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STATE OF MICHIGAN
COUNTY OF OTTAWA
PARK TOWNSHIP

IN RE: OLD MACATAWA COURT COUNTY DRAIN
BOARD OF DETERMINATION HEARING

Proceedings commenced at 10:00 a.m. on
May 15, 2014 at 52 - 152nd Street, Holland,
Michigan 49424 - In Re: Old Macatawa Court
County Drain and Board of Determination, held
Before Marjorie A. Covey, Certified Shorthand
Reporter, No. 2616, and Notary Public for Ottawa
County.

APPEARANCES:

Jerry Hunsberger, Township Supervisor
Joe Bush, Ottawa County Water Resources Commissioner
Jerry Felix, Township Manager
Linda Brown, Chief Deputy
Michelle Wittingen, Secretary for Commissioner
Jerry Olman, Ottawa County Road Commissioner

Chairman Ken Souter
Secretary Peggy Weick
Member Todd Wolters

John Tenpas, Driesenga & Associates

O'Brien & Bails - 800-878-8750

1 Holland, Michigan

2 May 15, 2014 - 10:05 a.m.

3 Old Macatawa Court Drain

4 WATER RESOURCES COM. JOE BUSH: Good morning, every
5 one. I'm going to welcome everybody to Park Township this
6 beautiful morning. Thanks to every one that come to the Old
7 Macatawa Court Public Hearing. It's a little after 10
8 o'clock so we want to make sure everybody is here that's
9 coming here.

10 There is a sign-in sheet, please go ahead and sign
11 in so we know who is here and who is not.

12 I'm Joe Bush, the Ottawa County Water Resources
13 Commissioner, and again I welcome you to Park Township.

14 I'll do some introductions. We have Jerry
15 Hunsberger who just walked in, he is the township supervisor
16 for Park Township. We have Jerry Felix, the township
17 manager. We have a few lovely ladies; from my office, Linda
18 Brown is my chief deputy, and then Michelle Wittingen is
19 my president -- she's like my legal person in my office.

20 So and then we have Jerry Olman, he's from the
21 Ottawa County Road Commission. We have John Tenpas, he is
22 from Driesenga & Associates, the engineering firm who will be
23 talking later who has looked at this problem.

24 And behind me we have the Board that I hand picked.
25 We have Todd Wolters on your left from Holland Township. In

1 the center is -- oh, my, Ken Souter, Port Sheldon Township.
2 And then we have Peggy Weick, and she is from the City of
3 Ferrysburg.

4 The drain office, or me, the commissioner has the
5 petition in hand, and when that happens from this area, I get
6 to pick, from the drain code, I get to pick a three-panel
7 Board. And these three people have no obligation, no
8 interest in this area whatsoever. So they're outside the
9 district, and they come here and they'll be listening to your
10 comments during the public hearing. They'll be listening to
11 John Tenpas, to all the concerns from everybody. And them
12 three people there will be determining whether this project
13 or, to move forward will be necessary or not.

14 So everything is court reported. This is Margie,
15 our court reporter. So it will be online later. Or if you
16 want a hard copy, just contact our office and we'll be more
17 than happy to give you a hard copy. So everything that's to
18 be spoken here to this Board is court reported for your
19 information, for future use.

20 So again welcome, and once I give the Board their
21 oath, then they will be running the meeting. So during that
22 meeting if there is any questions, they will either ask
23 myself or John the questions from what they have.

24 So I will be -- I'm neutral in this. I don't have
25 any affiliation after I give them the oath.

1 So just for everybody's information, it's not going
2 to be one sided or the commissioner said this or did that.
3 It's these three people here to make that determination.

4 So this is all according to drain code. And again,
5 I welcome everybody for your time to be here, and hopefully
6 here to express your concerns. So I'll give these three men
7 the oath and they'll takeover the meeting from there. Thank
8 you.

9 Gentleman, and lady? Would you please raise your
10 right hands?

11 Do each of you solemnly swear to faithfully perform
12 and discharge the duties imposed upon you as Members of the
13 Board of Determination appointed by the Water Resources
14 Commissioner of Ottawa County, to determine the necessity of
15 drainage improvements in a certain drain to be known and
16 designated as the Old Macatawa Court Drain in the Township of
17 Park, in said County as required by law? What do you say?

18 (Each Member of the Board responded, I do.)

19 WATER RESOURCES COM. JOE BUSH: Thank you.

20 CHAIRMAN KEN SOUTER: Our first agenda item is to
21 elect a secretary and a chairperson. I'll take nominations
22 for chairperson.

23 MEMBER TODD WOLTERS: I'll make a motion for Ken
24 Souter to serve as chair.

25 CHAIRMAN KEN SOUTER: Do we have a second?

1 SEC. PEGGY WEICK: I'll second.

2 CHAIRMAN KEN SOUTER: Move and seconded. All in
3 favor, say aye.

4 (Each Member of the Board responded aye.)

5 CHAIRMAN KEN SOUTER: We need a motion for
6 secretary.

7 MEMBER TODD WOLTERS: I motion for Peggy to serve
8 as secretary.

9 CHAIRMAN KEN SOUTER: I'll second that.
10 Move and supported. All in favor, say aye.

11 (Each Member of the Board responded aye.)

12 CHAIRMAN KEN SOUTER: Okay. Peggy is the
13 secretary.

14 First thing that we would like to do is basically
15 get the township comments on this particular drain if the
16 township has a comment.

17 Jerry?

18 TOWNSHIP MANAGER JERRY FELIX: Thank you. Peggy,
19 good morning by the way, I haven't seen you in awhile.

20 I'm not sure the township has any real comments
21 other than it's been petitioned by the residents from what we
22 understand. It's a new drain?

23 WATER RESOURCES COM. JOE BUSH: No, it is not a new
24 drain.

25 TOWNSHIP MANAGER JERRY FELIX: Okay.

1 WATER RESOURCES COM. JOE BUSH: Just improvements.

2 TOWNSHIP MANAGER JERRY FELIX: Improvements to the
3 drain, but petitioned by the residents. So the process as it
4 works, the township will pay our fair share. I think the
5 road commission and the county will pay their portion. We're
6 prepared to do so, we're in favor of drains as most of the
7 Board knows. We've been actively researching and moving
8 drains to the drain commissioner, whether it's a new drain or
9 orphan drains as we call those. So we've been in favor of
10 those.

11 Residents may ask the Board questions and so on, so
12 we look for some answers. And again proper drainage is
13 important to all of us so we're in favor of any drain project
14 that goes along.

15 CHAIRMAN KEN SOUTER: One question of you, have you
16 been getting quite a few complaints to the Township on this
17 particular drain or not?

18 TOWNSHIP MANAGER JERRY FELIX: I don't know that
19 we've had any lately. I know we did a year or so ago. I
20 think some of those folks were directed to the Water
21 Resources Commissioner. And I think this is the result of
22 those questions and so on. But personally I haven't had any
23 lately.

24 There were some issues a year or so ago, but I
25 think this is the result of that.

1 CHAIRMAN KEN SOUTER: Thank you very much.

2 And then, John, you're the representative of the
3 engineer that's researched this particular drain?

4 ENGINEER JOHN TEMPAS: Yes.

5 CHAIRMAN KEN SOUTER: Could you run us through what
6 you found out?

7 ENGINEER JOHN TEMPAS: Certainly. You have in
8 front of you a small version of this larger map. I'll try
9 and refer to it so that every one can see and understand what
10 we're talking about here.

11 In response to some citizen inquiries and direction
12 from the Water Resource Commissioner's office, we embarked on
13 a cursory study of this watershed and this Old Macatawa Court
14 area to determine what problems were occurring out here, and
15 potentially what might be the resolution to those problems.

16 So what I have up on the easel here is a map of the
17 Old Macatawa Court area, and a dashed line surrounding the
18 area that drains to what is known as the Old Macatawa Court
19 Drain.

20 This drain was established through section 433 of
21 the drain code, which is a provision that allows developers,
22 when they're developing a piece of property, to establish
23 that development area as a county drain, which gives the
24 water resource commissioner the jurisdiction to maintain and
25 improve that drain going forward.

1 So Old Macatawa Court, the development itself
2 consists of this larger parcel in the middle with about 12
3 homes on it (indicating), that front on Macatawa Court. That
4 is the area that was originally established as the Old
5 Macatawa Court Drainage District.

6 Now the drain that exists out there consists of two
7 retention basins right at the north end of the property
8 (indicating), one on either side of Old Macatawa Court on the
9 south side of South Shore Drive.

10 Those retention basins take water from Old Macatawa
11 Court and the surrounding area via what was intended to be
12 some roadside swales. I'll get to why I state it that way in
13 a couple of minutes.

14 But they're intended to be roadside swales along
15 both sides of the Old Macatawa Court that would drain north
16 in to these retention basins at the north end of the site
17 just south of South Shore Drive.

18 So the district, as we've outlined it, would
19 consist of Old Macatawa Court (indicating), which is about
20 5.4 acres of land, as well as some South Shore Drive
21 right-of-way, a little over an acre of South Shore Drive
22 right-of-way, as well as several areas around the outer
23 perimeter of Old Macatawa Court, roughly nine-and-a-half
24 acres.

25 So we have a total area outlined in this dash line

1 of 15.9 acres.

2 Now that is, as I mentioned earlier, that's the
3 area that currently drains to those retention basins that
4 were constructed when Old Macatawa Court was developed.

5 We looked at a combination of Lidar contours, and
6 Lidar is an acronym, I won't bother going into details what
7 that means. But basically an aerial survey was done to
8 complete the contours on this property.

9 We looked at those contours to determine the slope
10 of the land in different directions and determine where
11 runoff would go. We also did some site inspections to review
12 the district and determine which way water breaks and where
13 it goes and various things.

14 So the culmination of that was this black line that
15 you see on this map (indicating).

16 So a little history on the drain itself. As I
17 mentioned it was designed to take water via roadside swales
18 into these retention basins. And a retention basin is
19 basically a storage pond that is intended to allow runoff to
20 infiltrate into the ground. Those retention basins were
21 designed back in I think 2003, 2004 by another engineering
22 firm who was working for the developer in the development of
23 this property.

24 The roadside swales, from what we can tell, are
25 either nonexistent or undersized from what was originally

1 intended. And that's contributing to part of the problem
2 we're seeing here. And we haven't been able to verify
3 whether or not those basins actually contain the storage
4 volume that they were originally designed to hold.

5 But we do know there are significant flooding
6 problems in those retention basins in periods of high ground
7 water, or when ground gets frozen, various situations like
8 that.

9 So we looked at groundwater conditions out there.
10 We did some borings, and we did borings in four locations,
11 one in each of the two retention basins at the north end of
12 the site (indicating). We did two more borings further south
13 on the property along Old Macatawa Court (indicating).

14 And what we found is that those retention basins
15 are, first and foremost, they're at the lowest area of the
16 site, which is a necessity because of the drainage. But we
17 also found that that's where the groundwater is shallowest.

18 We did those borings and we found that in the basin
19 on the west side of Old Macatawa Court (indicating), so just
20 to the north of unit one, which is 548 Old Macatawa Court,
21 the groundwater in the bottom of that basin at the time of
22 our boring was 1.3 feet below the bottom of that basin.

23 The basin on the east side of Old Macatawa Court
24 (indicating), north of unit 12, which is 545 Old Macatawa
25 Court, was .9 feet below the bottom of the basin. And this

1 was at the time the borings were taken in June of last year.

2 Now groundwater varies, and so I'm not making any
3 blanket statement that that's where that groundwater level is
4 all the time. It can fluctuate. It fluctuates significantly
5 in this area because the soils in this area are very sandy.
6 That allows water to move very rapidly through the soil, into
7 and out of the soil and in different directions.

8 As we go further south on the property, we took a
9 boring in front of Unit 11 (indicating) which is the second
10 one south of South Shore on the east side of Old Macatawa
11 Court, and the address for that is 557 Old Macatawa Court.
12 The groundwater was 5.4 feet below ground at that location.

13 Now the ground was much higher there because we're
14 not in a basin. But aside from that, we can see that as the
15 ground goes up, the depth to the groundwater goes down
16 drastically.

17 And then our fourth boring was further south in
18 front of Unit 4 which is 584 Old Macatawa Court. And I think
19 that is the fourth unit south on the west side of the road.
20 And the groundwater at that location was 7.8 feet below
21 ground. So again, a combination of increasing elevation, and
22 probably level groundwater or maybe gradually rising
23 groundwater, resulting in a significant increase in
24 groundwater depth as you go further south on the property.

25 So with the combination of shallow groundwater, and

1 no outlet, because these are retention basins, they do not
2 have any way of draining out anywhere except through the
3 ground, what we find is there are times of significant
4 flooding in and around these basins. And there have been
5 cases where that water has actually backed up to the point of
6 flooding into nearby homes.

7 So what we basically came to the conclusion of is
8 that if we're going to address the flooding issue with these
9 retention basins, we need to establish some sort of an outlet
10 for those basins, an overflow, or something that will relieve
11 the pressure when groundwater rises or when the ground is
12 frozen, that causes those basins to fill up with water to the
13 point of flooding nearby properties.

14 Now I don't have complete records on the process
15 that was developed when this was originally designed and
16 built and approved; but, what I do have seems to indicate
17 that a significant area of land around this was not accounted
18 for in the design of those basins. There is road water as I
19 mentioned (indicating).

20 South Shore Drive, there is actually two catch
21 basins in South Shore Drive that catch water from the road
22 and drain it in these retention basins. And it's not clear
23 at this time to me whether or not the volume of water coming
24 off South Shore Drive was accounted for in the design of
25 these basins.

1 In addition, you can see the additional nine or
2 nine-and-a-half acres of land around the development itself
3 was certainly not accounted for in the design of the basins.

4 So again in situations where we have frozen ground
5 or high groundwater, we've got additional runoff coming into
6 these basins that may not have been accounted for in the
7 original design.

8 I think we'll get to questions in a few minutes.

9 CHAIRMAN KEN SOUTER: We will get to all the
10 questions later. Let's hear him out first.

11 ENGINEER JOHN TEMPAS: So that's basically the
12 synopsis of what we found and what we're looking at in this
13 situation.

14 Do you have, the Board have any questions for me at
15 this point?

16 CHAIRMAN KEN SOUTER: I got a couple of them.

17 ENGINEER JOHN TEMPAS: Sure.

18 CHAIRMAN KEN SOUTER: The basins that were in South
19 Shore Drive, are those a new addition since the development
20 happened or are they something that was draining into a low
21 area to start with?

22 ENGINEER JOHN TEMPAS: They were actually
23 constructed as part of the development. They're both in the
24 curve radii that were built for the driveway.

25 CHAIRMAN KEN SOUTER: I see that you got the whole

1 right-of-way of South Shore Drive included in this.

2 ENGINEER JOHN TEMPAS: Yes.

3 CHAIRMAN KEN SOUTER: The north side of South Shore
4 Drive, is there a way that that water comes into it or is
5 that -- are you looking to design this whole thing to
6 accomplish drainage from both sides of South Shore Drive?

7 ENGINEER JOHN TEMPAS: I am anticipating that
8 whatever solution we develop would provide drainage for both
9 sides of the road. That north side water actually does not
10 currently get into these basins.

11 CHAIRMAN KEN SOUTER: So that is not a factor in
12 the flooding of those basins.

13 ENGINEER JOHN TEMPAS: Not currently, no.

14 CHAIRMAN KEN SOUTER: At this point.

15 ENGINEER JOHN TEMPAS: Right.

16 CHAIRMAN KEN SOUTER: You said in your comments
17 that the ditch along Old Macatawa Court was basically again
18 almost nonexistent?

19 ENGINEER JOHN TEMPAS: Correct.

20 CHAIRMAN KEN SOUTER: Like normally ditch sections
21 are filled up when they build the house and the drainage is
22 gone. How is all of this water then getting to the basin --
23 I mean to the area that's flooding? Is it a natural fall of
24 the road and it's just running down the road and getting into
25 it?

1 ENGINEER JOHN TEMPAS: It is, it's a natural fall.
2 Old Macatawa Court slopes fairly significant from south to
3 north. And because those swales are not there, it's
4 basically overland flow and it's running into the road and
5 it's coming down the road, and getting into the basins once
6 it gets to the north end of the section.

7 CHAIRMAN KEN SOUTER: So were the swales part of
8 the computation for the overall drainage of the area, or were
9 there to be culverts in each one of the driveways to bring
10 the water to it as a normal ditch?

11 ENGINEER JOHN TEMPAS: What was actually designed
12 was a series of swales that were intended to hold water and
13 infiltrate it. And at each driveway, the driveway would be
14 built such that the swale would gradually fill up and then
15 spill over the driveway into the next section of swaling
16 downstream.

17 CHAIRMAN KEN SOUTER: So a big loss of your
18 drainage area is loss of the swales also?

19 ENGINEER JOHN TEMPAS: Yes, the storage volume and
20 the infiltration area is not there because those swales are
21 not in the condition that they were intended to be.

22 CHAIRMAN KEN SOUTER: Okay. Because it's a swale
23 of the road and design like you're talking, I take it it's a
24 private road, not a public road?

25 ENGINEER JOHN TEMPAS: Yes.

1 CHAIRMAN KEN SOUTER: Okay. Because it wasn't
2 built to the public standards.

3 Those are my questions so far.

4 SEC. PEGGY WEICK: You pretty much did mine.

5 MEMBER TODD WOLTERS: Just the one question I have
6 is have we had reports of flooding in the basements as well
7 of this development?

8 ENGINEER JOHN TEMPAS: Yes.

9 MEMBER TODD WOLTERS: Or is this strictly the
10 retention ponds?

11 ENGINEER JOHN TEMPAS: We have had reports of
12 flooding in the basements of these homes.

13 MEMBER TODD WOLTERS: But what I'm hearing on the
14 calculation, most likely the water table is above the lower
15 level of the garage, the lower level of the basement floor at
16 this time; the borings that you're getting, is actually above
17 the floor height, correct?

18 ENGINEER JOHN TEMPAS: It's hard to say. The homes
19 do sit higher than the road.

20 MEMBER TODD WOLTERS: Okay.

21 ENGINEER JOHN TEMPAS: And the two borings at the
22 north end, they were at 1.3 feet and .9 feet, those were in
23 the bottom of the basins.

24 So without knowing -- I don't know exactly where
25 the elevations of those basement floors is relative to these

1 borings.

2 But at the time of those borings in June of last
3 year, there was no report of any one having any flooding at
4 that time.

5 I do know a couple of the homes have sump pumps
6 that run quite frequently, but I don't know any details as
7 far as elevation of basements relative to groundwater.

8 SEC. PEGGY WEICK: And no historical data as to
9 what there was to begin with when they were built, correct?

10 ENGINEER JOHN TEMPAS: No. Not that I have in my
11 records.

12 CHAIRMAN KEN SOUTER: Have you looked in the area
13 to see if there is any possibility, I'm not real familiar
14 with this area, but any possibility of an overflow line that
15 could come from those basins so that we could actually get
16 rid of that top part of that water still utilized in the
17 basins, yet get an overflow system?

18 ENGINEER JOHN TEMPAS: There are basically -- there
19 is a couple of existing storm water systems in the area. One
20 is a City of Holland storm sewer system in Old Orchard and
21 South Shore Drive (indicating) that goes from this
22 intersection and goes east (indicating).

23 There is also the Ottogan Drain a short distance to
24 the west of this area which would be a potential connection
25 point.

1 And I know of course Lake Macatawa to the north.
2 We haven't looked into the feasibility of those options yet.
3 That would be something that we would do down the road. But
4 there are options out there. It's a matter of what is our
5 best option at this point.

6 But we considered improving the infiltration system
7 in some way. And while that will provide some benefit, it
8 ultimately won't lead to a long-term solution for this
9 because given where we are relative to Lake Macatawa and the
10 elevations of these basins. You know, we've been dealing
11 with historically low water levels in Lake Michigan and Lake
12 Macatawa for the past, you know, several years. And during
13 that time we're seeing groundwater elevations in this area
14 high enough to cause problems.

15 So what I'm anticipating long term is if we ever
16 get to a point where, if Lake Macatawa comes up three to four
17 feet, that is going to reflect a groundwater elevation here
18 and make the situation worse than it is now.

19 So if we look at options that simply improve
20 infiltration, those will benefit the district during periods
21 of low groundwater, but they will do nothing during periods
22 of high groundwater because that infiltration system will be
23 in the groundwater and it will have no opportunity to
24 dissipate the runoff.

25 CHAIRMAN KEN SOUTER: Do you have any data as far

1 as the groundwater levels that are existing in the bottom of
2 those basins based on the elevation of Lake Macatawa at this
3 time? You're probably within a thousand feet of Lake
4 Macatawa here, or not that close?

5 ENGINEER JOHN TEMPAS: We're actually much less
6 than that. The shore of Lake Macatawa is probably right up
7 here (indicating).

8 CHAIRMAN KEN SOUTER: Okay.

9 ENGINEER JOHN TEMPAS: So it's a matter of maybe
10 600 feet to Lake Macatawa horizontally. And vertically,
11 we're talking less than 10 feet.

12 CHAIRMAN KEN SOUTER: Are there any road
13 right-of-ways that go to the lake there?

14 ENGINEER JOHN TEMPAS: No.

15 UNIDENTIFIED SPEAKER: Yes, Old Orchard.

16 CHAIRMAN KEN SOUTER: But that's basically a city
17 right-of-way.

18 ENGINEER JOHN TEMPAS: But again, it's public
19 right-of-way.

20 CHAIRMAN KEN SOUTER: So that would be a
21 possibility?

22 ENGINEER JOHN TEMPAS: Yes.

23 CHAIRMAN KEN SOUTER: Okay. Do the other Board
24 members have any other questions?

25 SEC. PEGGY WEICK: No.

1 CHAIRMAN KEN SOUTER: Okay. Now what I would like
2 to do is to start out and we do have two written
3 correspondence of people that apparently could not be here.
4 I'd like to have Peggy read those. And then we'll get into
5 public questions and testimony on what kind of problems you
6 guys are having.

7 And we'll start out with the written ones.

8 SEC. PEGGY WEICK: The first one we have is from
9 Elizabeth DeWaard, May 12th, 2014 to the Board of
10 Determination.

11 My name is Elizabeth DeWaard, address 1422 South
12 Shore Drive, and I'm included in the Old Macatawa Court
13 Drainage District. It is impossible for me to attend the 10
14 a.m., May 15th, 2014 meeting, but need an answer to my
15 questions.

16 Why wasn't the drain plan included in and approved
17 by the commissioner before this court development went in?
18 Further down South Shore Drive there is sure to be another
19 development going in to a large piece of property where many
20 small cabins were demolished. Will that drainage plan be
21 included in that developer's plan?

22 I am definitely in sympathy with my neighbor's
23 drainage problems, but I'm nervous about assessments which in
24 my opinion should be charged retroactively to the developer.

25 Thank you, Elizabeth DeWaard.

1 CHAIRMAN KEN SOUTER: Anybody know which house
2 she's at? There is only two houses apparently on Lake
3 Shore -- I mean South Shore Drive.

4 UNIDENTIFIED SPEAKER: Corner of Old Orchard and
5 South Shore Drive.

6 CHAIRMAN KEN SOUTER: Okay. Second one.

7 SEC. PEGGY WEICK: Second record is, or letter is
8 by Todd Timmer, owner of record of property within the Old
9 Macatawa Court Drainage District, written May 13th, 2014.

10 Unfortunately I will not be able to attend the
11 public hearing on Thursday, May 15th, 2014 at 10 a.m. at Park
12 Township Hall, 52 - 152nd Avenue, Holland, Michigan.

13 Please read my comments below and take them into
14 consideration when making your determination as to whether
15 work on Old Macatawa Court Drain is necessary and whether
16 owners of properties outside that immediate area should be
17 liable for an assessment.

18 My wife and I bought our home on Old Orchard ten
19 years ago in April 2004. During these past ten years we have
20 not had any issues with flooding or water in our basement.
21 Even after the development of Old Macatawa Court, we haven't
22 had any issues.

23 If I will not be responsible for helping to pay for
24 it, I don't have any major issue with having the drain fixed
25 or modified. But if I'm going to be liable an assessment so

1 this can be done, then I have a big problem with it.

2 I don't think it would be right or fair for my
3 family or any one else on Old Orchard or Cimarron to have to
4 pay for fixing a problem that is occurring in a development
5 that was put there after we were already there. This wasn't
6 an issue until the new development was constructed.

7 I believe further research should have been done
8 prior to the construction so that the drain would have been
9 constructed in such a way as to not be causing issues to any
10 one now. The fact that some people in Old Macatawa Court are
11 experiencing issues is very unfortunate, and I understand the
12 desire to have to fix the problem. But I also believe that
13 it isn't the responsibility of others outside of the
14 immediate Old Macatawa Court property to have to help pay for
15 it. We don't live there and we weren't asked if we wanted
16 those houses built there.

17 A study of drainage district and necessary drain
18 construction should have been done prior to construction.
19 Failure to build the drain as was needed is certainly not our
20 fault and we shouldn't be forced to have to pay to fix it.

21 Thank you for taking the time to read, consider and
22 discuss my thoughts on this matter. I appreciate your time
23 serving on the Board of Determination for the Ottawa County
24 Resources Commission Office. Sincerely, Todd Timmer.

25 CHAIRMAN KEN SOUTER: Does anybody know which lot

1 Todd is in? He's one of the houses I take it that are up on
2 the Old Orchard Drive?

3 Okay. Now I'd like to go to the public testimony
4 and basically what I'd like to ask is we keep it in an
5 orderly fashion. I'd like everybody to have an opportunity
6 to ask questions, tell what kind of problems you're having,
7 what you see out there. If, let's say, the tenth guy or
8 woman agrees with the first guy, we don't need to hear it six
9 times on the same problem. But we would like to hear
10 everybody's problems, everybody's comments on this.

11 And what I would really like to start with is this
12 side. First guy, because he's had his hands up halfway
13 through. So what I'd like to have you do is stand up. If
14 you got a long dissertation, come to the podium; if you got
15 something that you're -- I need your name and your address
16 and kind of give me a location of where you are in this whole
17 scenario.

18 So let's start out with you.

19 MR. RANDALL BOS: Okay. My name is Randall Bos.
20 I've lived in and/or owned and am currently owning 1440 South
21 Shore Drive, 69 years.

22 CHAIRMAN KEN SOUTER: Which house is it?

23 MR. RANDALL BOS: It's the big long skinny property
24 right next to Old Macatawa Court that goes all the way from
25 Cimarron.

1 CHAIRMAN KEN SOUTER: It goes all the way back?

2 MR. RANDALL BOS: All the way, three-and-a-half
3 acres. It's the oldest house in the proposed district, I
4 think.

5 I'm going to give you a little history. The
6 basement of that house has gotten water every year as long as
7 I can remember. In the '50s the whole yard was a lake. I
8 used to play in it when I was a kid and loved it. My parents
9 weren't so excited about water in the basement. In the '50s
10 it would flood the whole, like a few inches deep.

11 Then they developed Old Orchard Road, and put in
12 drains and stuff, no more lake. I haven't seen the lake ever
13 since, there has been no ground level flooding.

14 Our basement adapted to the water obviously because
15 of the flooding in those days. And it's a Michigan basement,
16 and it's always getting a little water and the sump pump
17 pumps it out. It's just been that way forever.

18 Old Macatawa Court hasn't changed that. When they
19 put in the things, we don't get anymore water, maybe a little
20 less. But Old Macatawa Court was a horse pasture at one time
21 when I was a kid. Then they converted the horse barn into a
22 single family home. And then when they developed this
23 current development, that was demolished and they put in all
24 those very expensive condos, and they're up to like three
25 quarter of a million dollars condos now. There is one for

1 sale at that.

2 My problem is now that they got those three-quarter
3 million dollars condos, it's the same for those other people.
4 I've been there for 69 years and it's been fine. We knew
5 there was water when we got the house. There is water in the
6 basement, it just is, that's the way it is there. I don't
7 think any more drains will really do much difference in the
8 spring.

9 My objection is they put it in, they didn't do it
10 right, same as what the other two people have said, and I
11 shouldn't have to pay for it.

12 Some might argue if they put in the drain it might
13 increase my property values, I don't think it's going to do
14 much different because the Township says I can't develop it
15 any way other than put one house on Cimarron Court, it
16 doesn't let me do anything else.

17 CHAIRMAN KEN SOUTER: You're telling me that
18 Cimarron Court is the little right-of-way that's at the south
19 end of your property.

20 MR. RANDALL BOS: Yes.

21 CHAIRMAN KEN SOUTER: It isn't labeled, this is the
22 second time I've heard Cimarron Court.

23 MR. RANDALL BOS: By the way, he didn't point it
24 out, but across from Cimarron Court behind these (indicating)
25 this is real lowland and there is a drain that does run into

1 Lake Michigan and goes around about and over to here
2 somewhere (indicating) one way or the other.

3 ENGINEER JOHN TEMPAS: Yes, and that's the Ottogan
4 Drain.

5 CHAIRMAN KEN SOUTER: Okay.

6 MR. RANDALL BOS: That does run into Lake Macatawa.

7 CHAIRMAN KEN SOUTER: It does run into Lake
8 Macatawa?

9 MR. RANDALL BOS: Yes.

10 CHAIRMAN KEN SOUTER: Okay.

11 MR. RANDALL BOS: I don't support any assessment on
12 my property to fix their drain. If they want to fix it, I
13 have no objections.

14 CHAIRMAN KEN SOUTER: So basically you saw an
15 improvement when Old Orchard --

16 MR. RANDALL BOS: When Old Orchard was developed
17 that made a lot of difference.

18 CHAIRMAN KEN SOUTER: Were they, that apparently
19 was draining into this and now it's not draining?

20 MR. RANDALL BOS: I don't know. This is Old
21 Orchard Road. There were no houses there when I was a kid.
22 That was -- he raised gladiolas there, it was a farm, a
23 flower farm. And he had a sprinkling pump and everything and
24 watered it.

25 Then they developed that, and there was a two track

1 at the time. Then they put in a road and started building
2 houses there. When they put in that road and drains,
3 something happened, the water table went down because we had
4 to push our sprinkling pump down further. Drill the water
5 further because we couldn't get water and we didn't get
6 floods in the yard any more.

7 CHAIRMAN KEN SOUTER: So that was draining towards
8 you and they took that drain away?

9 MR. RANDALL BOS: I guess.

10 CHAIRMAN KEN SOUTER: Okay. Very good. Thank you,
11 sir, that's a good history lesson.

12 Okay. Next row, the gentleman and lady, whoever
13 wants to stand up first.

14 MR. JOHN FOSTER: Hi, John Foster, 586 Old Orchard
15 Road. We are the second home in to the south facing Old
16 Orchard Road, the third home if you take into account
17 Elizabeth DeWaard's house which faces South Shore Drive.

18 My wife, Nancy and I have lived there since 1992.
19 We did not grow up in the area but I've been in this area, in
20 the Holland area for over 30 years, actually 40 years.

21 A little added history to what Mr. Bos already had
22 said, and he obviously growing up here has been there longer
23 and seen more, but I can tell you that in our time on Old
24 Orchard we've owned a couple of pet dogs that I used to take
25 for walks, sometimes going west on South Shore Drive down the

1 bike path. And I can tell you after any kind of a rain fall,
2 particularly if it was a little heavier, but even without,
3 that section of the bike path and the road where Old Macatawa
4 Court comes in now was always flooded. There were always big
5 puddles there that I usually had to either walk into the
6 woods a little bit to get around or walk out on the street,
7 if not walking right through them. And they weren't -- they
8 were fairly good sized most of the time.

9 So there were obviously drainage problems there. I
10 didn't know anything about where drains went or where this
11 water came from, but obviously it was a low area. And the
12 street itself was not draining well.

13 My wife and I attended the meetings, the hearings
14 when the project, Old Macatawa Court was presented.
15 Initially it was presented as a, just a few homes in one
16 section of what is now that whole project that the developer
17 owned, bought the section that had quite a bit of trees in
18 it, this and that kind of thing, but it was not big enough to
19 put in the number of homes that are there now.

20 He then came back because the owner just to the
21 west of him joined up with him through his property and with
22 it, and then we got the PUD project that became Old Macatawa
23 Court.

24 So basically they had to amend the initial project
25 to allow for that number of units.

1 We went to the hearings. There were a lot of
2 concerns about a number of different things, but one of them
3 was the water drainage. It was obviously a low area. We
4 were concerned about how they were going to deal with that.
5 There were several different things put forward including
6 according to layouts that I've looked at with the Township
7 here, that there was going to be an actual underground
8 drainage system on both sides of the road running from
9 approximately up to the cul-de-sac, down to the retention
10 ponds on either side.

11 I'm hearing now that that didn't really happen.
12 The swales, so to speak, I guess are in there, but they're
13 obviously not doing the job.

14 Whether the drainage, underground drainage system
15 that was proposed and was approved would be doing the job, I
16 can't say. But I certainly think it would be, it would have
17 been more helpful if it was actually in there. It would seem
18 to make sense.

19 I had concerns about a couple of other things when
20 the initial plans called for berming, large berms out by the
21 South Shore Drive by the entrance with more trees and more
22 shrubbery and that kind of thing planted.

23 What actually wound up happening is the earth was
24 bermed up to a certain extent but a stone wall was put in.
25 Again that was kind of done outside of the original plan.

1 The builder was asked to come -- or the developer
2 was asked to come back and amend his plan basically to,
3 because he wanted to change that.

4 So some things, I guess what I'm trying to point
5 out here is that some things happened that either weren't
6 agreed to, or were agreed to but didn't happen and that kind
7 of thing.

8 I'm not trying to point fingers anywhere but that's
9 just again a little history lesson here from somebody who was
10 here and listened to the arguments and the plans and that
11 type of thing.

12 I am currently on the Zoning Board of Appeals for
13 Park Township, so I see a lot of different things and see a
14 lot of requests for variances and stuff like that.

15 But the only other thing I would say is that the,
16 not the number of homes so much but the size of the homes in
17 there is a concern to me. They are so close together that
18 there is, and even though most of them are built up and it
19 appears there would be drainage down to the street, the
20 setbacks are -- there is only setbacks really from the street
21 up to the front of the homes, not really to the sides or the
22 rear.

23 The homes obviously have roofs that drain water off
24 in different directions, but in some cases maybe towards
25 their neighbors. I don't know how much of an effect that

1 has.

2 The neighbors to the rear, to the south of the
3 property, obviously that's a little higher so it's draining
4 down as has been pointed out.

5 From my home, from my perspective on where our home
6 is and our property, yes, we have drainage into Old Orchard
7 Road which has the storm water drain. Our property was built
8 up, when it was built in 1976; however, that comes down into
9 a flat part of our rear yard which we have done a lot of
10 planting and a lot of natural kind of things.

11 So I really question whether runoff from my
12 property is affecting anything in Old Macatawa Court to any
13 great extent. To me it would seem if there was water running
14 off, it would actually be running off toward South Shore
15 Drive because the way the topography of the property goes.
16 It's a little higher to the south, and then my thing would be
17 it would drain towards the road.

18 Again, with Mr. Bos's comments, he's not seeing
19 flooding since Old Orchard was developed and the drain was
20 put in there, so that leads me to believe that there is not
21 significant water draining from my property on to his
22 property. It's not causing flooding or problems for him, so
23 how would it cause problems on Old Macatawa Court.

24 Thank you.

25 CHAIRMAN KEN SOUTER: Thank you.

1 Okay. Next row.

2 Oh, I thought you were with him.

3 MRS. NANCY FOSTER: I'm Nancy Foster, 586 Old
4 Orchard Road, and I've been living there with John since 1992
5 also. And as he said we went to the original planning
6 commission meetings related to this project.

7 The final PUD plan was submitted or presented and
8 what was supposed to be the final plan at the January 20th,
9 2004 planning commission meeting. And I just want to read a
10 few of the things that we were told at this meeting. As John
11 has said, the reason we went to this meeting is because we
12 knew this property was already flooding, and we were
13 concerned that we would have neighbors that would experience
14 flooding and that's a terrible thing.

15 And that we were further concerned that there would
16 be significant trees removed from these properties which
17 would add to the flooding; and further concerned that with
18 all the flooding, the only outlet then for a positive outlet
19 would be Lake Macatawa. And, you know, the watershed project
20 clarity and watershed project I think we're trying to keep
21 from having runoff go into the lakes so we went with those
22 concerns.

23 So per the minutes of that meeting, Greg Raad, who
24 was the engineer for the project with Nederveld & Associates,
25 the engineer hired by the builder, said the houses would be

1 positioned within a 5600 square foot building envelope.
2 There would be 20 feet between houses. There would be a 25
3 foot buffer around the edge of the park property. There are
4 good sandy soils throughout the site. The water table is 5
5 feet below existing grading. There would be swales along the
6 road for storm drainage.

7 Mr. Smeenge, who was on the planning commission,
8 asked for clarification on set backs. Raad stated the houses
9 would be built within the building envelope shown on the
10 drawing.

11 Smeenge asked about the proposed houses. Rick
12 VanTil, developer, stated that they would be 1200 to 1500
13 square feet on the main floor, within the 5600 square foot
14 building envelope.

15 Raad also stated that the houses should not show
16 from South Shore Drive because they will all be tucked into
17 the trees.

18 He further stated that they had consulted wetlands
19 maps, and there are no wetlands on this site.

20 Nancy Foster asked a question about the amount of
21 land that would be held in common as green space after this
22 project was developed. Raad stated that the houses would
23 take up approximately three-quarters of one acre out of five
24 and a half. That would leave a ratio of about 86.4 percent
25 that would apparently, from what I understood, not have

1 buildings on it, and only 13.6 percent of this property
2 would.

3 And I don't know whether his three-quarter of one
4 acre, I would assume it would include the garage, probably I
5 guess would not include the driveways or whatever.

6 But even taking that into account, this project
7 became very different. And in the end instead of the houses
8 having main floors of 1200 to 1500 square feet, they wound
9 up, some of them are way more than double that. And the
10 reason that happened, to my understanding, is because the
11 planning commission failed to write that into, to ensure that
12 the builder had that written into the final plan before they
13 submitted it for approval.

14 So there are 12 houses in there now. It's taken,
15 the last two I think are just getting finished. And it's
16 pretty much complete now so we can actually see how it's
17 turned out. And as far as setbacks are concerned, the
18 initial 25-foot buffer that's supposed to be on the east and
19 west, when we talked to the zoning administrator a few days
20 ago at Park Township, his preliminary assessment is it's
21 impossible to tell without a survey, if there are some
22 properties that are within that 25 foot buffer, perhaps
23 significantly.

24 Again, we're talking about a lot of trees, this was
25 a heavily wooded lot, taken out. They would have absorbed a

1 lot of the moisture. We have significantly larger roofs
2 adding to much more runoff; significantly more paved areas.
3 Another thing we were told in that meeting is that the
4 driveways would be shared. And I believe you can still see
5 that on what's supposed to be the amended plan that was put
6 in a year later in March of 2005. And the builder basically
7 comes back and asks for forgiveness for things that he had
8 already done.

9 The shared driveways I think still show on that
10 plan, everybody has their own driveway.

11 Some of the driveways are within, I don't know, two
12 or three feet of the house next to them. One of the houses
13 in there is, from what the zoning administrator can see on
14 his GIS, is perhaps built three foot lower than they were
15 told to build it. And the water table is already very, very
16 high.

17 The berming that was supposed to happen along the
18 right-of-way on South Shore Drive was supposed to be
19 landscaped. It was supposed to absorb a lot of the water
20 that was coming in there, and instead the builder put up a
21 stone wall without asking for any permission.

22 When we called the Township to ask about that, he
23 said they didn't know anything about it, and they would get
24 the builder in there to amend the plan.

25 Along with that there was supposed to be a two-foot

1 drainage ditch entirely around the properties, the 12 units,
2 on Old Macatawa Court that would direct, and they were
3 supposed to be swaled, the runoff from those properties into
4 the retention pond that sets just north of South Shore Drive.
5 I'm not sure now how the water goes. It might just run
6 freely off their lawns.

7 I did find reference back from about I think 2008
8 from the surveyor, or the original developer's engineer
9 asking, I think it was directed at him from this commission
10 here, asking why that wasn't put in. And this is several
11 years after several homes have been built.

12 And he says, to the best of my recollection, the
13 builder didn't put those drains in because he wanted to save
14 some trees. And from what I can see on the map where that
15 drain was supposed to be there are no trees, it's lawn.

16 So what I'm wondering is can some of this stuff
17 that was supposed to be done in order to mitigate this
18 flooding -- and you see the retention ponds are obviously an
19 issue because they're so close to the ground. But what about
20 the drainage around the front of those homes? If they could
21 direct some of the water away from some of the people who are
22 experiencing flooding, or do something that's more in keeping
23 with what we were told would happen.

24 Obviously we can't have -- the houses are no longer
25 the 1250 square foot main floor, there is nothing we can do

1 about that. The fact that it's not 85 percent green space,
2 there is, you know, all these things that we were told. But
3 we were hoping there would be some kind of solution to this
4 that will be environmentally sound, keep our neighbors dry
5 and will put the responsibility for the financial burden of
6 this where it belongs. And we do not see that that is on the
7 residents of Old Orchard Road.

8 From what we can see, we're draining into the City
9 of Holland storm sewer from the front, and on the back we all
10 have significant green space. And as Mr. Bos has said, there
11 is 115 feet of his property between the end of our property
12 line and the beginning of Old Macatawa Court, and that's not
13 flooded.

14 So we ourselves do not see that we created the
15 problem, we don't see that we contributed to the problem, and
16 we don't think we'll benefit from this project.

17 CHAIRMAN KEN SOUTER: Thank you.

18 MRS. NANCY FOSTER: Thank you very much for your
19 time.

20 MR. JOHN FOSTER: Can I add one thing? I wondered
21 if you had received any documents like this (indicating) that
22 show where the buildings were going to be and the driveways
23 and the proposed drainage (indicating).

24 CHAIRMAN KEN SOUTER: We don't have that, but that
25 would be good to give to the drain commissioner for sure. I

1 would think he's got it.

2 MR. JOHN FOSTER: The Township has it in a larger
3 form.

4 CHAIRMAN KEN SOUTER: You can give it to us.

5 MR. JOHN FOSTER: What I wanted to point out from
6 it is as I was talking about the drainage system that they
7 were proposing, this was, was this yellow line here that you
8 would see runs from here down to this pond (indicating), and
9 then on the other side of the road down to that pond, and
10 that apparently is not --

11 CHAIRMAN KEN SOUTER: Okay, thank you.

12 We're getting quite long in our comments. If we
13 could kind of keep them to exactly what you got the problem
14 with and not add to it a lot of the other stuff.

15 Second row, please.

16 Okay, third row.

17 MR. MIKE FITZHARRIS: Yeah, I'll make it pretty
18 quick. Mike Fitzharris, 1443 Cimarron Drive.

19 CHAIRMAN KEN SOUTER: Okay.

20 MR. MIKE FITZHARRIS: If you go south of what I
21 call the turn around on Old Macatawa Court directly south, my
22 lot would be right there.

23 CHAIRMAN KEN SOUTER: Okay.

24 MR. MIKE FITZHARRIS: In the middle, so to speak.
25 I built in 2001, I believe. So I've been there a good 13

1 years. I've never experienced any water problems at all. I
2 was told when the builder built my house that I'd never have
3 any problems. I don't even have a sump pump at my house,
4 that's how dry I am, never experienced any water problems.

5 Some of my neighbors are here, they may speak for
6 themselves, but I know any one along Cimarron Drive has never
7 had a problem.

8 It seems to me from the history of what's been said
9 so far, most of the problems come from the development where
10 maybe everything wasn't developed exactly as it should have
11 been, and is causing some problems obviously on the front end
12 there. It certainly doesn't seem like it's anything that's
13 affecting the rest of us that have been there for many years.

14 It seems like it ought to be remedied by, you know,
15 the Old Macatawa people that are having the problem. And
16 certainly none of us would object to a solution, but I don't
17 think any of us feel that anything on our property is
18 contributing to the problem that was caused by maybe not
19 doing quite the right thing when they put some of those homes
20 in.

21 CHAIRMAN KEN SOUTER: Thank you.

22 MR. MIKE FITZHARRIS: Thank you.

23 MRS. DAWN SLENK: I just have one quick question.

24 CHAIRMAN KEN SOUTER: You have to give us your
25 name.

1 MRS. DAWN SLENK: Dawn Slenk on Cimarron Drive.

2 CHAIRMAN KEN SOUTER: All right.

3 MRS. DAWN SLENK: Why is private standards and
4 public standards different?

5 CHAIRMAN KEN SOUTER: I never liked them to be
6 different but they are different. I worked with the Ottawa
7 County Road Commission, all the subdivisions back when I was
8 still working, and a lot of the developments that happen now
9 are where drainage should not be an issue, private or public.
10 But building the roads to public standards became a problem
11 because public standards require storm sewers built up and
12 roads built to a bigger standard. And the way they make
13 developments less, they allowed condominiums and allowed some
14 private development.

15 That means that the public roads are the, the roads
16 are plowed and maintained by the public. They're maintained
17 by the people in the development.

18 There is different standards. There shouldn't be
19 any different standards on drainage, but --

20 MRS. DAWN SLENK: So basically it's a developer,
21 it's a way for a developer to get something faster.

22 CHAIRMAN KEN SOUTER: Yes. And basically the
23 people in the development with that going on maintain their
24 own streets.

25 MRS. DAWN SLENK: So then maybe what I'm hearing

1 you saying that they need to maintain their problems as well?

2 CHAIRMAN KEN SOUTER: I didn't say that.

3 MRS. DAWN SLENK: Okay. I guess I mean --

4 CHAIRMAN KEN SOUTER: Drainage districts are always
5 set so anybody that puts water into the system, paid for the
6 system.

7 MRS. DAWN SLENK: Okay.

8 CHAIRMAN KEN SOUTER: So even though the guy on the
9 top, the rain comes trickling down on his lot the same as the
10 guy on the bottom. And the guy at the top pays for his
11 water, same as the guy on the bottom pays for his water.

12 And also people pay for their drainage based on the
13 amount of runoff, the size of the house, the size of the
14 driveways, the size of everything else, how much water
15 they're putting into the system is also taken into
16 consideration.

17 MRS. DAWN SLENK: Okay.

18 CHAIRMAN KEN SOUTER: So if a base lot is all nice
19 trees and porous materials and this sort of thing, they don't
20 put as much water into the system as somebody who has got a
21 house with roofs and driveways and all this other stuff.

22 MRS. DAWN SLENK: Okay.

23 CHAIRMAN KEN SOUTER: That's how it goes.

24 Let's continue on.

25 Sir, in the back row?

1 MR. RON BROLETTE: My name is Ron Brolette, I live
2 at 1492 South Shore Drive. I live off South Shore on a
3 private drive that's not marked. I live -- I'm trying to
4 find my house. I live right here (indicating).

5 CHAIRMAN KEN SOUTER: Okay.

6 MR. RON BROLETTE: Okay. I've lived there since
7 1998. I own an acre, just about two acres of land. And I
8 have no water problems at all. Both of my lots are nothing
9 but sand.

10 I own the lot that had trees on it, but I had red
11 pine borer so I had to cut all my trees down. I just lost 14
12 ash trees because I had ash borer. So I'm not batting a
13 thousand. But I'm just here to say I have no water problems
14 at all. Live in total sand.

15 So I understand that Macatawa Court has problems,
16 but I don't think that I should have to pay for their
17 problems. So if they have a problem, they should fix it and
18 pay for it themselves, but I don't think it's my
19 responsibility to pay for their problems.

20 CHAIRMAN KEN SOUTER: Thank you.

21 MR. RON BROLETTE: Thank you kindly.

22 CHAIRMAN KEN SOUTER: Okay. Let's go up -- you
23 were hiding back there.

24 MRS. PATRICIA TABACHUK: Good morning. I'm
25 Patricia Tabachuk. I live at 1490 South Shore Drive, it's

1 the house west of Old Macatawa Court right on the corner.

2 CHAIRMAN KEN SOUTER: Okay.

3 MRS. PAT TABACHUK: And we also do not and have not
4 had water problems in our basement. I think that the
5 builder, Mr. VanTil, didn't do the right thing from the
6 beginning of the project, that's apparent.

7 I'm not an engineer but the homes are huge, the
8 setbacks are small, and obviously water has to go somewhere.
9 So we do not want to have to help pay for the issue.

10 I know there were two retention ponds at that
11 development when it was new, now there is one on South Shore,
12 and it doesn't seem like it's full. So something is not
13 right with that solution.

14 CHAIRMAN KEN SOUTER: Which one can you say --

15 MRS. PAT TABACHUK: Old Macatawa -- I live here
16 (indicating). Old Macatawa has a retention pond here
17 (indicating). At the beginning of the project there was one
18 there as well (indicating). Now there is one, not two. So I
19 don't know what happened to it.

20 And I understand there is a water issue, I also
21 walk the street whenever there is rain or snow or ice, it's
22 always full. So -- and I think after the fact there also was
23 a drain grate put in. So there is a grate out there and
24 there is a place for water to go, but it settles on the bike
25 path.

1 And from what I see the road is down sloped from
2 the bike path. So something is --

3 CHAIRMAN KEN SOUTER: Screwy?

4 MRS. PAT TABACHUK: Just a mess. So we don't want
5 to help pay for it.

6 CHAIRMAN KEN SOUTER: Okay.

7 Let's start off with the first row here.

8 MS. JANE ZOLMAN: Okay. My name is Jane Zolman.
9 And I live at 548 Old Macatawa Court. I'm unit number one in
10 that development.

11 In my front yard I do have a swale, and it does
12 drain --

13 CHAIRMAN KEN SOUTER: Where is unit one?

14 MS. JANE ZOLMAN: I'm unit one, which would be the
15 first one on the west side.

16 CHAIRMAN KEN SOUTER: Okay. First one on the west
17 side?

18 MS. JANE ZOLMAN: Right. So I do have a swale in
19 my front yard and the water does run into the retention pond.
20 My basement is only four feet deep, and I do have a sump
21 pump, but two times in the past five years the water has been
22 so great in the retention pond that there is no where else
23 for it to go. It doesn't go down, it just stays high.

24 We were lucky this past year when it actually
25 stopped raining because we were at the max and it was like --

1 so I had water in my basement. I've had water in my
2 basement. I do have a sump pump. In the last storm it
3 was -- it ran to capacity for about a week.

4 So, we've -- as a neighborhood we have tried to
5 solve this problem. We didn't really understand what the
6 issues were because the developer is gone and he's been gone
7 since 2009.

8 But when we asked for some help from the Ottawa
9 County Drain Commissioner, what we discovered was that some
10 of that water from South Shore Drive comes in to our
11 retention ponds, and that's the reason that we're looking for
12 some help in solving this situation rather than as us 12
13 homeowners, because it is a problem that has a complicated
14 set of issues, I think. And it's beyond us to solve it. So
15 that's why we're asking for help.

16 Thank you.

17 CHAIRMAN KEN SOUTER: Okay, thank you.

18 Next lady?

19 MS. STACEY FITZPATRICK: Hi, I'm Stacey Fitzpatrick
20 and I live at 545, and that's the one that has the .9 foot
21 (indicating) water table there.

22 We have probably a four-and-a-half foot Michigan
23 basement. And we've lived in the house since January of '09,
24 and it's flooded twice since we've been there.

25 I don't know -- I've heard being here the history

1 of how the subdivision was made and promises that were made
2 and perhaps not kept, but what I know now is that the
3 basement has flooded twice in the past five years.

4 And I also know that I've stood out here in that
5 retention pond that we have (indicating) and watched the
6 water from this way and this way (indicating) flow into that
7 retention pond. So I think we are getting water from South
8 Shore Drive, as well as water from our own subdivision.

9 CHAIRMAN KEN SOUTER: Okay. Now when you say
10 basement, you actually have more a Michigan basement than
11 like the small --

12 MS. STACEY FITZPATRICK: We can role around in an
13 office chair.

14 CHAIRMAN KEN SOUTER: It's more of a crawl space?

15 MS. STACEY FITZPATRICK: It is a crawl space, but a
16 finished crawl space. Which in hindsight might have been a
17 mistake.

18 CHAIRMAN KEN SOUTER: Next row.

19 MS. DIANE BROEKHUIS: Diane Broekhuis, 605 Old
20 Macatawa Court. We don't have any water issues, we put tiles
21 around our house, we got our eaves so they go into a drive
22 retaining basin. So we have a sump pump that has never run
23 since we've moved in in 2005.

24 CHAIRMAN KEN SOUTER: So which house are you?

25 MS. STACEY FITZPATRICK: Way back corner.

1 MEMBER TODD WOLTERS: West, east?

2 MS. DIANE BROEKHUIS: You're talking to a
3 directionally challenged person.

4 ENGINEER JOHN TEMPAS: This one, further south and
5 east (indicating).

6 CHAIRMAN KEN SOUTER: Thank you.

7 Last but not least.

8 MS. JOAN CARRIER: I'm Joan Carrier, I have two
9 things to say.

10 CHAIRMAN KEN SOUTER: Where are you from?

11 MS. JOAN CARRIER: Old Macatawa Court, 584, right
12 in front of the fourth drilling soil that was
13 seven-and-a-half feet down.

14 CHAIRMAN KEN SOUTER: Okay.

15 MS. JOAN CARRIER: I have a swale in my front yard,
16 and it hits the drive to the north of us. And it does pool
17 and puddle during rains, and eventually go down. I know the
18 neighbor to the, who is to the north of me, he also has a big
19 front swale like in his front yard. So those swales were not
20 removed on our side, on the west side of Old Macatawa Court.

21 Jane is at the end, she's the last swale and hers
22 fills up all the time when it rains. So there should be no
23 issue about whether or not we have swales in there.

24 I don't know if the new properties do, but that's
25 something we should have to consider asking them to put in if

1 they don't have it.

2 But I will say Mr. Bos's property, for several
3 years that I been there, and I've been there since 2008,
4 until recently, was dumping his water on his sump pump into
5 Stacey's back yard which was right next to the drain. And we
6 know it was going into the retention area. So we watched it
7 a couple of times.

8 And then we asked him, Stacey or -- asked him to
9 remove it and they did.

10 Now I don't know if that was, how that affected any
11 flooding she had because this is the house that really
12 flooded.

13 But in all consideration those swales were not
14 removed, at least on our side of the street.

15 CHAIRMAN KEN SOUTER: Okay.

16 ROAD COMMISSIONER JERRY OLMAN: Jerry Olman, with
17 the Ottawa County Road Commission.

18 Pretty much what John has mentioned as far as the
19 road drainage goes on South Shore Drive. For the most part
20 South Shore Drive is relatively flat. And from the
21 centerline north, the water drains off the road and goes into
22 the grass and into the ground. On the south side there are
23 two catch basins and the gutter line of Old Macatawa Court.
24 And those two catch basins all let into the retention basin
25 on each side of Old Macatawa Court.

1 There is something I did notice when I was out
2 there. Our authority pretty much stops at the right-of-way
3 line. I have a copy of the construction plans, and it calls
4 for 12-inch tiles to drain from south to north into those
5 retention basins. Where currently there on the south side of
6 Old Macatawa Court, both the inlet and outlet is visible, and
7 they appear to be about an 8-inch tile. That's quite a bit
8 smaller than the 12 inch.

9 On the north side the outlet is visible, but the
10 inlet is not. So it's either buried or maybe it's tied to a
11 sock pipe or something. But it's not visible. I don't see
12 any kind of drainage further into the development.

13 And it was mentioned about there are swales, that
14 maybe where water collects, but I don't see how that water
15 wouldn't navigate down to those retention basins.

16 But as far as the public right-of-way goes, I don't
17 see any issues as far as drainage goes.

18 CHAIRMAN KEN SOUTER: You're mentioning you seen
19 all this -- you're stating that there were outlets out of the
20 retention pond that were in the design plans or not?

21 ROAD COMMISSIONER JERRY OLMAN: No. Not the
22 retention pond.

23 MEMBER TODD WOLTERS: Inlets into it?

24 ROAD COMMISSIONER JERRY OLMAN: Right.

25 CHAIRMAN KEN SOUTER: That would be from those

1 catch basins?

2 ROAD COMMISSIONER JERRY OLMAN: Well the catch
3 basins, and then on the plans they show the swale on each
4 side of Old Macatawa Court, and where water is supposed to
5 run down each side of Old Macatawa Court through a 12-inch
6 tile and into the retention basin.

7 CHAIRMAN KEN SOUTER: Okay.

8 ROAD COMMISSIONER JERRY OLMAN: But those are
9 smaller than 12 inch. And the one on the east side of that
10 inlet, that's not visible. It's buried or maybe it's tied to
11 something else that goes further down the road. But I
12 couldn't find it.

13 CHAIRMAN KEN SOUTER: Okay. Thank you, Jerry.

14 Okay, with this brand new information, I'm going to
15 close the public comments portion.

16 MR. JOHN FOSTER: Could I make one other quick
17 comment?

18 CHAIRMAN KEN SOUTER: Yes.

19 MR. JOHN FOSTER: I thought about this after I sat
20 down, but because we are on Old Orchard Road and the city has
21 the storm water drainage through there as well as sewer and
22 water, we are already paying the city for the water and the
23 maintenance and the upkeep of those, of that drain, which I
24 would say further, I don't see why I would need to help pay
25 for something that's on the other side that isn't affecting

1 me and isn't going to help me with my situation.

2 MEMBER TODD WOLTERS: Typical assessment on your
3 property is only based on the percentage of land that goes
4 towards that drain though, and that's how they allocate
5 between the two.

6 MR. JOHN FOSTER: I understand that. I just
7 thought I would point it out.

8 MS. NANCY FOSTER: I have a question. Can I direct
9 it to Mr. Bush please?

10 So when Mr. Tenpas was up talking about the Ottawa
11 County Drain Commission giving the approval for this, it
12 sounds like a lot that has happened happened back in 2003 and
13 2004, when the development was proposed to be significantly
14 different than it turned out. And were there changes made to
15 the drain plan in order to accommodate the many changes that
16 happened in the development?

17 WATER RESOURCES COM. JOE BUSH: I can't really
18 answer that at this time without doing more investigation.

19 MS. NANCY FOSTER: I appreciate that.

20 CHAIRMAN KEN SOUTER: Okay. We're closing the
21 public comment of this meeting.

22 Board members, there appears to be changes to the
23 development that I see, there appears to be no problems with
24 anybody other than in the development.

25 It looks like some of the road water, and I don't

1 think the road commission would care if they had an outlet
2 for their drain, so I don't see that the road commission
3 would have a problem with establishing a drain out of this.
4 This is a fairly new development and immediately this
5 development is having problems, and it appears that -- I
6 don't know, I need your comments on this, on how to approach
7 a -- I know there is a water problem, things changed and more
8 water is apparently -- if the houses are bigger than what
9 they were originally supposed to be, there is more water
10 coming to that drain than what was originally supposed to be.

11 So I think the biggest share of the problem here is
12 really from the development itself. Unfortunately, it's --

13 MEMBER TODD WOLTERS: I guess what I'm seeing is
14 the fact that the people that are having the issues are
15 probably the folks on the north end, not so much the folks up
16 on the top as well. You're the receiver and not the giver in
17 this case.

18 And I'd go back to this, being in construction I'd
19 say we have poor construction layout of the plan to start
20 with, that wasn't maintained properly.

21 Do these folks have an issue? Yes, they have an
22 issue. Is a lot of it attributed to the road? I would think
23 probably that could be a good portion of it.

24 CHAIRMAN KEN SOUTER: This area is a lot smaller,
25 road right-of-way is a lot smaller. And the area on the

1 north side of the road, if it was draining into it now, it
2 would be contributing a lot more problems to it also.

3 So the north side of that road isn't draining into
4 it now and we have a problem. If they include that in there
5 and attach a drain to drain that north side of the road, it's
6 going to be a lot larger problem again. I mean it's going to
7 add more water to it.

8 Do you see what I'm driving at?

9 SEC. PEGGY WEICK: You've already got a swale here
10 that's over burdened and a swale that was, is nonexistent
11 now, a phantom swale?

12 CHAIRMAN KEN SOUTER: I do have a question on that
13 from the engineer.

14 ENGINEER JOHN TEMPAS: Yes.

15 CHAIRMAN KEN SOUTER: The one lady mentioned that
16 there is a retention area on the one side, but isn't on the
17 other side now, as it was built?

18 ENGINEER JOHN TEMPAS: There are retention areas on
19 both sides of the road. They may not be in the form that
20 they were originally intended to be, but there are in fact
21 retention basins on both the east and west sides of Old
22 Macatawa Court.

23 CHAIRMAN KEN SOUTER: Was there a design, were you
24 able to look at a design for both of them to make sure they
25 were built like they were originally proposed?

1 ENGINEER JOHN TEMPAS: We have not done any
2 detailed survey or analysis of the as-built condition to
3 determine how much it varies from the original design.

4 SEC. PEGGY WEICK: And there is no maintenance on
5 them?

6 ENGINEER JOHN TEMPAS: There -- I don't know that
7 there, if there has been any maintenance on them or not.

8 CHIEF DEPUTY LINDA BROWN: No.

9 ENGINEER JOHN TEMPAS: But if I had to guess, I
10 would say they were not -- they are not currently in the
11 form, or with the capacity that they originally were designed
12 to have. I can't say that for certain, but that would be my
13 belief.

14 SEC. PEGGY WEICK: And then it sounds like there is
15 more coming in as well. So they're under serving and they're
16 getting more capacity.

17 MEMBER TODD WOLTERS: You have a fair amount of
18 surface on the north, according to roof tops, I mean, you are
19 getting quite a bit of hard surface as well.

20 SEC. PEGGY WEICK: And that combined with the
21 larger footprint of the whole subdivision to begin with.

22 MEMBER TODD WOLTERS: Or a combination.

23 CHAIRMAN KEN SOUTER: I think we have a combination
24 of both in the problem areas. Unfortunately they, the
25 subdivision, Joe, at the subdivisions, I'm talking about Old

1 Macatawa Court, whatever it was, condo, is a drain district
2 in itself?

3 ENGINEER JOHN TEMPAS: It is.

4 WATER RESOURCES COM. JOE BUSH: Yes.

5 CHAIRMAN KEN SOUTER: What this petition is to
6 enlarge that drainage district, I take it?

7 WATER RESOURCES COM. JOE BUSH: For the
8 improvements.

9 CHAIRMAN KEN SOUTER: For the improvements.

10 MEMBER TODD WOLTERS: If you were to draw that line
11 strictly around Old Macatawa, I could probably see it a lot
12 better.

13 CHAIRMAN KEN SOUTER: If you draw the line with the
14 road in it and Old Macatawa.

15 MEMBER TODD WOLTERS: I would have a lot less
16 concern of saying, yes, we have an issue.

17 CHAIRMAN KEN SOUTER: So do I.

18 MEMBER TODD WOLTERS: Right now I'm having a hard
19 time saying we're having an issue, when we're including a lot
20 of areas that do not have an issue is where I'm at right now.
21 Plus we're down to just a couple of the homes.

22 CHIEF DEPUTY LINDA BROWN: I guess I would just
23 like to say that the Board's responsibility is to determine
24 whether or not the petition as requested is necessary, so
25 just to keep that in mind.

1 But any time we have a petition on an existing
2 county drain, we always look at what is the existing drainage
3 district today. And because you can only add land to
4 drainage district by petition, so that's your opportunity to
5 do so. If someone wants to have comment that they don't
6 agree with that, that is they shouldn't be in the district,
7 they're not shedding water, certainly Joe or John would
8 listen to that and look at that. But that is typically
9 what's done.

10 I don't know that the petition, the petitioners
11 were specifically requesting add more land in. That's a
12 process that our office automatically undertakes when we
13 receive a petition.

14 So I just want to make clear that was not their
15 intent. Their intent was just to --

16 CHAIRMAN KEN SOUTER: To get the job done.

17 CHIEF DEPUTY LINDA BROWN: To get a positive
18 outlet. But we then in turn, once that petition comes in, we
19 evaluate the current drainage distinct to make sure is that
20 adequate or are there other lands that are contributing to
21 that drainage system.

22 MEMBER TODD WOLTERS: The only thing I've heard so
23 far today is there are people saying they don't want to be
24 part of that district.

25 CHIEF DEPUTY LINDA BROWN: I know.

1 CHAIRMAN KEN SOUTER: So everybody is in the
2 district.

3 ENGINEER JOHN TEMPAS: One more thing if I can add,
4 as we were going through this process, we've discussed a
5 couple of areas where the existing drain is deficient, it
6 does not have an outlet, the swales are not in the condition
7 that they originally were designed to be in or should be in.

8 We looked at the possibility of being able to do
9 the work on this drain under the maintenance provisions that
10 the drain code allows. And as you know there are, as an
11 existing drain, the water resource commissioner can do
12 certain things under maintenance provisions. But those are
13 very limited in terms of the scope and scale of the work
14 because of the dollar amount limitations that are in the
15 drain code.

16 And so we get to this point today with our petition
17 because the level of improvements that are necessary are
18 beyond what can be done under that maintenance provision.

19 And as Linda mentioned, when we looked into this, I
20 determined that even though this is an existing 433 drainage
21 district and it consists of only the Old Macatawa Court
22 property, there is in fact a lot of area around that that
23 does contribute runoff to these retention basins
24 (indicating). And that is the black line that's outlined
25 here.

1 Even though I know, and this is typical of a lot of
2 drainage districts, the majority of the drain district is
3 probably not going to have a problem. This entire drain
4 district is very sandy. So infiltration happens very rapidly
5 except at the bottom of the district where you're dealing
6 with the groundwater issues.

7 Just to give you a point of reference, the
8 elevations up at the south end of the district (indicating)
9 are in the range of 606 feet. Down here (indicating), at the
10 north end of the district, they're 598 and lower. So you've
11 got 8 feet or more of elevation difference from the north to
12 the south.

13 And groundwater is very affected by the water level
14 in Lake Macatawa. It tends to drop fairly steeply the closer
15 you get to the lake. But because of the sandy soil
16 conditions, again that groundwater elevation can fluctuate
17 very rapidly.

18 So it's no surprise to me that the majority of the
19 district is not dealing with issues. But this is in fact the
20 area that contributes runoff, in my professional engineering
21 judgement to -- with the exception of the north side of -- or
22 South Shore Drive as we discussed. That is in this purely
23 from the standpoint that I anticipate any outlet option that
24 we come up with will include drainage of the north side of
25 the road right-of-way (indicating).

1 CHAIRMAN KEN SOUTER: So I don't think the road
2 commission has a problem with draining the roads. I'm
3 speaking for Jerry, but I would take it that's his attitude
4 because that's always been the attitude with the road
5 commission.

6 But right now it's not contributing to the problem
7 and it could contribute more if it was all drained there.

8 ENGINEER JOHN TEMPAS: And it would only if we
9 proceed with some type of an improvement that alleviates the
10 problem, that that would be contributing to.

11 So if we come up with -- we're looking at a variety
12 of different options from this point forward if necessity is
13 determined. But if that north side of the road ultimately
14 does not contribute to the drain, then it would not be
15 subject to assessment.

16 CHAIRMAN KEN SOUTER: And that would be the same
17 with all of the properties around it?

18 ENGINEER JOHN TEMPAS: Well I think Joe would maybe
19 tell you that his methodology to determine assessment by
20 drain code has to be based on benefit. And here today we're
21 to determine whether or not an improvement is necessary,
22 we're not necessarily going to determine who is paying for it
23 or how much or in what fashion.

24 MEMBER TODD WOLTERS: Going back to Linda's point,
25 I think I know where I got to be on this.

1 CHAIRMAN KEN SOUTER: So do I.

2 SEC. PEGGY WEICK: Yep.

3 MEMBER TODD WOLTERS: So.

4 CHAIRMAN KEN SOUTER: Okay. Then we are required
5 to have -- let's see.

6 SEC. PEGGY WEICK: That's our motions.

7 CHAIRMAN KEN SOUTER: These are our motions?

8 First one is whether it's deemed necessary or not
9 necessary. The second one is a motion based on that Park
10 Township and the cost of -- the drain is or is not necessary
11 for the protection of public health. And then the third one
12 would be a motion that we move to support that the drainage
13 district boundary be adjusted as necessary and the land be
14 added or deleted as determined by the engineer.

15 So those are the three motions that we have. And I
16 would take it if you want to address those motions.

17 MEMBER TODD WOLTERS: I'll make a motion that it be
18 deemed necessary for improvement to the property. I'm not
19 saying that I agree with how we got here, between development
20 and everything else, but there is a need. So I make a motion
21 that it is indeed necessary at this time.

22 SEC. PEGGY WEICK: I'll second the motion with the
23 same reservations.

24 CHAIRMAN KEN SOUTER: Okay. It's been moved and
25 seconded that it's been deemed necessary.

1 All in favor, say aye.

2 (Each Member of the Board responded aye.)

3 CHAIRMAN KEN SOUTER: Second motion?

4 SEC. PEGGY WEICK: I make a motion that it is
5 deemed necessary for the protection of the public health in
6 Park Township and that a portion of the costs shall be
7 apportioned to the municipality or municipalities at large.

8 CHAIRMAN KEN SOUTER: Second?

9 MEMBER TODD WOLTERS: Seconded.

10 CHAIRMAN KEN SOUTER: Moved and seconded that a
11 percentage of the cost will be to the Township.

12 All in favor, say aye.

13 (Each Member of the Board responded aye.)

14 CHAIRMAN KEN SOUTER: And the third motion?

15 SEC. PEGGY WEICK: I make a motion that the
16 drainage district boundary be adjusted as necessary and land
17 be added and deleted as determined by the engineer.

18 MEMBER TODD WOLTERS: Supported.

19 CHAIRMAN KEN SOUTER: Moved and supported.

20 All in favor, say aye.

21 (Each Member of the Board responded aye.)

22 CHAIRMAN KEN SOUTER: All right. That pretty much
23 concludes our part. Hopefully the drain commissioner takes
24 all these to heart. And also when a development happens,
25 it's got to be really watched to make sure that it

1 is complied with. Even though it's private, these things
2 come up.

3 Thank you, that closes our meeting.

4 MS. JOAN CARRIER: One more thing. Joan Carrier,
5 584 Old Macatawa Court.

6 Park Township gave Rick VanTil, the developer, the
7 right to build 12 homes on five-and-a-half acres with very
8 high density, and what they call a site condo development.
9 I'm a realtor so I'm really sensitive to this. And I really
10 think that Park Township is partly responsible for giving him
11 that leeway because it could have been eight homes.

12 I look over what Holland does on a five-acre parcel
13 and they hold it to eight homes. Park Township is partly at
14 fault and should bear part of the costs.

15 CHAIRMAN KEN SOUTER: They are bearing part of it.

16 MS. JOAN CARRIER: I mean not the minor cost, the
17 major cost.

18 CHAIRMAN KEN SOUTER: Okay. Meeting adjourned.

19 (Public Hearing concluded at 11:35 a.m.)
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CERTIFICATION OF COURT REPORTER AND NOTARY PUBLIC

STATE OF MICHIGAN)
) SS
COUNTY OF BARRY)

I certify that this transcript, consisting of 63 pages, is a complete, true and correct record of the testimony held in the Board of Determination Old Macatawa Court Drain - Public Hearing on May 15, 2014.

DATE: May 28, 2014

MARJORIE A. COVEY, CSR-2616
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Notary Public Expires: October 14, 2014, Barry County, Michigan/Acting in the State of Michigan.

0	2	584 11:18 47:11	acre 8:21 33:23 34:4 42:7	allocate 51:4
09 45:23	20 33:2	586 27:14 32:3	acres 8:20,24 9:1 13:2 24:3 42:7	allowed 40:13
1	2001 38:25	598 58:10	acronym 9:6	amend 28:24 30:2 35:24
1.3 16:22	2003 9:21 51:12	6	actively 6:7	amended 35:5
10 19:11 20:13 21:11	2004 9:21 21:19 32:9 51:13	600 19:10	actual 29:7	amount 33:20 41:13 54:17 57:14
11 11:9	2005 35:6 46:23	605 46:19	adapted 24:14	analysis 54:2
115 37:11	2008 36:7 48:3	606 58:9	add 32:17 37:20 38:14 53:7 56:3,11 57:3	and/or 23:20
12 8:2 10:24 34:14 36:1 45:12 49:8 50:9	2009 45:7	69 23:21 25:4	added 27:21 60:14 61:17	answers 6:12
12-inch 49:4 50:5	2014 20:9,14 21:9,11	7	adding 35:2	anticipate 58:23
1200 33:12 34:8	20th 32:8	7.8 11:20	addition 13:1, 19	anticipating 14:7 18:15
1250 36:25	25 33:2 34:22	8	additional 13:1,5	anymore 24:19
12th 20:9	25-foot 34:18	8 58:11	address 11:11 12:8 20:11 23:15 60:16	apparent 43:6
13 38:25	3	8-inch 49:7	adequate 56:20	apparently 20:3 21:2 26:18 33:25 38:10 52:8
13.6 34:1	30 27:20	85 37:1	adjusted 60:13 61:16	Appeals 30:12
13th 21:9	4	86.4 33:24	administrator 34:19 35:13	appears 30:19 51:22, 23 52:5
14 42:11	4 11:18	9	aerial 9:7	appORTIONED 61:7
1422 20:11	40 27:20	9 10:25 16:22 45:20	affected 48:10 58:13	approach 52:6
1440 23:20	433 57:20	A	affecting 31:12 39:13 50:25	approval 34:13 51:11
1443 38:18	5	a.m. 20:14 21:11	agree 56:6 60:19	approved 20:16 29:15
1490 42:25	5 33:4	absorb 35:19	agreed 30:6	approximatel y 29:9 33:23
1492 42:2	5.4 8:20 11:12	absorbed 34:25	agrees 23:8	April 21:19
15.9 9:1	50s 24:7,9	accommodat e 51:15	alleviates 59:9	area 7:14,17, 18,23 8:4,11, 25 9:3 10:15 11:5 12:17 13:21 14:23
1500 33:12 34:8	52 21:12	accomplish 14:6		
152nd 21:12	545 10:24 45:20	account 27:16 34:6		
15th 20:14 21:11	548 10:20 44:9	accounted 12:17,24 13:3, 6		
1976 31:8	557 11:11			
1992 27:18 32:4	5600 33:1,13			
1998 42:7				

15:8,18,20 17:12,14,19, 24 18:13 21:16 27:19, 20 28:11 29:3 48:6 52:24,25 53:16 57:22 58:20		batting 42:12	26:6,9,11,16, 20 27:9,21 37:10	burden 37:5
areas 8:22 35:2 53:18 54:24 55:20 57:5	<hr/> B <hr/>	back 9:21 24:1 28:20 30:2 36:7 37:9 40:7 41:25 42:23 46:25 48:5 51:12 52:18 59:24	Bos's 31:18 48:2	burdened 53:10
argue 25:12	backed 12:5	belief 54:13	bother 9:6	buried 50:10
arguments 30:10	backs 33:8	belongs 37:6	bottom 10:21, 22,25 16:23 19:1 41:10,11 58:5	Bush 5:23 6:1 51:9,17 55:4,7
as-built 54:2	barn 24:21	benefit 18:7, 20 37:16 59:20	bought 21:18 28:17	<hr/> C <hr/>
ash 42:12	base 41:18	bermed 29:24	boundary 60:13 61:16	cabins 20:20
asks 35:7	based 19:2 41:12 51:3 59:20 60:9	berming 29:20 35:17	brand 50:14	calculation 16:14
assessment 21:17,25 26:11 34:20 51:2 59:15,19	basement 16:15,25 21:20 24:6,9, 14,15 25:6 43:4 44:20 45:1,2,23 46:3,10	berms 29:20	breaks 9:12	call 6:9 38:21
assessments 20:23	basements 16:6,12 17:7	big 15:17 22:1 23:23 28:4, 47:18	bring 15:9	called 29:20 35:22
Associates 32:24	basically 5:14 9:7,19 12:7 13:11 14:17 15:4 17:18 19:16 23:4 26:14 28:24 30:2 35:6 40:20,22	bigger 40:12 52:8	Broekhuis 46:19 47:2	calls 49:3
assume 34:4	basins 8:7,10, 16 9:3,18,20 10:3,6,11,14 12:1,4,9,10, 12,18,21,22, 25 13:3,6,18 14:10,12 15:5 16:23 17:15, 17 18:10 19:2 48:23,24 49:5, 15 50:1,3 53:21 57:23	biggest 52:11	Brolette 42:1, 6,21	capacity 45:3 54:11,16
attach 53:5		bike 28:1,3 43:24 44:2	BROWN 54:8 55:22 56:17, 25	care 52:1
attend 20:13 21:10		bit 28:6,17 49:7 54:19	buffer 33:3 34:18,22	Carrier 47:8, 11,15
attended 28:13		black 9:14 57:24	build 14:21 22:19 35:15	case 52:17
attitude 59:3, 4		blanket 11:3	builder 30:1 32:25 34:12 35:6,20,24 36:13 39:2 43:5	cases 12:5 30:24
attributed 52:22		Board 5:4,11 6:7,11 13:14 19:23 20:9 22:23 30:12 51:22 61:2,13, 21	building 33:1, 9,14 40:10	caused 39:18
authority 49:2		Board's 55:23	buildings 34:1 37:22	causing 22:9 31:22 39:11
automatically 56:12		borer 42:11, 12	built 12:16 13:24 15:14 16:2 17:9 22:16 30:18 31:7,8 33:9 35:14 36:11 38:25 39:2 40:11,12 53:17,25	centerline 48:21
Avenue 21:12		boring 10:22 11:9,17		chair 46:13
awhile 5:19		borings 10:10,12,18 11:1 16:16,21 17:1,2		CHAIRMAN 5:2,5,9,12 6:15 7:1,5 13:9,16,18,25 14:3,11,14,16, 20 15:7,17,22 16:1 17:12 18:25 19:8,12, 16,20,23 21:1, 6 22:25 23:22 24:1 25:17,21 26:5,7,10,14,
aye 5:3,4,10, 11 61:1,2,12, 13,20,21		Bos 23:19,23 24:2 25:20,23		

<p>18 27:7,10 31:25 37:17, 24 38:4,11,19, 23 39:21,24 40:2,5,22 41:2,4,8,18,23 42:5,20,22 43:2,14 44:3, 6,13,16 45:17 46:9,14,18,24 47:6,10,14 48:15 49:18, 25 50:7,13,18 51:20 52:24 53:12,15, 54:23 55:5,9, 13,17 56:16 59:1,16 60:1, 4,7,24 61:3,8, 10,14,19,22</p> <p>challenged 47:3</p> <p>change 30:3</p> <p>changed 24:18 52:7</p> <p>charged 20:24</p> <p>CHIEF 54:8 55:22 56:17, 25</p> <p>Cimarron 22:3 23:25 25:15,18,22, 24 38:18 39:6 40:1</p> <p>citizen 7:11</p> <p>city 17:20 19:16 37:8 50:20,22</p> <p>clarification 33:8</p> <p>clarity 32:20</p> <p>clear 12:22 56:14</p> <p>close 19:4 30:17 36:19 50:15</p> <p>closer 58:14</p>	<p>closing 51:20</p> <p>code 7:21 57:10,15 59:20</p> <p>collects 49:14</p> <p>combination 9:5 11:21,25 54:22,23</p> <p>combined 54:20</p> <p>comment 5:16 50:17 51:21 56:5</p> <p>comments 5:15,20 14:16 21:13 23:10 31:18 38:12 50:15 52:6</p> <p>commission 6:5 22:24 32:6,9 33:7 34:11 36:9 40:7 48:17 51:11 52:1, 59:2,5</p> <p>commissioner 6:8,21 7:24 20:17 37:25 45:9 48:16 49:21,24 50:2, 8 57:11 61:23</p> <p>Commissioner's 7:12</p> <p>common 33:21</p> <p>complaints 6:16</p> <p>complete 9:8 12:14 34:16</p> <p>complicated 45:13</p> <p>computation 15:8</p> <p>concern 30:17 55:16</p> <p>concerned</p>	<p>29:4 32:13,15, 34:17</p> <p>concerns 29:2,19 32:22</p> <p>concludes 61:23</p> <p>conclusion 12:7</p> <p>condition 15:21 54:2 57:6</p> <p>conditions 10:9 58:16</p> <p>condo 55:1</p> <p>condominiums 40:13</p> <p>condos 24:24,25 25:3</p> <p>connection 17:24</p> <p>consideration 21:14 41:16 48:13</p> <p>considered 18:6</p> <p>consist 8:19</p> <p>consists 8:2, 6 57:21</p> <p>constructed 9:4 13:23 22:6,9</p> <p>construction 22:8,18 49:3 52:18,19</p> <p>consulted 33:18</p> <p>continue 41:24</p> <p>contours 9:5, 8,9</p> <p>contribute 57:23 59:7,14</p> <p>contributed 37:15</p>	<p>contributes 58:20</p> <p>contributing 10:1 39:18 53:2 56:20 59:6,10</p> <p>converted 24:21</p> <p>copy 49:3</p> <p>corner 21:4 43:1 46:25</p> <p>correct 14:19 16:17 17:9</p> <p>correspondence 20:3</p> <p>cost 60:10 61:11</p> <p>costs 61:6</p> <p>county 6:5 22:23 40:7 45:9 48:17 51:11 56:2</p> <p>couple 8:13 13:16 17:5,19 27:24 29:19 48:7 55:21 57:5</p> <p>court 7:13,17, 18 8:1,3,5,8, 11,15,19,23 9:4 10:13,19, 20,23,25 11:11,18 14:17 15:2 20:12,17 21:9, 15,21 22:10, 14 23:24 24:18,20 25:15,18,22, 24 28:4,14,23 31:12,23 36:2 37:12 38:21 42:15 43:1 44:9 46:20 47:11,20 48:23,25 49:6 50:4,5 53:22 55:1 57:21</p> <p>crawl 46:14,</p>	<p>15,16</p> <p>created 37:14</p> <p>cul-de-sac 29:9</p> <p>culmination 9:14</p> <p>culverts 15:9</p> <p>current 24:23 56:19</p> <p>cursorly 7:13</p> <p>curve 13:24</p> <p>cut 42:11</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>dash 8:25</p> <p>dashed 7:17</p> <p>data 17:8 18:25</p> <p>Dawn 39:23 40:1,3,20,25 41:3,7,17,22</p> <p>days 24:15 34:19</p> <p>deal 29:4</p> <p>dealing 18:10 58:5,19</p> <p>deemed 60:8, 18,25 61:5</p> <p>deep 24:10 44:20</p> <p>deficient 57:5</p> <p>deleted 60:14 61:17</p> <p>demolished 20:20 24:23</p> <p>depth 11:15, 24</p> <p>DEPUTY 54:8 55:22 56:17, 25</p> <p>design 12:18, 24 13:3,7 14:5</p>
---	--	---	---	---

15:23 49:20 53:23,24 54:3	5,12 60:19 61:24	61:16	60:12 61:16	E
designed 9:17,21 10:4 12:15 54:11 57:7	development s 40:8,13	districts 41:4 58:2	drained 59:7	earlier 9:2
desire 22:12	Dewaard 20:9,11,25	ditch 14:17,20 15:10 36:1	draining 12:2 13:20 26:19 27:7 28:12 31:3,21 37:8 53:1,3 59:2	earth 29:23
detailed 54:2	Dewaard's 27:17	documents 37:21	drains 6:6,8,9 7:18 9:3 24:12 25:7 27:2 28:10 36:13 48:21	easel 7:16
details 17:6	Diane 46:19 47:2	dogs 27:24	draw 55:10,13	east 10:23 11:10 17:22 34:18 47:1,5 50:9 53:21
determination n 20:10 21:14 22:23	difference 25:7 26:17 58:11	dollar 57:14	drastically 11:16	eaves 46:21
determine 7:14 9:9,10,12 54:3 55:23 59:19,21,22	direct 36:2,21 51:8	dollars 24:25 25:3	draw 55:10,13	edge 33:3
determined 57:20 59:13 60:14 61:17	directed 6:20 36:9	double 34:9	drawing 33:10	effect 30:25
develop 14:8 25:14	direction 7:11	downstream 15:16	Drill 27:4	elevation 11:21 17:7 18:17 19:2 58:11,16
developed 9:4 12:15 24:11,22 26:16,25 31:19 33:22 39:10	directionally 47:3	drain 5:15,22, 24 6:3,8,13,17 7:3,19,20,21, 23,25 8:6,15 9:16 12:22 17:23 20:16 21:15,24 22:8, 17,19 25:12, 25 26:4,12 27:8 30:23 31:7,17,19 36:15 37:25 43:23 44:12 45:9 48:5 49:4 50:23 51:4,11, 15 52:2,3,10 53:5 55:1 56:2 57:5,9,10,11, 15 58:2,3 59:14,20 60:10 61:23	drilling 47:12	elevations 16:25 18:10, 13 58:8
developer 9:22 20:24 28:16 30:1 33:12 40:20, 21 45:6	directions 9:10 11:7 30:24	drainage 6:12 8:5 10:16 14:6,8,21 15:8,18 20:13, 20,23 21:9 22:17 28:9 29:3,8,14 30:19 33:6 36:1,20 37:23 38:6 40:9,19 41:4,12 48:19 49:12,17 50:21 55:6 56:2,4,19,21 57:20 58:2,24	drive 8:9,17, 20,21 12:20, 21,24 13:19 14:1,4,6 17:21 20:12,18 21:3, 5 23:2,21 27:17,25 29:21 31:15 33:16 35:18 36:4 38:18 39:6 40:1 42:2,3,25 45:10 46:8,21 47:16 48:19, 20 58:22	Elizabeth 20:9,11,25 27:17
developer's 20:21 36:8	discovered 45:9		driveway 13:24 15:13, 15 35:10	embarked 7:12
developers 7:21	discuss 22:22		driveways 15:9 34:5 35:4,9,11 37:22 41:14, 21	end 8:7,16 10:11 15:6 16:22 25:19 34:7 39:11 47:21 52:15 58:8,10
developing 7:22	discussed 57:4 58:22		driving 53:8	engineer 7:3, 4,7 13:11,17, 22 14:2,7,13, 15,19 15:1,11, 19,25 16:8,11, 18,21 17:10, 18 19:5,9,14, 18,22 26:3 32:24,25 36:8 43:7 47:4 53:13,14,18 54:1,6,9 57:3 59:8,18 60:14 61:17
development 7:23 8:1 9:22 13:2,19,23 16:7 20:17,19 21:21 22:4,6 24:23 39:9 40:14,17,23 43:11 44:10 49:12 51:13, 16,23,24 52:4,	dissertation 23:14		drop 58:14	engineering 9:21 58:20
	dissipate 18:24		dry 39:4	enlarge 55:6
	distance 17:23		dumping 48:4	
	distinct 56:19			
	district 8:5,18 9:12 18:20 20:13 21:9 22:17 24:3 55:1,6 56:3,4, 6,24 57:2,21 58:2,4,5,8,10, 19 60:13			

ensure 34:11	fact 22:10 37:1 43:22 52:14 53:20 57:22 58:19	find 12:3 36:7 42:4 50:12	foot 33:1,3,13 34:22 35:14 36:25 45:20, 22	GIS 35:14
entire 58:3	factor 14:11	fine 25:4	footprint 54:21	give 23:16 24:5 37:25 38:4 39:24 58:7
entrance 29:21	failed 34:11	fingers 30:8	forced 22:20	giver 52:16
envelope 33:1,9,14	Failure 22:19	finished 34:15 46:16	foremost 10:15	giving 51:11
environment ally 37:4	fair 6:4 22:2 54:17	firm 9:22	forever 24:17	gladiolas 26:22
establish 7:22 12:9	fairly 15:2 28:8 52:4 58:14	Fitzharris 38:17,18,20, 24 39:22	forgiveness 35:7	good 5:19 27:10,11 28:8 33:4 38:25 42:24 52:23
established 7:20 8:4	fall 14:23 28:1	Fitzpatrick 45:19 46:12, 15,25	form 38:3 53:19 54:11	grading 33:5
establishing 52:3	familiar 17:13	fix 22:12,20 26:12 42:17	forward 7:25 29:5 59:12	gradually 11:22 15:14
evaluate 56:19	family 22:3 24:22	fixed 21:24	Foster 27:14 32:3 33:20 37:18,20 38:2, 5 50:16,19 51:6,8,19	grass 48:22
eventually 47:17	farm 26:22,23	fixing 22:4	found 7:6 10:14,17,18 13:12	grate 43:23
everybody's 23:10	fashion 23:5 59:23	flat 31:9 48:20	four-and-a- half 45:22	great 31:13 44:22
exception 58:21	faster 40:21	flood 24:10	fourth 11:17, 19 47:12	green 33:21 37:1,10
excited 24:9	fault 22:20	flooded 28:4 37:13 45:24 46:3 48:12	freely 36:6	Greg 32:23
existing 17:19 19:1 33:5 56:1,2 57:5,11,20	favor 5:3,10 6:6,9,13 61:1, 12,20	flooding 10:5 12:4,6,8,13 14:12,23 16:6, 12 17:3 21:20 24:13,15 31:19,22 32:12,14,17, 36:18,22 48:11	frequently 17:6	ground 9:20 10:6,7 11:12, 13,15,21 12:3, 11 13:4 24:13 36:19 48:22
exists 8:6	feasibility 18:2	floods 27:6	front 7:8 8:3 11:9,18 30:21 36:20 37:9 44:11,19 47:12,15,19	groundwater 10:9,17,21 11:2,3,12,15, 20,22,23,24, 25 12:11 13:5 17:7 18:13,17, 21,22,23 19:1 58:6,13,16
expensive 24:24	feel 39:17	floor 16:15,17 33:13 36:25	frozen 10:7 12:12 13:4	grow 27:19
experience 32:13	feet 10:22,25 11:12,20 16:22 18:17 19:3,10,11 33:2,5,13 34:8 35:12 37:11 44:20 47:13 58:9,11	floors 16:25 34:8	full 43:12,22	growing 27:22
experienced 39:1,4	FELIX 5:18,25 6:2,18	flow 15:4 46:6	garage 16:15 34:4	guess 27:9 29:12 30:4 34:5 41:3 52:13 54:9 55:22
experiencing 22:11 36:22	fill 12:12 15:14	flower 26:23	gentleman 27:12	gutter 48:23
extent 29:24 31:13	filled 14:21	fluctuate 11:4 58:16		
<hr/> F <hr/>	fills 47:22	fluctuates 11:4		
faces 27:17	final 32:7,8 34:12	folks 6:20 52:15,21		
facing 27:15	financial 37:5			

guy 23:7,8,12 41:8,10,11	higher 11:13 16:19 31:3,16	32:25 33:2,8, 11,15,22 34:7, 14 35:12 36:24 52:8	6 47:5 57:24 58:8,9,25	Jerry 5:17,18, 25 6:2,18 48:16 49:21, 24 50:2,8,13 59:3
guys 20:6	hindsight 46:16	huge 43:7	infiltrate 9:20 15:13	Joan 47:8,11, 15
<hr/> H <hr/>	hired 32:25	<hr/> I <hr/>	infiltration 15:20 18:6,20, 22 58:4	job 29:13,15 56:16
half 33:24	historical 17:8	ice 43:21	information 50:14	Joe 5:23 6:1 51:17 54:25 55:4, 56:7 59:18
halfway 23:12	historically 18:11	immediately 52:4	initial 28:24 29:20 34:18	John 7:2,4,7 13:11,17,22 14:2,7,13,15, 19 15:1,11,19, 25 16:8,11,18, 21 17:10,18 19:5,9,14,18, 22 26:3 27:14 32:4,10 37:20 38:2,5 47:4 48:18 50:16, 19 51:6 53:14, 18 54:1,6,9 55:3 56:7 57:3 59:8,18
Hall 21:12	history 9:16 24:5 27:11,21 30:9 39:8 45:25	important 6:13	Initially 28:15	
hands 23:12	hits 47:16	impossible 20:13 34:21	inlet 49:6, 50:10	
happen 29:11 30:6 35:17 36:23 40:8	hold 10:4 15:12	improve 7:25 18:19	Inlets 49:23	
happened 13:20 27:3 30:5 34:10 43:19 51:12, 16	Holland 17:20 21:12 27:20 37:9	improvement 26:15 59:9,21 60:18	inquiries 7:11	
happening 29:23	home 21:18 24:22 27:15, 16 31:5	improvement 6:1,2 55:8,9 57:17	inspections 9:11	
hard 16:18 54:19 55:18	homeowners 45:13	improving 18:6	intended 8:11,14 9:19 10:1 15:12,21 53:20	
health 60:11 61:5	homes 8:3 12:6 16:12,18 17:5 28:15,19 30:16,21,23 36:11,20 39:19 43:7 55:21	inch 49:8 50:9	intent 56:15	joined 28:21
hear 13:10 23:8,9	hoping 37:3	inches 24:10	intersection 17:22	judgement 58:21
heard 25:22 45:25 56:22	horizontally 19:10	include 34:4, 5 53:4 58:24	investigation 51:18	June 11:1 17:2
hearing 16:13 29:11 40:25	horse 24:20, 21	included 14:1 20:12,16,21	issue 12:8 21:24 22:6 36:19 43:9,20 47:23 52:21, 22 55:16,19, 20	jurisdiction 7:24
hearings 28:13 29:1	house 14:21 21:1 23:22 24:3,6 25:5,15 27:17 35:12 39:2,3 41:13, 21 42:4 43:1 45:23 46:21, 24 48:11	including 29:5 55:19	issues 6:24 21:20,22 22:9, 11 45:6,14 46:20 49:17 52:14 58:6,19	<hr/> K <hr/>
heart 61:24	houses 21:2 22:16 23:1 26:21 27:2	increase 11:23 25:13	<hr/> J <hr/>	keeping 36:22
heavier 28:2		increasing 11:21	Jane 44:8,14, 18 47:21	KEN 5:2,5,9, 12 6:15 7:1,5 13:9,16,18,25 14:3,11,14,16, 20 15:7,17,22 16:1 17:12 18:25 19:8,12, 16,20,23 21:1, 6 22:25 23:22 24:1 25:17,21
heavily 34:25		indicating 8:3,8,19 9:15 10:12,13,19, 24 11:9 12:19 17:21,22 19:7 25:24 26:2 37:21,23 38:8 42:4 43:16,17, 18 45:21 46:5,	January 32:8 45:23	
height 16:17				
held 33:21				
helpful 29:17				
helping 21:23				
hiding 42:23				
high 10:6 13:5 18:14,22 35:16 44:23				

26:5,7,10,14,
18 27:7,10
31:25 37:17,
24 38:4,11,19,
23 39:21,24
40:2,5,22
41:2,4,8,18,23
42:5,20,22
43:2,14 44:3,
6,13,16 45:17
46:9,14,18,24
47:6,10,14
48:15 49:18,
25 50:7,13,18
51:20 52:24
53:12,15,
54:23 55:5,9,
13,17 56:16
59:1,16 60:1,
4,7,24 61:3,8,
10,14,19,22

kid 24:8, 26:21

kind 20:5
23:6,16 28:1,
18 29:22,25
30:6 31:10
37:3 38:13
49:12

kindly 42:21

knew 25:4
32:12

knowing
16:24

L

labeled 25:21

lady 27:12
45:18 53:15

lake 18:1,9,11,
16 19:2,3,6,
10,13 21:2
24:7,12 26:1,
6,7 32:19
58:14,15

lakes 32:21

land 8:20 9:10
12:17 13:2
33:21 42:7
56:3,11 60:13

61:16

lands 56:20

landscaped
35:19

large 20:19
29:20 61:7

larger 7:8 8:2
35:1 38:2 53:6
54:21

lawn 36:15

lawns 36:6

layout 52:19

layouts 29:6

lead 18:8

leads 31:20

leave 33:24

lesson 27:11
30:9

letter 21:7

level 11:3,22
16:15 24:13
57:17 58:13

levels 18:11
19:1

liable 21:17,
25

Lidar 9:5,6

limitations
57:14

limited 57:13

Linda 54:8
55:22 56:17,
25 57:19

Linda's 59:24

listen 56:8

listened
30:10

live 22:15
42:1,2,3,4,14,
25 43:15 44:9
45:20

lived 23:20
27:18 42:6

45:23

living 32:4

location
11:12,20
23:16

locations
10:10

long 18:15
23:14,23 24:6
38:12

long-term
18:8

longer 27:22
36:24

looked 9:5,
10:9 17:12
18:2 29:6
57:8,19

loss 15:17,18

lost 42:11

lot 22:25
26:17 29:1
30:13,14 31:9,
10 34:24,25
35:1,19 38:14,
22 40:8 41:9,
18 42:10
51:12 52:22,
24,25 53:2,6
55:11,15,19
57:22 58:1

lots 42:8

loved 24:8

low 13:20
18:11,21
28:11 29:3

lower 16:14,
15 35:14
58:10

lowest 10:15

lowland
25:25

lucky 44:24

M

Macatawa

7:13,17,18
8:1,3,5,8,10,
15,19,23 9:4
10:13,19,20,
23,24 11:10,
11,18 14:17
15:2 18:1,9,
12,16 19:2,4,
6,10 20:12
21:9,15,21
22:10,14
23:24 24:18,
20 26:6,8
28:3,14,22
31:12,23
32:19 36:2
37:12 38:21
42:15 43:1,15,
16 44:9 46:20
47:11,20
48:23,25 49:6
50:4,5 53:22
55:1,11,14
57:21 58:14

made 26:17
46:1 51:14

main 33:13
34:8 36:25

maintain 7:24
40:23 41:1

maintained
40:16 52:20

maintenance
50:23 54:4,7
57:9,12,18

major 21:24

majority 58:2,
18

make 29:18
38:17 40:12
50:16 53:24
56:14,19
60:17,20 61:4,
15,25

making 11:2
21:14

MANAGER

5:18,25 6:2,18

map 7:8,16
9:15 36:14

maps 33:19

March 35:6

marked 42:3

materials
41:19

matter 18:4
19:9 22:22

max 44:25

means 9:7
40:15

meeting
20:14 32:9,10,
11,23 35:3
51:21

meetings
28:13 32:6

Member 5:4,
7,11 16:5,9,
13,20 47:1
49:23 51:2
52:13 54:17,
22 55:10,15,
18 56:22
59:24 60:3,17
61:2,9,13,18,
21

members
19:24 51:22

mentioned
9:2,17 12:19
48:18 49:13
53:15 57:19

mentioning
49:18

mess 44:4

methodology
59:19

Michigan
18:11 21:12
24:15 26:1
45:22 46:10

middle 8:2

38:24	navigate 49:15		40:6 45:8 48:17 51:10	Patricia 42:24,25
Mike 38:17, 18,20,24 39:22	nearby 12:6, 13	<hr/> O <hr/>	Ottogan 17:23 26:3	paved 35:2
million 24:25 25:3	necessarily 59:22	object 39:16	outer 8:22	pay 6:4,5 21:23 22:4,14, 20 25:11 41:12 42:16, 18,19 43:9 44:5 50:24
mind 55:25	necessity 10:16 59:12	objection 25:9	outlet 12:1,9 32:18 49:6,9 52:1 56:18 57:6 58:23	paying 59:22
mine 16:4	Nederveld 32:24	objections 26:13	outlets 49:19	pays 41:10,11
minutes 8:13 13:8 32:23	needed 22:19	occurring 7:14 22:4	outlined 8:18, 25 57:24	Peggy 5:1,7, 12,18 16:4 17:8 19:25 20:4,8 21:7 53:9 54:4,14, 20 60:2,6,22 61:4,15
mistake 46:17	neighbor 47:18	office 7:12 22:24 46:13 56:12	overflow 12:10 17:14, 17	people 20:3 22:10 25:3,10 36:21 39:15 40:17,23 41:12 52:14 56:23
mitigate 36:17	neighbor's 20:22	oldest 24:3	overland 15:4	percent 33:24 37:1
modified 21:25	neighborhood d 45:4	Olman 48:16 49:21,24 50:2, 8	owned 23:20 27:24 28:17	percentage 51:3 61:11
moisture 35:1	neighbors 30:25 31:2 32:13 37:4 39:5	opinion 20:24	owner 21:8 28:20	perimeter 8:23
morning 5:19 42:24	nervous 20:23	opportunity 18:23 23:5 56:4	owners 21:16	periods 10:6 18:20,21
motion 5:5,7 60:9,12,17,20, 22 61:3,4,14, 15	nice 41:18	option 18:5 58:23	owning 23:20	permission 35:21
motions 60:6, 7,15,16	nine-and-a-half 8:23 13:2	options 18:2, 4,19 59:12	<hr/> P <hr/>	person 47:3
move 5:2,10 11:6 60:12	nonexistent 9:25 14:18 53:10	Orchard 17:20 19:15 21:4,18 22:3 23:2 24:11 26:15,16,21 27:14,16,24 31:6,19 32:4 37:7 50:20	paid 41:5	personally 6:22
moved 46:23 60:24 61:10, 19	normal 15:10	order 36:17 51:15	parcel 8:2	perspective 31:5
moving 6:7	north 8:7,15, 16 10:11,20, 24 14:3,9 15:3,6 16:22 18:1 36:4 47:16,18 48:21 49:4,9 52:15 53:1,3,5 54:18 58:10, 11,21,24 59:13	orderly 23:5	parents 24:8	pet 27:24
municipalities 61:7	notice 49:1	original 13:7 29:25 32:5 36:8 54:3	park 21:11 30:13 33:3 34:20 60:9 61:6	petition 55:5, 24 56:1,4,10, 13,18 57:16
municipality 61:7	number 28:19,25 29:2 30:16 44:9	originally 8:4 9:25 10:4 12:15 52:9,10 53:20,25 54:11 57:7	past 18:12 21:19 44:21, 24 46:3	petitioned 5:21 6:3
<hr/> N <hr/>		orphan 6:9	pasture 24:20	petitioners
Nancy 27:18 32:3 33:20 37:18 51:8,19		Ottawa 22:23	PAT 43:3,15 44:4	
natural 14:23 15:1 31:10			path 28:1,3 43:25 44:2	

56:10	portion 6:5 50:15 52:23 61:6	process 6:3 12:14 56:12 57:4	16:2 19:18 20:5 21:11 23:3 40:4,9, 10,11,15, 49:16 50:15 51:21 60:11 61:5	<hr/> R <hr/>
phantom 53:11	positioned 33:1	professional 58:20	PUD 28:22 32:7	Raad 32:23 33:8,15,22
piece 7:22 20:19	positive 32:18 56:17	project 6:13 28:14,16,22, 24 32:6,19,20, 24 33:22 34:6 37:16 43:6,17	puddle 47:17	radii 13:24
pine 42:11	possibility 17:13,14 19:21 57:8	promises 46:1	puddles 28:5	rain 28:1 41:9 43:21
pipe 49:11	potential 17:24	proper 6:12	pump 24:16 26:23 27:4 39:3 44:21 45:2 46:22 48:4	raining 44:25
place 43:24	potentially 7:15	properly 52:20	pumps 17:5 24:17	rains 47:17,22
plan 20:16,20, 21 29:25 30:2 32:7,8 34:12 35:5,10,24 51:15 52:19	preliminary 34:20	properties 12:13 32:16 34:22 36:1,3 47:24 59:17	purely 58:22	raised 26:22
planning 32:5,9 33:7 34:11	prepared 6:6	property 7:22 8:7 9:8,23 10:13 11:8,24 20:19 21:8 22:14 23:23 25:13,19 26:12 28:21 31:3,6,7,12, 15,21,22 32:12 33:3 34:1 37:11 39:17 48:2 51:3 57:22 60:18	push 27:4	ran 45:3
plans 29:20 30:10 49:3,20 50:3	presented 28:14,15 32:7	proposed 24:3 29:15 33:11 37:23 51:13 53:25	put 22:5 24:11,19,23 25:9,12,15 27:1,2 28:19 29:5,24 31:20 35:5,20 36:10, 13 37:5 39:19 41:20 43:23 46:20 47:25	Randall 23:19,23 24:2 25:20,23 26:6, 9,11,16,20 27:9
planted 29:22	pressure 12:11	proposing 38:7	putting 41:15	range 58:9
planting 31:10	pretty 16:4 34:16 38:17 48:18 49:2 61:22	protection 60:11 61:5	puts 41:5	rapidly 11:6 58:4,17
play 24:8	prior 22:8,18	provide 14:8 18:7	quarter 24:25	ratio 33:24
plowed 40:16	private 15:24 40:3,9,14 42:3	provision 7:21 57:18	question 6:15 16:5 31:11 33:20 39:23 51:8 53:12	read 20:4 21:13 22:21 32:9
podium 23:14	problem 22:1, 4,12 23:9 25:2 37:15 38:13 39:7,15,18 40:10 42:17 45:5,13 52:3, 7,11 53:4,6 54:24 58:3 59:2,6,10	provisions 57:9,12	questions 6:11,22 13:8, 10,14 16:3 19:24 20:5,15 23:6	real 5:20 17:13 25:25
point 12:5,13 13:15 14:14 17:25 18:5,16 25:23 30:4,8 38:5 51:7 57:16 58:7 59:12,24	problems 7:14,15 10:6 18:14 20:5,23 23:6,10 28:9 31:22,23 39:1, 3,4,9,11 41:1 42:8,13,15,17, 19 43:4 51:23 52:5 53:2	public 15:24	quick 38:18 39:23 50:16	rear 30:22 31:2,9
pointed 31:4	proceed 59:9		<hr/> Q <hr/>	reason 32:11 34:10 45:11
pond 9:19 36:4 38:8,9 43:16 44:19, 22 46:5,7 49:20,22			receive 56:13	received 37:21
ponds 29:10 36:18 43:10 45:11			receiver 52:16	recently 48:4
pool 47:16			quarter 24:25	recollection 36:12
poor 52:19			question 6:15 16:5 31:11 33:20 39:23 51:8 53:12	record 21:7,8
porous 41:19			questions 6:11,22 13:8, 10,14 16:3 19:24 20:5,15 23:6	records 12:14 17:11
			quick 38:18 39:23 50:16	red 42:10
				refer 7:9

reference 58:7	Resources 5:23 6:1,21 22:24 51:17 55:4,7	road 6:5 11:19 12:18,21 14:9, 24 15:4,5,23, 24 16:19 18:3 19:12 24:11 26:21 27:1,2, 15,16 28:3 29:8 31:7,17 32:4 33:6 37:7 38:9 40:7 44:1 48:16,17,19, 49:21,24 50:2, 8,11,20 51:25 52:1,2,22,25 53:1,3,5,19 55:14 58:25 59:1,4,13	<hr/> S <hr/>	sewer 17:20 37:9 50:21
reflect 18:17	responded 5:4,11 61:2, 13,21	roads 40:10, 12,15 59:2	sale 25:1	sewers 40:11
related 32:6	response 7:11	roadside 8:12,14 9:17, 24	sand 42:9,14	shallow 11:25
relative 16:25 17:7 18:9	responsibilit y 22:13 37:5 42:19 55:23	role 46:12	sandy 11:5 58:4,15	shallowest 10:17
relieve 12:10	responsible 21:23	Ron 42:1,6,21	sat 50:19	share 6:4 52:11
remedied 39:14	rest 39:13	roof 54:18	save 36:13	shared 35:4,9
remember 24:7	result 6:21,25	roofs 30:23 35:1 41:21	scale 57:13	shedding 56:7
remove 48:9	resulting 11:23	roughly 8:23	scenario 23:17	shore 8:9,17, 20,21 11:10 12:20,21,24 13:19 14:1,3,6 17:21 19:6 20:12,18 21:3, 5 23:21 27:17, 25 29:21 31:14 33:16 35:18 36:4 42:2,25 43:11 45:10 46:8 48:19,20 58:22
removed 32:16 47:20 48:14	retaining 46:22	row 27:12 32:1 38:15,16 41:25 44:7 46:18	scope 57:13	short 17:23
report 17:3	retention 8:7, 10,16 9:3,18, 20 10:6,11,14 12:1,9,22 16:10 29:9 36:4,18 43:10, 16 44:19,22 45:11 46:5,7 48:6,24 49:5, 15,20,22 50:6 53:16,18,21 57:23	run 7:5 17:6 25:25 26:6,7 36:5 44:19 46:22 50:5	Screw 44:3	show 33:15 35:9 37:22 50:3
reports 16:6, 11	retroactively 20:24	running 14:24 15:4 29:8 31:13,14	SEC 5:1 16:4 17:8 19:25 20:8 21:7 53:9 54:4,14,20 60:2,6,22 61:4,15	shown 33:9
representativ e 7:2	review 9:11	runoff 9:11,19 13:5 18:24 31:11 32:21 35:2 36:3 41:13 57:23 58:20	seconded 5:2 60:25 61:9,10	shrubby 29:22
requested 55:24	Rick 33:11	runs 38:8	secretary 5:6, 8,13	side 8:8,9 10:19,23 11:10,19 14:3, 9 23:12 29:10 38:9 44:15,17 47:20 48:14, 22,25 49:5,9 50:4,5,9,25 53:1,3,5,16,17 58:21,24 59:13
requesting 56:11	rid 17:16		section 7:20 15:6,15 28:3, 16,17	sides 8:15 14:6,9 29:8 30:21 53:19, 21
requests 30:14	right-of-way 8:21,22 14:1 19:17,19 35:18 49:2,16 58:25		sections 14:20	significant
require 40:11	right-of-ways 19:13		sense 29:18	
required 60:4	rises 12:11		series 15:12	
research 22:7	rising 11:22		serve 5:7	
researched 7:3			serving 22:23 54:15	
researching 6:7			set 33:8 41:5 45:14	
reservations 60:23			setbacks 30:20 34:17 43:8	
residents 5:21 6:3,11 37:7			sets 36:4	
resolution 7:15			settles 43:24	
resource 7:12,24 57:11			seven-and-a- half 47:13	

10:5 11:23 12:3,17 15:2 31:21 32:16 37:10	soils 11:5 33:4	5 23:20 25:18 27:15,17,25 29:21 31:2,14, 33:16 35:18 36:4 38:20,21 42:2,25 43:11 45:10 46:7 47:4 48:19,20, 22 49:4,5 58:8,12,22	statement 11:3	supposed 32:8 34:18 35:5,17,18,19, 25 36:3,15,17 50:4 52:9,10
significantly 11:4 34:23 35:1,2 51:13	solution 18:8 37:3 39:16 43:13		stating 49:19	surface 54:18,19
simply 18:19	solve 45:5,14		stays 44:23	surprise 58:18
Sincerely 22:24	solving 45:12		steeply 58:14	surrounding 7:17 8:11
single 24:22	sort 12:9 41:19		stone 29:24 35:21	survey 9:7 34:21 54:2
sir 27:11 41:25	sound 37:4	space 33:21 37:1,10 46:14, 15,16	stood 46:4	surveyor 36:8
sit 16:19	sounds 51:12 54:14	speak 29:12 38:24 39:5	stopped 44:25	swale 15:14, 22 44:11,18 47:15,19,21 50:3 53:9,10, 11
site 8:16 9:11 10:12,16 33:4, 19	SOUTER 5:2, 5,9,12 6:15 7:1,5 13:9,16, 18,25 14:3,11, 14,16,20 15:7, 17,22 16:1 17:12 18:25 19:8,12,16,20, 23 21:1,6 22:25 23:22 24:1 25:17,21 26:5,7,10,14, 18 27:7,10 31:25 37:17, 24 38:4,11,19, 23 39:21,24 40:2,5,22 41:2,4,8,18,23 42:5,20,22 43:2,14 44:3, 6,13,16 45:17 46:9,14,18,24 47:6,10,14 48:15 49:18, 25 50:7,13,18 51:20 52:24 53:12,15, 54:23 55:5,9, 13,17 56:16 59:1,16 60:1, 4,7,24 61:3,8, 10,14,19,22	SPEAKER 19:15 21:4	storage 9:19 10:3 15:19	swaled 36:3
situation 13:13 18:18 45:12 51:1		speaking 59:3	storm 17:19, 20 31:7 33:6 37:9 40:11 45:2 50:21	swales 8:12, 14 9:17,24 15:3,7,12,18, 20 29:12 33:5 47:19,23 49:13 57:6
situations 10:7 13:4		specifically 56:11	street 28:6,12 30:19,20 43:21 48:14	swaling 15:15
size 30:16 41:13,14		spill 15:15	streets 40:24	sympathy 20:22
sized 28:8		spring 25:8	strictly 16:9 55:11	synopsis 13:12
skinny 23:23		sprinkling 26:23 27:4	study 7:13 22:17	system 17:17, 20 18:6,22 29:8,14 38:6 41:5,6,15,20 56:21
Slenk 39:23 40:1,3,20,25 41:3,7,17,22		square 33:1, 13 34:8 36:25	stuff 24:12 30:14 36:16 38:14 41:21	systems 17:19
slope 9:9		Stacey 45:19 46:12,15,25 48:8	subdivision 46:1,8 54:21, 25	<hr/> T <hr/>
sloped 44:1		Stacey's 48:5	subdivisions 40:7 54:25	Tabachuk 42:24,25 43:3, 15 44:4
slopes 15:2		stand 27:13	subject 59:15	table 16:14 27:3 33:4 35:15 45:21
small 7:8 20:20 43:8 46:11		standard 40:12	submitted 32:7 34:13	
smaller 49:8 50:9 52:24,25		standards 16:2 40:3,4, 10,11,18,19	sump 17:5 24:16 39:3 44:20 45:2 46:22 48:4	
Smeenge 33:7,11		standpoint 58:23	support 26:11 60:12	
snow 43:21		start 13:21 20:2,7 23:11, 18 44:7 52:19	supported 5:10 61:18,19	
sock 49:11		started 27:1		
soil 11:6,7 47:12 58:15	south 8:9,17, 20,21 10:12 11:8,10,17,19, 24 12:20,21, 24 13:18 14:1, 3,6 15:2 17:21 20:11,18 21:3,	state 8:12		
		stated 33:8, 12,15,18,22		

takes 61:23	thousand 19:3 42:13	tops 54:18	understood 33:25	wanted 22:15 30:3 36:13 38:5
taking 22:21 34:6	three-and-a-half 24:2	total 8:25 42:14	undertakes 56:12	watched 46:5 48:6 61:25
talked 34:19	three-quarter 25:2 34:3	township 5:15,16,18,20, 25 6:2,4,16,18 21:12 25:14 29:6 30:13 34:20 35:22 38:2 60:10 61:6,11	unfortunate 22:11	water 5:23 6:1,20 7:12,24 8:10 9:12,17 10:7 11:6 12:5,12,18,21, 23 14:4,9,22 15:10,12 16:14 17:16, 19 18:11 21:20 24:6,9, 14,16,19 25:5 27:3,4,5 28:11 29:3 30:23 31:7,13,21 33:4 35:15,19 36:5,21 39:1,4 41:5,11,14,20 42:8,13 43:4, 8,20,24 44:19, 21 45:1,10,21 46:6,7,8,20 48:4,21 49:14 50:4,21,22 51:17,25 52:7, 8,9 53:7 55:4, 56:7 57:11 58:13
talking 7:10 15:23 19:11 34:24 38:6 47:2 51:10 54:25	three-quarters 33:23	track 26:25	UNIDENTIFIED 19:15 21:4	watered 26:24
telling 25:17	Thursday 21:11	trees 28:17 29:21 32:16 33:17 34:24 36:14,15 41:19 42:10, 11,12	unit 10:20,24 11:9,18,19 44:9,13,14	watershed 7:13 32:19,20
TEMPAS 7:4, 7 13:11,17,22 14:2,7,13,15, 19 15:1,11,19, 25 16:8,11,18, 21 17:10,18 19:5,9,14,18, 22 26:3 47:4 53:14,18 54:1, 6,9 57:3 59:8, 18	tied 50:10	trickling 41:9	units 28:25 36:1	week 45:3
ten 21:18,19	tile 49:7 50:6	tucked 33:16	upkeep 50:23	WEICK 5:1 16:4 17:8 19:25 20:8 21:7 53:9 54:4,14,20 60:2,6,22 61:4,15
Tenpas 51:10	tiles 46:20 49:4	turn 38:21 56:18	utilized 17:16	west 11:19 17:24 27:25 28:21 34:19 43:1 44:15,16 47:1,20 53:21
tenth 23:7	time 10:21 11:1,4 12:23 16:16 17:2,4 18:13 19:3 22:21,22 24:20 25:22 27:1,23 28:8 37:19 47:22 51:18 55:19 56:1 60:21	turned 34:17 51:14	<hr/> V <hr/>	wetlands 33:18,19
term 18:15	times 12:3 23:9 44:21 48:7	two-foot 35:25	values 25:13	
terms 57:13	Timmer 21:8 22:24	type 30:11 59:9	Vantil 33:12 43:5	
terrible 32:14	today 56:3,23 57:16 59:20	typical 51:2 58:1	variances 30:14	
testimony 20:5 23:3	Todd 5:7 16:5, 9,13,20 21:8 22:24 47:1 49:23 51:2 52:13 54:17, 22 55:10,15, 18 56:22 59:24 60:3,17 61:9,18	typically 56:8	varies 11:2 54:3	
thing 5:14 14:5 28:18 29:22 30:7,11, 15 31:16 32:14 35:3 37:20 41:19 43:5 56:22 57:3	Timmer 21:8 22:24	<hr/> U <hr/>	variety 59:11	
things 9:13 24:19 29:2,5, 19 30:4,5,13 32:10 35:7 37:2 47:9 52:7 57:12	today 56:3,23 57:16 59:20	ultimately 18:8 59:13	verify 10:2	
thought 32:2 50:19 51:7	Todd 5:7 16:5, 9,13,20 21:8 22:24 47:1 49:23 51:2 52:13 54:17, 22 55:10,15, 18 56:22 59:24 60:3,17 61:9,18	underground 29:7,14	version 7:8	
thoughts 22:22	told 32:10 35:3,15 36:23 39:2	undersized 9:25	vertically 19:10	
	top 17:16 41:9,10 52:16	understand 5:22 7:9 22:11 42:15 43:20 45:5 51:6	visible 49:6,9, 11 50:10	
	topography 31:15	understandin g 34:10	volume 10:4 12:23 15:19	
			<hr/> W <hr/>	
			walk 28:5,6 43:21	
			walking 28:7	
			walks 27:25	
			wall 29:24 35:21	

wife 27:18
28:13

WOLTERS

5:7 16:5,9,13,
20 47:1 49:23
51:2 52:13
54:17,22
55:10,15,18
56:22 59:24
60:3,17 61:9,
18

woman 23:8

wondered
37:20

wondering
36:16

wooded
34:25

woods 28:6

work 21:15
57:9,13

worked 40:6

working 9:22
40:8

works 6:4

worse 18:18

wound 29:23
34:8

write 34:11

written 20:2,7
21:9 34:12

Y

yard 24:7 27:6
31:9 44:11,19
47:15,19 48:5

year 6:19,24
11:1 17:3 35:6
44:24

years 18:12
21:19 23:21
25:4 27:20
36:11 39:1,13
44:21 48:3

yellow 38:7

Z

Zolman 44:8,
14,18

zoning 30:12
34:19 35:13