: All right. Thanks. I might
20 not have had my earbuds in as I was setting up my office here
21 to reduce some of the shine on my head for you guys.

22 So moving into the presentation here, Steve, I
23 guess what I'd like to do is talk a little bit about the
24 location for the benefit of the board members. We'll talk a
25 little bit about the background and history of the drain.

1 I'm going to dive into that drainage district boundary a
2 little bit.

3 Stacy mentioned it's a watershed boundary, drainage
4 district boundary, special assessment district. We'll talk a
5 little bit about that specifically here. We'll get into the
6 site conditions and the inspection that I was able to
7 complete, and then take any questions that the board may have
8 at this time.

9 So moving on, our location, we are in the city of
10 Ferrysburg, just north of Grand Haven. You can see the red
11 star on the map there. We are straight west of Ottawa Sands
12 Count Park.

13 Moving onto the next slide, Steve. Stacy mentioned
14 that this is an application for a brand new drain. And the
15 reason of importance for that is there is not current
16 infrastructure that services our problem area that is
17 currently installed. And so this would be new infrastructure
18 in order to solve this problem.

19 The watershed that feeds this area is approximately
20 five acres, so relatively small. When looking at some of our
21 other districts, this is a particularly small district, and
22 in total it envelopes approximately ten parcels, depending on
23 where we put that best guess line.

24 The land use here is primarily residential, we do
25 pick up a portion of Ottawa Sands Park. And the reason that

1 we're here today is severe flooding that occurs between,
2 along the addresses of 19010, 19018 and 19022 North Shore
3 Drive.

4 And so moving onto a map, I tend to like to speak
5 from maps a little bit more.

6 This is an aerial image of the district itself.
7 You can see that the parcel lines are shown in a green color,
8 and the approximate watershed boundary is shown in magenta.
9 And I'll show you how we came up with that in a little bit,
10 but I think I'd like to speak from this map just for a few
11 moments.

12 As Stacy mentioned this is a best guess of the
13 watershed line. And what that means is we basically find the
14 high spot or the Continental divide around the low area and
15 we say, okay, if we were to turn on a hose right here, where
16 would that water go.

17 And the reason that this particular boundary is a
18 little bit unique, if you turn a hose on in this area, we're
19 in pure sand, it's going to infiltrate in more cases than not
20 within this watershed boundary.

21 So there are probably already folks on the line
22 that if you can see this map, you might say, I received a
23 notice of this meeting, but I'm not even inside this line.
24 That idiot engineer can't even get that right.

25 And the reason for that is that we over-notify for

1 these meetings. We don't know, as Stacy mentioned, exactly
2 what the design will be. And so with that in mind, we
3 over-notify slightly to ensure that depending on what the
4 final design may be, if the project is found necessary, we
5 can make sure that we have over-notified folks so that they
6 are aware of what's going on in the area.

7 In this particular situation, the water flows
8 primarily right down into that wooded area behind the homes
9 there that you see on the east side of North Shore Drive.
10 And so again, moving onto the next slide, we'll talk a
11 little bit about how we come up with that best guess
12 boundary.

13 This is Lidar data for the area, or elevation data
14 for this particular area. And you can see that the way I
15 like to relate this, is if you've never seen data like this,
16 is the -- it's a colorized version of the elevations within
17 this area.

18 And so if you think of the rocky mountains with
19 snow on the top of the mountain peaks, those white areas that
20 you see there, those are the higher areas within this region.
21 And they drain down through the color spectrum, through the
22 reds, through the yellows and oranges down into the green
23 area.

24 And off to the far bottom left-hand corner, if you
25 can see that on your screen, that's Lake Michigan

1 (indicating). And so you have Lake Michigan (indicating),
2 you have a series of homes on the lake. Then you have North
3 Shore Drive (indicating), and then you have the lots on the
4 east side of North Shore Drive, and this is the particular
5 area that we're talking about between Piney Point and Sunset
6 Trail.

7 So as we move through some of the pictures, I want
8 to show you here in a motion that --

9 BOARD CHAIRPERSON BILL CARGO: Paul, before you
10 leave this slide can you go back to the previous slide?

11 ENGINEER PAUL FORTON: You bet.

12 BOARD CHAIRPERSON BILL CARGO: I'm taking a look at
13 the area south of the Sunset Trail and I notice the
14 elevations there are higher, and yet they're not included
15 within the proposed district. Is there a reason for that?
16 Does Sunset Trail act as a break?

17 ENGINEER PAUL FORTON: Excellent question, Bill,
18 and I'm glad that you brought that up.

19 So our notification boundary did include those
20 parcels. On our field inspection we did not see a culvert
21 underneath Sunset Trail.

22 What that means is water from the low point south
23 of Sunset Trail would have to infiltrate to get to the other
24 side. And there is enough topography there or rise in
25 elevation that that would be a significant amount of water

1 before it would overflow the road, for example.

2 But folks on the line, public comment later on,
3 that is a question that I would have. Has anybody ever seen
4 water flowing over the road there. I don't live in the area
5 and so obviously this would be a windshield tour for me. And
6 so I'm very interested to hear what public comment may be in
7 regards to that particular area. But those folks were
8 notified of the meeting today as well.

9 Another question that I meant to mention while we
10 were on this slide that comes up quite frequently is this
11 watershed boundary, you know, my water doesn't flow down the
12 hill, it soaks into the sand. And I started to allude to
13 that in this particular area a little bit.

14 What we're really looking for is the worse case
15 scenario would be March. And in March, if the groundwater is
16 frozen, and you have a snow melt and the water cannot
17 infiltrate, where does that water go.

18 And that is primarily how we determine these
19 watershed boundaries. We don't do a high-level groundwater
20 piezometer install to assess the groundwater within the area,
21 that's not in the purview of coming up with our best guess,
22 mainly because we don't want to rack up a bunch of undue
23 costs in compiling this information if it's found not
24 necessary. We don't have that information at this point. So
25 keep that in mind too.

1 But in general what we're looking for is if the
2 ground were frozen on this particular area, where would that
3 water travel to from a surface flow standpoint.

4 So does that kind of help address your question,
5 Bill?

6 BOARD CHAIRPERSON BILL CARGO: Yes, it does. It
7 kind of also explains what's happening north at Crosstown
8 Lane. So that helps me understand your rationale, thank you.

9 ENGINEER PAUL FORTON: Exactly. And that's another
10 good point to point out, I'll build on that one as well.

11 I don't know if that's Crosstown Lane, that gets
12 labeled by the GPS, but I believe the sign is really Piney
13 Point (indicating) when you're out in the field. So I
14 guess county GIS versus real world, I'm a little bit unsure
15 there.

16 But just north of that location there is a low
17 point. And you'll notice, as you look at North Shore Drive
18 (indicating), starting at the bottom of the page we kind of
19 have a reddish orange color that moves to a yellow color
20 (indicating), that moves to a light green color (indicating)
21 and it's also turning a light blue green as we get into the
22 area where Steve has his cursor.

23 At that point the water can spill off into the low
24 area to the east of the road. These comments may not be of
25 consequence right now, but trust me, I'll build on them here

1 in a little bit.

2 This particular section of the road was rebuilt
3 this past year, and Prein & Newhof completed the design of
4 that road, and with that I was able to get a set of their
5 plans, the as-built plans for this particular area.

6 The system that they installed -- and actually,
7 Steve, let's go ahead to the first photo here that you can
8 see.

9 Right here is a picture and you can see the new
10 asphalt on the right -- I'm sorry, the new asphalt on the
11 left and the new driveway on the right where it's tied into
12 the driveway there. This is facing north. The street sign
13 in the background that you see there is for Piney Point. And
14 the address you can see is 19010 North Shore Drive.

15 So this entire area of the road was rebuilt and in
16 general the water grades away from us, from where the water
17 was taken, north into a low area there. And Prein & Newhof
18 did install a series, or call for a series of catch basins in
19 their design.

20 And the reason I'm making such a big deal out of
21 this is this is a little bit unique in the design that they
22 had to implement. The catch basins in this area are
23 connected to pipes that are perforated and result in the
24 infiltration of this water.

25 So the road drainage in this area does not have a

1 direct gravity outlet, which does not surprise me. When
2 we're this close to Lake Michigan, the preferences in
3 engineering and as a designer would certainly be to have a
4 gravity outlet for that water to leave the area, discharge it
5 into a lake, stream, wetland safely, and allow that water to
6 surface flow away.

7 We do not have that ability here given the
8 topography. And from a permitting standpoint, I'm assuming
9 that Prein & Newhof contacted the Corps of Engineers and to
10 get a permit to directly discharge to Lake Michigan is
11 extremely difficult for environmental reasons. But then also
12 from the state.

13 In this particular area you're dealing with Lake
14 Michigan, so you have the Corps that you'd be working with as
15 well as EGLE, the State of Michigan departmental -- the
16 Department of Energy -- no, Environment Energy and Great
17 Lakes, I think I flip-flopped that.

18 But at any rate, permitting in this particular area
19 to implement a solution is especially difficult. We have
20 very sensitive natural resources with the beach, dunes in the
21 area, and transferring that water generally comes with big
22 challenges.

23 So the road system here again relies on
24 infiltration. If they did not have those catch basins, the
25 water would work -- say you sealed those right off with

1 leaves or maybe they didn't even install those, what would
2 happen is that water would work its way down to that low
3 point north of Piney Point and it would still infiltrate into
4 the earth at that particular area.

5 My best guess is what would happen is the road
6 would be inundated with water for a longer amount of time,
7 which thereby causes issues for emergency vehicles and entry
8 and exit of the residents, this is one way in and one way
9 out.

10 So a system, an infiltration system such as this,
11 from talking with local residents, even in a heavy rain, that
12 water will sit on the road for a short amount of time before
13 it is able to infiltrate into the system that Prein & Newhof
14 has designed.

15 So I hate to pound on that point so much, but
16 you're going to understand a little bit more why, as we go
17 through the photos, it's going to be a little bit more
18 pertinent.

19 So this is the home where we -- I think a good
20 number of the complaints have come from. And again this is
21 facing north up the road.

22 As we move onto the next photo, Steve, this is at
23 the same location, facing south. And it's looking uphill.
24 There is a car coming at us. Basically any rain water that
25 hits the road there is going to pass down the new crown off

1 to each side and then come down the hill towards where the
2 photo was taken here, where I took the photo.

3 The next slide is standing in the same place facing
4 straight east. And this is a photo of the shed.

5 Again I'm standing on the road right-of-way when I
6 took this, and it's a little bit difficult to tell from the
7 photo but the driveway is fairly steep down into the rear lot
8 and you can see the shed there.

9 One thing I'd like to point out is a high water
10 mark on that shed. It's a little bit difficult to see, but
11 if you look at the white trim of the shed, around those
12 doors -- good job, Steve, with your cursor, that's perfect
13 (indicating). That lower piece of trim is a much darker
14 white than the top piece of trim. That is not because of
15 weed whacking, that is because of water elevations have been
16 that high on the shed in the past, for a period long enough
17 to discolor that particular portion of the paint.

18 And so I always do look for indicators in the field
19 of high water marks.

20 The next photo is taken from Sunset Trail. And
21 from Sunset Trail facing north, the blue that you can see
22 there, that blue wall is the same shed. And south of that
23 shed you can see standing water (indicating). And this is
24 the primary problem that we're dealing with.

25 These rear lots, surface water gets into this area

1 and it has nowhere to go other than to infiltrate.

2 And you can see from the trees and the photos that
3 this is a relatively new problem. You don't have trees of
4 this age growing in standing water. They just can't do that.

5 And so this is just again an indicator that this is
6 more -- when I say recent problem, in the last probably
7 several years that we've started to see this.

8 And the next photo, Steve, is of the same area, but
9 zoomed in a little bit more. And you can again see the high
10 water mark on the shed (indicating). The line there that
11 Steve is pointing out with you the cursor is as high as that
12 water has been on that shed in the past.

13 Right below Steve's cursor you'll see there is a
14 pump, and that pump as I understand it is currently used to
15 pump water out into the road in hopes of alleviating some of
16 the standing water in the rear lot here.

17 Moving onto the next photo, this photo was taken
18 from Piney Point facing south. And you can see that there is
19 sandbags that have been installed there with Visqueen, trying
20 to seal that water off from entering the home.

21 And so, you know, this is a very challenging place,
22 as we look at this. You know, Stacy said, well as an
23 engineer I have to come up with a best guess to solve this
24 problem. And this is without survey at this point, I don't
25 have survey data so I don't have raw elevations to share with

1 you. Again, we're too early in the process to do that.

2 But what I can tell you, and what you can see on
3 the maps and the mailings that folks have received, a problem
4 such as this cannot be solved generally speaking with gravity
5 drainage.

6 For example, the Army Corps of Engineers is not
7 going to give us a permit to put a pipe into this area and
8 send it out to Lake Michigan. And so from our
9 professional -- from my professional experience immediately I
10 take that option off the table.

11 So then the only other way that you can move this
12 water tends to be with a pump station. And pump stations are
13 a little bit of a challenge. Certainly they're all over the
14 place, whether they're sanitary or storm water. But pump
15 stations bring in the challenge of constant maintenance,
16 upkeep. It's obviously a mechanical device that can fail at
17 some point in time.

18 Obviously if we were to design that solution, there
19 are things that we can do such as use two pumps and use a
20 duplex system. But in this particular area, much like
21 they're doing now, we would likely need to pump the water in
22 order to remove that. The challenge with that is where are
23 you going to pump it to.

24 Again, shooting it directly to Lake Michigan is not
25 an option. Sending it into the road side drainage, into that

1 infiltration system, although that might seem like an option,
2 you would need permission from the city in order to do that.
3 The road is designed for road drainage not off-site drainage.
4 So many times you're not allowed to do that.

5 And so really at this point what that leaves us
6 with, or the only logical solution would be to pump this
7 through a force main. And if I can't take it west to Lake
8 Michigan, the next closest thing would be to take it east
9 through a hill.

10 And, Steve, I think what I'm going to have you do
11 just to keep you on your toes is let's go back to that first
12 slide where it's the drainage district boundary with an
13 aerial. Right here.

14 So again you can see Lake Michigan off to the left.
15 Off to the right is Ottawa Sands County Park. And there is a
16 lower area there (indicating). So really the only viable
17 option would be to directionally drill a pipe through that
18 particular hill and send that water east.

19 From a permitting standpoint, the state would most
20 likely -- their preference would be for us to pump into an
21 upland area where that water could then infiltrate. And
22 those of you that aren't familiar with Ottawa Sands Park,
23 there is a pond or lake off to the east that used to be an
24 old sand mining pit. And so the idea would be that could be
25 the permanent outlet.

1 Several challenges with that solution, guys. I'll
2 be honest with you, that's the one we used for the Chapter 3
3 application, but I'm not convinced that that's even
4 permittable. The state right now -- we are seeing these sets
5 of circumstances all over the state.

6 This is on a much smaller scale, but there are
7 many -- here in this situation it's a much smaller scale, but
8 we have many, many inland lakes that do not have a gravity
9 outlet.

10 And I'm working with one in Montcalm County right
11 now that's been as high as four-and-a-half feet over its
12 normal, what everybody would say normal level has been. We
13 are seeing unprecedented groundwater levels that are higher
14 than what we've seen. And so, you know, this area -- I guess
15 this area is not unique, is what I'm trying to tell you.

16 You know, seeing those mature trees that are most
17 likely dying or dead or will be dead, when you inundate a
18 root system like that, it's going to kill the tree. We're
19 seeing that all over the state.

20 So these circumstances aren't unique. It is very
21 challenging to pull a permit because in general the state,
22 for obvious reasons, is not real excited about giving us a
23 permit to send water from one hole through a hill to another.
24 If there is any contamination, different things, generally
25 you're basically moving a problem from one spot to another

1 place.

2 Not only from a permitting standpoint is this a
3 challenge, easements are another issue. Joe's office, you
4 know, the Water Resources Commissioner's office, they can't
5 just shove a pipe through a hill. You need permission to do
6 that, much like a utility company needs permission to put in
7 a power pole to provide power.

8 And so in this particular instance, there would be
9 several easements that would need to be obtained and
10 permission from landowners in order to route this water
11 through that hill.

12 And so, you know, Stacy mentioned costs. I get the
13 opportunity, by law, to say, hey, what would the approximate
14 costs be. And, gentlemen, as board members you've sat with
15 me through several BOD presentations here over the years, and
16 generally speaking we never talk about costs because we don't
17 even know the scope. But I'm going to talk about cost a
18 little bit today because I think it's important as you look
19 at this situation.

20 When we talk about a municipal pump station or a
21 pump station that would be something that a county or a city
22 could take over, in this case it would be a county pump
23 station, there are certain design standards that need to be
24 met for that.

25 And I can tell you in my experience that, you know,

1 a pump station to service an area like this is likely going
2 to be to the tune of \$300,000 potentially. It could be less
3 and it could be more.

4 And certainly the pumps that are out there today
5 aren't \$300,000. But in order to provide power to the
6 station, get it installed, to have duplicity in the pumps,
7 you know, you'd like two pumps so if one fails, you have a
8 back up until the first one can get repaired, we're talking
9 about a significant amount of money here.

10 And then I'll go back to me banging on the idea of
11 how small this district is. When we're spreading that over
12 ten or so parcels, that kind of amount of money, it's a
13 significant burden. If you spread 300,000 on ten parcels,
14 and that can be pretty excessive pretty quickly.

15 You know, but there is other entities involved. As
16 Stacy mentioned, the city would potentially get involved as
17 an at-large for a portion of that cost, for benefit to the
18 road; but again, their drainage is more or less taken care
19 of.

20 The county park is there, you know, you would need
21 permission from them to accept the water.

22 But I digress. Again, going back to the cost, as
23 Stacy mentioned it would be assessed to the special
24 assessment district or this watershed boundary. And again
25 whenever I see a set of circumstances like this, it --

1 BOARD CHAIRPERSON BILL CARGO: Paul, can I
2 interrupt you for just a second because this is a question
3 that would go to Stacy.

4 ENGINEER PAUL FORTON: Um-hum.

5 BOARD CHAIRPERSON BILL CARGO: Assuming that there
6 is no other solution as to this, can the Board of
7 Determination look at costs when it decides there is a need
8 or not a need for this? Or is that a determination as far as
9 the cost-benefit analysis to be made by the Water Resources
10 Commissioner at a later date?

11 ATTORNEY STACY HISSONG: Excellent question.

12 So the question in the Drain Code is is the drain
13 necessary and conducive to the public health, convenience or
14 welfare. And the word conducive means making a certain
15 situation outcome likely or possible. And so in my opinion,
16 I think you can take the possibility of that.

17 Like I said, engineers can make anything happen
18 with enough money, possibly. So I think that can be a
19 consideration, and especially hearing from that small group
20 of property owners within the drainage district. I think
21 that can be a consideration.

22 BOARD CHAIRPERSON BILL CARGO: So this is -- for my
23 understanding and the public's, this is probably the first
24 time in the, I've probably done at least 20 or 30 of these,
25 that the cost becomes a part of the discussion at this stage.

1 Is that correct?

2 ATTORNEY STACY HISSONG: Yes. I don't think it's
3 an all-being-and-ending thing, but I do think it can be some
4 part of the consideration in this situation.

5 Not necessarily -- what you heard from Paul was
6 more than cost. It was -- it's not even -- it's going to
7 be -- I guess it comes down to cost.

8 It's going to be an arduous project to permit, get
9 permission for and construct, which leads to the cost part.

10 BOARD CHAIRPERSON BILL CARGO: What I heard him
11 say, and, Paul, correct me, is this may not be feasible; and
12 if it is feasible to remove the water from this low area,
13 it's going to be very expensive.

14 ENGINEER PAUL FORTON: Yes, you know. And that's
15 again, guys, I don't generally talk about costs at BOD
16 meetings, but I feel like in this set of circumstances it's
17 an important thing to bring to the table. And so, yes.

18 BOARD CHAIRPERSON BILL CARGO: I appreciate that.
19 Paul, why don't you finish your presentation then.

20 ENGINEER PAUL FORTON: You bet you.

21 So certainly very difficult. In similar
22 circumstances like this, as Joe would be the ultimate
23 deciding factor, his office on how this would be assessed
24 within this boundary and that is primarily based on derived
25 benefit.

1 So if there are landowners that are listening, the
2 primary benefactors that I see are primarily along North
3 Shore Drive.

4 So as we talk about costs that are this large being
5 implemented by the county, now immediately as an engineer,
6 I'm always trying to be cost efficient. Perhaps there are
7 steps that could be taken to flood proof your home through
8 this period of high groundwater table.

9 You've already seen the sandbags, perhaps something
10 more permanent with a walkout basement, you could seal
11 windows and doors.

12 And I know that's a very difficult thing to hear as
13 a homeowner. I own a home. But at the same time perhaps a
14 more permanent solution and perhaps maybe even less expensive
15 than what this pump station might be.

16 So I just put that out there so that there might be
17 other solutions to help kind of alleviate the problem, that
18 might be more easy to implement.

19 So I guess, Steve, going back to slide 13 as we
20 talk about next steps, if a not-necessary vote, one more
21 up -- yep, right there.

22 As Stacy mentioned, if the board votes no, there
23 will be no project, there will be no engineering survey
24 design. That will end the process at least for now for a
25 period of one year before a new petition could be

1 entertained.

2 Steve, moving onto the next slide, if the vote is
3 yes and it is voted necessary, we would get into gathering
4 more information, doing engineering and final design for
5 implementation.

6 As Stacy mentioned, a yes vote does not necessarily
7 mean something will happen. If we can not obtain easements
8 or permission from property owners, well then we can't
9 install anything.

10 I've already talked quite a bit about permitting
11 and how that can be a challenge. And I will tell you from a
12 timing standpoint, if it were found necessary today, it is
13 extremely unlikely that anything would be installed within a
14 year of today's time. Okay, folks. So keep that in mind as
15 well.

16 People think, it's found necessary, we're putting
17 in a pump station and we'll be good for the spring. I
18 guarantee you that will not be the case. I just want
19 everybody to be on the same page because the permitting
20 process alone for something like this will likely take six to
21 nine months, and that is just the permitting process. That
22 assumes we have easements and have completed the design. And
23 easement requisition can take a significant amount of time
24 too.

25 But once those two steps are completed, we could

1 bid the project.

2 And many folks again, as has been mentioned, how
3 much is this going to cost? Folks, we won't know that until
4 what we call the Day of Review happens.

5 And that would be the next, if it's found
6 necessary, you'd receive a letter in the future for a Day of
7 Review, and that's a day where you can come into the drain
8 office or contact Joe's office to figure out what your
9 percentage of the cost would be.

10 And then after that Day of Review and any appeals
11 periods have expired, we can move toward construction.

12 Again the next slide, Steve.

13 Going on, feasibility is certainly a challenge on
14 this one, guys. As Stacy mentioned we can do anything with
15 enough money, but when you add permitting and easements,
16 certainly a difficult project to implement. Not impossible,
17 but certainly difficult. But then at that point do you want
18 to with the potential project costs being spread onto a
19 district of this side.

20 So with that I would take any other questions that
21 the board may have at this time.

22 And, Steve, the last slide photo is just the aerial
23 image again with the boundary if folks need -- if that's
24 helpful for public comment.

25 BOARD SECRETARY KEN SOUTER: I'd like to make a

1 comment.

2 Your slide, your topo slide showed a low area. It
3 doesn't tie in with the elevations from this area to the
4 lower lake and park or Lake Michigan.

5 How close -- I mean how much higher is this area
6 than Lake Michigan or how much higher is this area than the
7 lake level?

8 ENGINEER PAUL FORTON: That is an excellent
9 question. Unfortunately, I can't answer that, Ken, without
10 having true survey data. It's very difficult to tell.

11 This LiDAR data, for example, was flown in general
12 prior to the groundwater coming up, and the surface water
13 issues coming with it.

14 And so in general, the area that's north of Piney
15 Point there, the darker green color, that is -- I can tell
16 you that is slightly higher elevation (indicating) than the
17 low point that we're dealing with here behind the homes on
18 North Shore Drive.

19 In relation to Ottawa Sands you can see the colors
20 there are very similar with the low point where the cursor is
21 to the low point to the east on the county park property.
22 That I would anticipate would be fairly similar elevations
23 (indicating).

24 And maybe the landowners, I don't know if any
25 landowners have been able to survey this or have obtained any

1 information, but I wish I had a better understanding as to
2 how the Lake Michigan level compares with these rear lots.

3 I was told at one time years ago they had
4 entertained the idea of trying to put a storm sewer down
5 North Shore Drive to the south, toward the river. I was told
6 by that particular person that, if they had done that, it
7 would be submerged now because the groundwater level and the
8 Lake Michigan levels are so high.

9 And that's the tricky thing with projects such as
10 this, guys. I don't know what that elevation is, but we have
11 no idea what Lake Michigan is going to do. Commonsense tells
12 us it's going to go back down. We don't know if it's going
13 to go down or if it's going back up.

14 We are gaining. I can tell you that the lake I
15 mentioned earlier is down 20 inches over the course of the
16 summer, with their water surface elevation, but it's still
17 sitting in homes. So it's very difficult as we look at
18 trying to implement projects near the coast line, trying to
19 guess what Lake Michigan is going to do.

20 For example, the folks on the North Shore Drive on
21 the west side of the road, I already know that many of them
22 have installed shoreline protection probably to the tune of
23 maybe 1,000 -- typically 1,000 to 2,000 per linear foot to
24 protect their homes there on the west side. So it's
25 definitely a challenge as we look at it throughout the state.

1 BOARD CHAIRPERSON BILL CARGO: Thank you.

2 At this stage we'll enter the public comment
3 period.

4 But before we do, I know that we have the manager
5 for the city of Ferrysburg, Craig Bessinger here.

6 Craig, do you have any comments that you would like
7 to make before we open up comments to the public?

8 FERRYSBURG MANAGER CRAIG BESSINGER: Craig
9 Bessinger here, no comment.

10 BOARD CHAIRPERSON BILL CARGO: Okay, I appreciate
11 that.

12 Then I'm going to ask Steve that you would be the
13 moderator for the public comments.

14 And first I'd ask that you would talk about the
15 e-mails that were sent regarding this project, and then that
16 you would open it up for public comments that you moderate
17 though.

18 ATTORNEY STEVE KOSKI: Thank you, Mr. Chair, I'd be
19 happy to help with that.

20 So I can start by reading the -- I'll read the
21 e-mails received by the Water Resources Commissioner's office
22 into the record?

23 BOARD CHAIRPERSON BILL CARGO: Yes, please.

24 ATTORNEY STEVE KOSKI: And the first e-mail is from
25 Karen and Richard Fox, and their address is 19010 North Shore

1 Drive.

2 And they said, "Dear Mr. Bush, thank you for the
3 notice of the Board of Determination meeting and FAQs. Also
4 please thank the very helpful young lady who answered my call
5 earlier this week. We are not equipped for Zoom, however we
6 will try to participate in the meeting via phone. Please
7 read the following into the record if we are not able to be
8 there.

9 "We are Karen and Richard Fox, owners/trustees of
10 the property at 19010 North Shore Drive. We purchased this
11 site in 1988 and had no water problem over 30 years.

12 We have a water problem that has continued over the
13 last two years. It has destroyed our backyard gardens and
14 grass, flooded our shed, killed some pine trees, and even
15 with the lack of rain over the last three weeks we still have
16 standing water on our lot. We have had to resort to pumping
17 and installing a sandbag dike to keep the water from our
18 house at its high point.

19 "Whether the problem is caused by Lake Michigan
20 levels, Ottawa Sands Lake level or road drainage from the
21 road reconstruction this past year, or a combination of all
22 three, we don't know. We hope that all three would be
23 considered in the final design of the drain.

24 "We would welcome the establishment of a drain
25 district.

1 "Thank you for your efforts."

2 The next e-mail is from Mary Baxter, and the
3 address is -- her address is 6230 Norton Center Drive, Norton
4 Shores, Michigan, 49441.

5 "Dear Mr. Bush, yesterday we received the
6 notification of Monday's Board of Determination meeting.
7 Unfortunately neither my husband, Wayne, nor myself are able
8 to participate as we will be working at our Norton Shores
9 business. I spoke with someone at your office earlier this
10 afternoon and she assured me that is a super preliminary
11 meeting and that the area is typically wider than expected
12 for actual implementation of the project.

13 "That being said, our address, 19090 lies in the
14 outer region of the mailing notification area, and at this
15 point in time we have never had any issues with drainage or
16 flooding. I realize that down the street there are a number
17 of homes who have had water issues the last few years, and I
18 wholeheartedly can understand why they are seeking the
19 county's help.

20 "I am wondering if there is any cause to be
21 concerned that, one, parcels without current drainage,
22 flooding issues will possibly inherit such issues when the
23 new drainage system is laid; and two, parcels without current
24 drainage flooding issues would be assessed/charged for any of
25 the costs incurred.

1 "I realize the Board of Determination does not
2 assess fees, however I would like it to go on the record that
3 these concerns are being made known from the onset.

4 "Furthermore, I believe it would be unjust and
5 irresponsible to charge property owners who have had no
6 previous nor present drainage issues for the proposed North
7 Shore Drain, including if drain installation creates flood
8 issues for said property owners.

9 "Lastly, if it is determined that the cost much be
10 shared beyond those benefiting from the proposed drain, not
11 because the new drain causes new issues, then such costs
12 should be shared by all residents of North Shore Drive.

13 "Thank you for your time and your consideration of
14 our concerns."

15 And the last message is from Bob Kaminski, and,
16 let's see if there is an address here. Yep.

17 "Good morning. I am Robert J. Kaminski at 18665
18 Cambridge Drive. I have a couple comments on this issue.

19 "The lake level and water point historically moves
20 up and down. It was at the highest in decades. It is going
21 down over the last few weeks, and based on history will
22 continue going down.

23 "If this is a safety issue, what constitutes a
24 safety issue? Homes falling into the lake? River flooding?
25 I'd like to know the degree of the stake that's involved in

1 other areas of the county to distribute the cost of pumping
2 water out of a field.

3 "I live on the hill and there is no way, it does
4 not matter how high the water gets, that it would affect me.
5 Just my thoughts.

6 "Thank you, and have a good day."

7 BOARD CHAIRPERSON BILL CARGO: I appreciate that.
8 And, Steve, if you would now then moderate the public as far
9 as public comments.

10 ATTORNEY STEVE KOSKI: I will do that.

11 And I'll just remind everybody in order to
12 participate, please indicate that you would like to do so by
13 raising your hand on Zoom. There is a Raise Your Hand button
14 that you'll find under the participant's list.

15 If you're calling in by telephone, you can dial
16 star nine to raise your hand. And also you can send me a
17 message in the chat if you would like to just type your
18 comment and I would be happy to read that into the record for
19 you as well.

20 And again, just a reminder, please state your name
21 and address for the record, and it will be a three-minute
22 comment period as set forth by the board.

23 So the first comment is from John B.

24 If you could un-mute yourself and state your name
25 and address for the record.

1 MR. JOHN BELIAN: Again my name is John Belian. I
2 have property at 19018 North Shore Drive and live in the city
3 of Arden Hills in Minnesota.

4 Thank you for holding this hearing.

5 I am disappointed in that, prior to my expectation,
6 there was so much talk done on, with regard to costs and
7 feasibility. I think it's colored the -- I think it's
8 colored the discussion.

9 And I think, I just want to say that the
10 engineering, of course, is, as we said, preliminary. And so
11 I'd ask the board members to keep that in mind. I think
12 there are some factors that might mitigate that cost or
13 that -- or the drainage, setting the drainage district.

14 I do want to comment quickly on why myself and the
15 neighbors brought this in the first place, and the first
16 issue is health issues. The area has become a breeding
17 ground for mosquitoes and all other sorts of things that we
18 had not experienced before, and of course there are some
19 potential for mosquitos to carry disease, especially in this
20 area.

21 The next one of course is the environment, and I
22 think you -- someone did mention that those trees are either
23 dying or dead, and that's true. It's changed the environment
24 from a dune environment to a swamp environment.

25 And the third one of course is property damage.

1 When we had the -- when we had the heavy rains in early -- I
2 guess it was spring of this year, there was about five inches
3 of rain, we experienced about a 15-inch uplift in the water
4 levels that were currently there, and that uplift threatened
5 three of our homes with incursion within inches.

6 So I make an appeal that there is a necessity for
7 this drainage district. Whether or not it becomes feasible
8 or cost effective, I think, as I understood it, was a
9 secondary -- was a secondary consideration of the -- after
10 the board made the decision to -- with a yes or a no.

11 I'd like you to, again, ask that the board to, if
12 they would simply focus on the necessity, not necessarily on
13 the costs or the districts, which are individually guesses,
14 best guesses. And let's see, I think that's probably it.
15 I'm running out of time.

16 I hope you -- I'm asking for your approval.

17 ATTORNEY STEVE KOSKI: Okay. Thank you for your
18 comment.

19 The next comment is from Margaret VanHoudt. If you
20 could state your name and address for the record, please.

21 MS. MARGARET VAN HOUDT: Hi, I'm Margaret VanHoudt,
22 19076 North Shore Drive.

23 I live on the south side of all of this, and we
24 have had this house since 1990, and I understand about
25 mosquitos and so forth and health, but that can be eradicated

1 in a different manner. It does happen no matter where there
2 is standing water.

3 And I agree with 19090 that it should be
4 dispersed, if this large cost comes into play, that it should
5 be more than ten parcels that are the ones left with the
6 bill.

7 So that's my comment.

8 ATTORNEY STEVE KOSKI: Okay, thank you for that
9 comment.

10 The next comment is from the phone number ending in
11 6354.

12 If you could dial star six to un-mute yourself and
13 state your name and address for the record, please.

14 MS. MARY GADBOIS: Yes. This is Mary Gadbois,
15 19022 North Shore Drive. I'm one of the houses impacted by
16 the high water levels.

17 I do want to reiterate John Belian's point that I
18 think speaking so much to the cost and feasibility without
19 really focusing on the need has done a little bit of
20 disservice for today.

21 But I think going back to the need, again, since
22 19, you know, 86 when groundwater levels were high, Lake
23 Michigan was high, there was no water, now there is a
24 significant amount of water. Even though Lake Michigan
25 levels to your point have gone down 20 inches, even though we

1 have had a very dry summer and fall, there is still standing
2 water on these properties which speaks to the issue that
3 something is happening here that is not just the high
4 groundwater, not just Lake Michigan.

5 Whether it is the new drains, whether it's the
6 street or whether it is the creation of the Ottawa Sands Park
7 that occurred exactly at the same time when we started to see
8 that high water level, we don't know.

9 But there is a clear need to do something with this
10 water, to establish a drainage district. Not only because of
11 the mosquitos, which we spray for, but still occur. The fact
12 that the mature birch trees are dying because of this, and
13 this is -- to the point where this is a new issue. This is
14 not something that just happens, you know, when Lake Michigan
15 is high.

16 Something needs to be done permanently to address
17 this situation because it does impact more than just these
18 ten properties. If these trees fall, they will fall further
19 than just the properties under -- under the potential
20 drainage district.

21 So again, there is a clear need for this. Let's
22 establish the need, and figure out price and feasibility
23 later. Thank you.

24 ATTORNEY STEVE KOSKI: Okay. Thank you for that
25 comment.

1 If anybody else again has a comment, you can select
2 the Raise Your Hand option, or you can dial star nine on your
3 phone. And if you're having issues, you can wave your hands
4 in front of your camera right now and I'll try to see you.

5 We have one more from the phone number ending in
6 0130.

7 If you could dial star six to un-mute yourself and
8 then state your name and address for the record, please?

9 MR. JAMES MENERICK: Good morning. This is James
10 Menerick, we live at 18974 Piney Point, which is actually the
11 house on top of the hill, but we own a series of lots that go
12 down towards the west and border the homes on lake -- on
13 North Shore Drive that have the flooding problem.

14 My wife lived out there since the '70s and she used
15 to ice skate down there. So the water tends to go up and
16 down, depending on the levels of Lake Michigan. We bought
17 the lots in, I don't know, the late '80s when the water level
18 was headed down. It stayed somewhat dry, but it was always
19 moist down there.

20 But I tried to put a volleyball court in that down
21 there, oh, I don't know, in the middle '90s, and the water
22 table is about two feet below the surface. So I think the
23 water has always been there.

24 But this spring it definitely flooded big time. It
25 doesn't create problem for us directly, but those homes on

1 North Shore, they were really in danger of having their
2 basements flooded. So we do need to do something to get that
3 water pumped out of there.

4 It seems to be worse in the late spring and early
5 summer. So I have a suggestion that maybe some kind of
6 portable pump just for the worse time of the year, and then
7 the rest of the time it can sit dormant. That might be a
8 solution instead of a dedicated drain.

9 That's about it for right now. Thank you.

10 ATTORNEY STEVE KOSKI: All right. Thank you for
11 that comment.

12 Paul, did you have something to add?

13 ENGINEER PAUL FORTON: Yeah, I just wanted to
14 quickly clarify a comment I made about 20 inches down. I
15 just want to make sure that folks don't think Lake Michigan
16 is down 20 inches, but the other lake I'm working with in
17 Montcalm County is down 20 inches, so just to clarify.

18 I think Mary had made that comment and I wanted to
19 make sure I didn't misspeak during the presentation on that.
20 And so that was just a point -- a quick point of
21 clarification as well for the board.

22 ATTORNEY STEVE KOSKI: All right.

23 Mr. Chair, at this point it looks like we have
24 heard all of the comments from people that want to
25 participate, and I do not see any chat messages.

1 BOARD CHAIRPERSON BILL CARGO: Okay. I want to ask
2 Stacy a question.

3 You had previously talked about the standards on
4 which we would make this decision, could you read off those
5 standards again?

6 ATTORNEY STACY HISSONG: Sure. It's whether the
7 drain is necessary and conducive to the public health,
8 convenience and welfare.

9 BOARD CHAIRPERSON BILL CARGO: But you also had
10 some other words in there I thought, if it's only necessary
11 and conducive to public health and welfare or is there
12 anything else?

13 ATTORNEY STACY HISSONG: Public health, convenience
14 or welfare.

15 BOARD CHAIRPERSON BILL CARGO: Understand that.
16 But was there any other -- I thought you had used a word that
17 began with the letter F that I cannot recall now.

18 ATTORNEY STACY HISSONG: Hum, not that I can recall
19 either.

20 BOARD CHAIRPERSON BILL CARGO: Okay. And so when
21 I'm talking about the motion, I'm talking about state law, it
22 only talks about whether it's necessary and conducive to
23 public health, convenience and welfare, correct?

24 ATTORNEY STACY HISSONG: Correct.

25 BOARD CHAIRPERSON BILL CARGO: Okay. Okay. Thank

1 you.

2 I'll open it for public comment -- or comments from
3 the board members, and I'll close the public comments at this
4 time.

5 Do you have any statements or thoughts, Rich, and
6 then I'll ask the same of Ken.

7 BOARD MEMBER RICH VANDER KLOK: Just a couple of
8 things.

9 First of all, I appreciate the comments from the
10 public and also the report from Paul and some of the other
11 comments that were made.

12 I'm a little uncomfortable with the discussion that
13 we had regarding costs. I do not believe that that's in the
14 purview of the Board of Determination. And so, I personally
15 want to separate that for myself, that would not be a
16 consideration for me.

17 I do agree with what John and, I think it was Mary
18 who, in their comments, said that they felt that the cost and
19 the feasibility discussion did, in a sense, color the
20 discussion. And so I was a little uncomfortable with that.

21 However, having said that, again, I appreciate
22 those comments.

23 BOARD CHAIRPERSON BILL CARGO: Ken, do you have any
24 comments?

25 BOARD SECRETARY KEN SOUTER: Pretty much the same

1 as Rich on the cost. This is the first time -- I've been on
2 a lot of these boards, same as you, Bill, and I think this is
3 the first time that costs have really come up. But then
4 again, this is such a small district that the costs are in
5 essence something that maybe needs to be considered.

6 However, I would rather be a positive on this to
7 help the people out, that we go through the process of the
8 engineer actually giving an idea of what can be done and not
9 consider the costs, which we're not allowed really to
10 consider.

11 It sounds like there is a problem with the people
12 there that are in this area. The problem probably has a lot
13 to do with the high water table of Lake Michigan, the high
14 water table of the lake, just a groundwater table.

15 I don't know, I'm not engineering this project.
16 I'm glad I'm not engineering this project because it looks
17 like it could quite be a difficult project to come up with a
18 solution that relates to both taking care of the problem and
19 doing it financially so that you can afford to do it.

20 So -- but I think my personal opinion, we've got to
21 go further with this particular project and my -- health and
22 welfare is in this equation.

23 BOARD CHAIRPERSON BILL CARGO: Okay. And what the
24 F word I was looking for was feasibility. Since it was
25 raised again, I'm going to assume that we can not at this

1 time take a look at the feasibility of whether or not this --
2 whether this problem has a solution.

3 Like it was stated by the engineer, Paul,
4 earlier on, and I think also by Stacy, that with enough
5 money, you can engineer anything, you can solve any problem.
6 I'm not sure that this is a problem that can be solved
7 given the grades and what exists as far as the outside
8 conditions.

9 But again, if that's something that we are not to
10 consider, it's not part of our consideration, then I tend to
11 agree. All I can say is that it is necessary for something
12 to occur, whether it's feasible or not is not our
13 responsibility.

14 And I can say that it does impact the public
15 health, and also welfare, and I'm missing one, but that's all
16 right. Because again, it may not be something that is
17 financially feasible.

18 So with that, I don't have any anything else to
19 add.

20 Anything else from Ken or Rich?

21 BOARD MEMBER RICH VANDER KLOK: Mr. Chairman, I
22 would like to make a motion that the proposed location,
23 establishment, construction of the North Shore Drive Drain as
24 petitioned on August 3, 2020, is necessary and conducive to
25 the public health, convenience or welfare.

1 BOARD CHAIRPERSON BILL CARGO: Is there support for
2 that?

3 BOARD SECRETARY KEN SOUTER: I'll support that.

4 BOARD CHAIRPERSON BILL CARGO: We have a motion and
5 support for a motion that this North Shore Drain is
6 necessary.

7 Is there any further discussion?

8 Ken, do you have anything further to add?

9 BOARD SECRETARY KEN SOUTER: No, I do not.

10 BOARD CHAIRPERSON BILL CARGO: Rich, do you have
11 anything further to add?

12 BOARD MEMBER RICH VANDER KLOK: I don't.

13 BOARD CHAIRPERSON BILL CARGO: Then I'd ask that
14 Steve make a roll call vote.

15 ATTORNEY STEVE KOSKI: Bill Cargo?

16 BOARD CHAIRPERSON BILL CARGO: Yes.

17 ATTORNEY STEVE KOSKI: Rich VanderKlok?

18 BOARD MEMBER RICH VANDER KLOK: Yes.

19 ATTORNEY STEVE KOSKI: And Ken Souter?

20 BOARD SECRETARY KEN SOUTER: Yes.

21 BOARD CHAIRPERSON BILL CARGO: In that case, the
22 members voting in favor of this, the motion passes and this
23 is considered to be deemed necessary.

24 At this stage I think we need to go back and just
25 want to ask if the -- if the -- if, Stacy, I believe is going

1 to talk about the appeals process and then we'll take any
2 final comments from the Water Resources Commissioner, Joe.

3 ATTORNEY STACY HISSONG: So there is an opportunity
4 by anyone aggrieved by this decision to file an appeal with
5 the Ottawa County Circuit Court within ten days.

6 If no appeals are submitted, then the Water
7 Resources Commissioner in conjunction with the engineer will
8 move forward with preliminary design discussions.

9 Because this is such a small district, or in any
10 event I know the Water Resources Commissioner and the
11 engineer will be working with the city, as well as the
12 stakeholders with regard to this. So if you have any
13 questions, do not hesitate to contact Mr. Bush's office to
14 ask any questions about the status or provide your two cents
15 worth, so to speak.

16 I know the engineer would be pleased to talk to
17 everyone to make sure that everybody is comfortable with the
18 process moving forward.

19 And with that, Joe, do you have anything you want
20 to add?

21 WATER RESOURCES COMM. JOE BUSH: I just want to
22 tell everybody thanks for joining in via phone or in person.
23 We appreciate public comments.

24 I also just want to make sure that everybody
25 realizes this is a small drain district, and I think what

1 Paul was trying to do was just explain the potential of a --
2 some people don't realize what a pump station costs or a
3 location or the permitting. Those are the three big
4 challenges.

5 The permitting is going to be a big challenge as
6 well, where are you going to go with the water. I know there
7 was a comment with a temporary pump, we tried that. It's
8 like, where are you going to go with it, without impacting
9 someone else.

10 So those are the challenges, but I wanted to make
11 it very clear, this is court recorded.

12 I don't want people to come back later, well we
13 didn't know it was going to be X amount. We try to do the
14 best we can, but we have a small district like this, as I
15 look at the map, we probably are a little bigger than we will
16 be potentially. But if we have ten property owners and we
17 have X amount of costs, we just want to be very transparent
18 with that. I don't want anybody to be blind sided and start
19 trying to simulate or hire an attorney. This is the public
20 hearing process today. So I just want to be very up front
21 with that.

22 BOARD CHAIRPERSON BILL CARGO: And, Joe, one of the
23 things we normally talk about but never did on this is
24 because the order of necessity was approved, automatically if
25 there are going to be assessments, the local municipal unit,

1 the county, the road commission, all would absorb a portion
2 of any costs that are associated with any solution if it
3 should go to that, go that far. Is that correct?

4 WATER RESOURCES COMM. JOE BUSH: This one here is
5 all within the city limits, but we do have a county park
6 nearby and I think we might have our parks director on the
7 line too. But yeah, the park is included in this, for the
8 Ottawa County parks, but mostly it's city street and city
9 people.

10 So the county, other than the parks, probably will
11 not with have an assessment because it's not county road.

12 BOARD CHAIRPERSON BILL CARGO: You're right, I
13 forgot that. I just wanted to say there would be an at-large
14 assessment, the size of that at-large assessment would have
15 to be decided at a later date.

16 With that I'll take a motion to adjourn this
17 meeting and public hearing.

18 BOARD MEMBER RICH VANDER KLOK: I'll make that
19 motion.

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

21 BOARD CHAIRPERSON BILL CARGO: We have a motion and
22 support.

23 All in favor, say aye.

24 BOARD SECRETARY KEN SOUTER: Aye.

25 BOARD CHAIRPERSON BILL CARGO: Yes.

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BOARD MEMBER RICH VANDER KLOK: Yes.

BOARD CHAIRPERSON BILL CARGO: And that passes
without objection, so this public hearing is closed.

(Board of Determination concluded at 11:30 a.m.)

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