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STATE OF MICHIGAN
COUNTY OF OTTAWA

IN RE: REGENCY LAKE ESTATES DRAIN
BOARD OF DETERMINATION

Proceedings commenced at 11:00 a.m., on Thursday, July
23, 2020, at the Holland Charter Township Fire Department
Station 1, 131 Riley Street, Holland, Michigan, held before
Marjorie A. Covey, CSR-2616, Certified Shorthand Reporter and
Notary Public.

APPEARANCES:

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

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

- Mr. Steve Bulthuis, Manager, Holland Charter Township

- Mr. Lucas Timmer, Engineer, Prein & Newhof
- Mr. Ken Bosma, Engineer, Prein & Newhof

- Mr. Jerry Olman, Ottawa County Road Commission

1 Holland, Michigan

2 July 23, 2020 - 11:01 a.m.

3 PROCEEDINGS

4 WATER RESOURCES COMM. JOE BUSH: Good morning,
5 everyone. Welcome to Holland Township's Fire Department.
6 Also the building where we're having a Board of Determination
7 today for the Regency Lake Estates Drain.

8 And you're probably wondering why are we here,
9 what's the mailing about.

10 This is a Board of Determination, a public hearing
11 that we have to hold for orphans. And Holland Township has
12 been very proactive on trying to establish orphan drains.

13 Well what's an orphan? The engineer's presentation
14 later will get into that, but it's pretty much the township,
15 the county or the road commission, the three of us do not own
16 any infrastructure in the road or the lake or anything else.
17 It's just an orphan drain system.

18 So in order to bring it under my jurisdiction we
19 have to hold a Board of Determination and that's why you're
20 here today. So I appreciate you taking the time this
21 morning.

22 How does that happen? We got a petition from
23 Holland Township. Holland Township has been petitioning
24 these orphans for -- I've been doing this going on eight
25 years, for at least probably the last seven years. There is

1 a lot of orphans, about 70 plus, maybe 80 of them left in
2 Holland Township that are orphans. They were put in either
3 in the '60s, '70s, '80s, sometimes early '90s so they go back
4 a few years.

5 But these are orphans that in today's development
6 standard, if this was designed and developed in today's
7 world, they would be in the county drain system because of
8 how the process works. But back in the day we didn't have
9 that process. And sometime in the early 2000s they might
10 have slid through the cracks because of how the development
11 review process was then.

12 But in today's standards, today's standards, it
13 would be a county drain system moving forward.

14 So anyway we got a petition from the township to
15 establish this one. This is number two for today and we have
16 one after this one. So the township has been very proactive
17 to get that under the authority, potentially. That's why
18 we're here today.

19 So I have to pick a three-panel board that has no
20 affiliation with any properties or Holland Township as far as
21 today's Board of Determination goes. I have to appoint a
22 three-member board in order to do this.

23 So this isn't an automatic thing. I don't run the
24 meeting. It's not like we just choose to do it. They want
25 to hear testimony and I have to hold a public hearing. This

1 is all part of Drain Code and state law to actually invite
2 people who live in that watershed or that drain district to
3 come and give testimony, whether you agree or you don't.

4 Currently right now I don't know of any issues that
5 are in this drain district as we stand today. But with
6 public testimony, maybe there is something that will come up
7 that one of you folks might bring to our attention.

8 So again that's why we appreciate the public
9 hearing process and we appreciate your time this morning
10 coming to talk.

11 So when you talk about the public hearing, these
12 three gentlemen, once I give them the oath, they will
13 actually run the meeting. So it's not me. Any direction or
14 any questions will be guided to them and then they'll be
15 running it. And then they'll ask either the township or the
16 engineer or myself questions.

17 My name is Joe Bush, the Water Resources
18 Commissioner or the drain commissioner. All I did is when I
19 got elected they changed the title, but it's still the drain
20 commissioner. It just says water resources and it gave me
21 more job duties. But in the big world it's still a drain
22 commissioner.

23 And part of my job is to see these establishments,
24 whether it's an orphan or county drain, when a petition comes
25 to my office, it's my job to make sure that we do the legal

1 process to do that. And that's why we're today to do the
2 legal process.

3 I don't make a determination. When it comes to the
4 Board of Determination, it's this Board behind me, I just
5 want to make it clear. There is nothing I can do without
6 holding a public hearing and having people give testimony,
7 whether it's the road commission or the public or the
8 township or anybody else.

9 At this time I'll go ahead and do introductions.
10 We have Jerry Olman from the road commission. We have Steve
11 Bulhuis, he's from Holland Township, he's the manager over
12 there.

13 We have Prein & Newhof who has been doing these
14 orphan drains for many years now, in Holland Township
15 especially. There is quite a few townships doing these
16 orphans, a neighboring township is doing them as well, but we
17 have Ken Bosma and Lucas Timmer. And like I said, they're
18 both from Prein & Newhof.

19 We have Margie, she is a court recorder. This is
20 not required by state law but I do it to protect me and you
21 and anybody else, because you can always go back and
22 reference if you go to miottawa.org and look under Water
23 Resources Commission, under petition projects, you can always
24 go back and read the minutes, what did Joe say, what did the
25 township say, what did the engineer say or what did the Board

1 say, what did they vote on.

2 We get that a lot. It's like, go back and read the
3 minutes. People will call me up and say, well you said this.
4 Go back and look at the minutes because it's word for word
5 and we have a court reporter.

6 And this is Margie. She's done a lot of these and
7 she does a great job.

8 The three gentlemen behind me is my Board of
9 Determination. Again they have no properties or affiliation
10 in this drain district or Holland Township.

11 I picked these three gentlemen because they've been
12 doing these for a lot of years. They definitely understand
13 Drain Code and they understand township business and how the
14 process works and why it's important for testimony and the
15 legal part of it. It's very important moving forward. So
16 they get that.

17 And then the two people that -- I didn't introduce
18 them because they were hiding out there, is my staff. Sara
19 is the lady that might have signed you in, and Chad is my
20 chief deputy.

21 By the way, if you want to give testimony, one of
22 the executive orders says that you can not have a mask on if
23 you want to talk. So it's up to you if you do or don't.
24 Right now that's why I'm not having it on so the court
25 reporter can hear me clearly. But if you want to come up and

1 wear it, that's fine; if not, the executive order says you
2 don't have to wear a mask if you're doing a presentation or
3 talking at a meeting like ours.

4 So at this point I guess I'll go ahead and move
5 forward and give these gentlemen the oath. And then once
6 that happens, they'll run the meeting. And then any
7 questions, again, put those questions to them.

8 And if you do come up, speak loudly so the court
9 reporter can hear your name, address and your public
10 comments. Thank you.

11 Gentlemen, please rise. Raise your right hand.

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

19 BOARD MEMBER BILL CARGO: I shall.

20 BOARD MEMBER KEN SOUTER: I will.

21 BOARD MEMBER RICH VANDER KLOK: I will.

22 BOARD MEMBER BILL CARGO: First we have some
23 administrative function to go through.

24 Do I have a motion to elect a Chair?

25 BOARD MEMBER RICH VANDER KLOK: I would move that

1 Bill Cargo be elected as Chair.

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

3 BOARD MEMBER BILL CARGO: We have a motion by Rich,
4 supported by Ken to elect Cargo as a Chair of this Board of
5 Determination.

6 All in favor, say aye.

7 BOARD MEMBER KEN SOUTER: Aye.

8 BOARD MEMBER BILL CARGO: Aye.

9 BOARD MEMBER RICH VANDER KLOK: Aye.

10 BOARD MEMBER BILL CARGO: Opposed?

11 And I also need to have a secretary and so I will
12 make a motion for Rich to be the secretary of this Board of
13 Determination.

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

15 BOARD CHAIRPERSON BILL CARGO: And again, all in
16 favor, say aye.

17 BOARD MEMBER KEN SOUTER: Aye.

18 BOARD CHAIRPERSON BILL CARGO: Aye.

19 BOARD MEMBER RICH VANDER KLOK: Aye.

20 BOARD CHAIRPERSON BILL CARGO: So, Rich, you are
21 the secretary.

22 BOARD SECRETARY RICH VANDER KLOK: Okay.

23 BOARD CHAIRPERSON BILL CARGO: Also for rules for
24 public comment, we hope this is not going to be
25 controversial. Again we're trying to bring this under the

1 public control, and we do know that you can summarize even a
2 book like War and Peace in three minutes.

3 So we're going to make a motion that public
4 comments be limited to three minutes per person.

5 Do I have a motion to that effect?

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

7 BOARD CHAIRPERSON BILL CARGO: That is Ken making
8 the motion to, and I will make a support of that. It's a
9 motion to limit public comments to three minutes.

10 All in favor, say aye.

11 BOARD MEMBER KEN SOUTER: Aye.

12 BOARD CHAIRPERSON BILL CARGO: Aye.

13 BOARD SECRETARY RICH VANDER KLOK: Aye.

14 BOARD CHAIRPERSON BILL CARGO: And so that brings
15 us now to the issue of having township comments. We have
16 Steve from Holland Charter Township here.

17 Steve, do you have any comments on this Board of
18 Determination and this orphan drain?

19 HOLLAND TOWNSHIP MANAGER STEVE BULTHUIS: No. I
20 just want to kind of reiterate what Joe had said earlier that
21 the township has systematically been going forward with the
22 process to bring these orphan drains under the jurisdiction
23 of the Water Resources Commission and that was the reason for
24 the petition.

25 BOARD CHAIRPERSON BILL CARGO: And really also I

1 understand that if it's not brought under public control of
2 the county, you could not spend public dollars on this
3 project if something failed at this -- within this drainage
4 district, proposed drainage district. Is that correct?

5 HOLLAND TOWNSHIP MANAGER STEVE BULTHUIS: Yes, it
6 is.

7 BOARD CHAIRPERSON BILL CARGO: Okay, thank you.

8 We also have with us today Jerry from the Ottawa
9 County Road Commission.

10 In the past you wanted to wait until the engineer
11 made his comments; anything you would like to say now or
12 would you like to wait?

13 ROAD COMMISSION JERRY OLMAN: No, I will wait.

14 BOARD CHAIRPERSON BILL CARGO: Okay. With that,
15 are we going to have the Engineer Lucas Timmer make the
16 presentation?

17 Lucas, you're going to be giving a presentation so
18 I'll turn it over to you.

19 ENGINEER LUCAS TIMMER: Thank you, Bill.

20 Once again my name is Lucas Timmer, I'm an engineer
21 with Prein & Newhof out of Holland.

22 We were hired by the Ottawa County Water Resources
23 Commissioner to do some preliminary engineering on the
24 Regency Lake Estates orphan drain.

25 The definition of an orphan drain is an orphan

1 drain is an existing storm water drain system without
2 authorized local and county governmental jurisdiction and
3 administrative, procedural and funding mechanisms to address
4 current or future needs for maintenance and improvements.

5 Essentially no government jurisdiction owns the
6 drain, so you, the people, if you notice drainage problems,
7 wouldn't have the ability to contact someone to maintain the
8 drain.

9 So Holland Charter Township filed a petition on
10 June 3, 2020, to establish this as a county drain. And as a
11 part of that process, we're meeting here today with this
12 Board of Determination, and these three Board Members will
13 then hear our testimony, will hear your testimony, and will
14 then determine whether it's necessary to establish it as a
15 county drain or to keep this as an orphan drain system.

16 So when we were hired to do preliminary
17 engineering, we first reviewed utility record drawings for
18 this area. So we reviewed utility records including sanitary
19 sewer, storm sewer, and water main for your neighborhood.
20 And we also reviewed some site condo maps.

21 The site condos that are a part of this proposed
22 drainage district are Regency Lake Estates, Regency Lake
23 Estates Phase Two, Regency Lake Estates Phase Three, and
24 Regency Lake Condos Phase Two.

25 We then, once we reviewed that data, we used county

1 GIS data, it's one-foot contour data, some of the best data
2 that the state has. And then we review aerial information as
3 well to delineate a drainage district.

4 So a drainage district is essentially a watershed.
5 So if you are in the drainage district, it's then considered
6 that your runoff would contribute then to this proposed
7 Regency Lake Estates Drain.

8 We then go on site and locate drain infrastructure
9 that we're able to find on record plans and then we also
10 confirm drainage patterns. So we just ensure that we feel
11 confident in the drainage district that we delineate.

12 This map right here shows you the drainage district
13 boundary. This red line is our drainage district or
14 watershed boundary (indicating). So everything within this
15 red line would be considered contributing to the county drain
16 system.

17 These blue lines right here (indicating) are storm
18 systems that drain into Regency Lake. And there is also a
19 system here as part of the site condos that drain into
20 Regency Lake.

21 Regency Lake outlets to the southwest here, through
22 an easement that was setup as part of the site condos on the
23 property of 10728 (indicating) and 10716 (indicating)
24 Bridgewater Drive. And eventually drains through a
25 watercourse into a large wetland area that's behind here.

1 And that wetland then eventually drains into an unnamed
2 watercourse that ends up working its way into the Black
3 River.

4 This next map is the same as the one before, it
5 just shows an aerial.

6 We also have that map over here (indicating). And
7 that can often be helpful if you, as a property owner, want
8 to point out later on where you live on that map to the Board
9 or to the Water Resources Commissioner.

10 So following this presentation the Board will have
11 the opportunity to ask the engineer a couple questions and
12 then we'll move into public testimony.

13 Following your public testimony, in which you have
14 the opportunity to explain your thoughts on whether this
15 should be established as a county drain, explain what
16 drainage issues you've noticed since you live there, and us
17 going there for an hour, you have a lot more history with
18 your neighborhood than we do. So you would know especially
19 if there are drainage issues that you'd like addressed.

20 Following that, the board will then determine the
21 necessity of the petition based on the public health, welfare
22 and/or convenience after hearing testimony.

23 So if this Board deems that it's necessary to
24 establish this as a county drain from an orphan drain system,
25 then the existing system will become a county drain.

1 The Board could also determine after hearing our
2 testimony and the public testimony, that it's not necessary
3 to establish this as a county drain. Then the system will
4 not be a county drain and no further action will occur.

5 I'm guessing one of your big concerns here is who
6 is paying for this to become a county drain. So I want to
7 jump down to the second bullet point right here (indicating).

8 So if this drain is deemed necessary today to
9 become a county drain, and you, the public here, indicate to
10 us that there are no drainage issues, that the system has
11 been working fine, you have no concerns, and thus there is no
12 need for a project, then Holland Charter Township will cover
13 all the costs of establishing this as a drain.

14 However if, after public testimony today, if we --
15 if this were to become a county drain and we hear from you,
16 the public, that there are drainage issues, the Ottawa County
17 Water Resources Commissioner would then have us, Prein &
18 Newhof, review potential feasible projects that could be done
19 to help improve drainage within your neighborhoods.

20 So we review feasible projects, we would select a
21 project that makes sense economically and from an engineering
22 standpoint. We would then do project design and survey.

23 If needed, we may have to acquire easements, if we
24 needed to run a new storm sewer system, for example, through
25 like a property line, we'd have to acquire easements from

1 you, the property owners. We would then go through a project
2 bid and construction period.

3 And following that we would have a day of review of
4 apportionments. So the day of review occurs after the county
5 is aware of all costs. So they would be aware of the
6 construction costs after bid, they'd be aware of the
7 engineering costs and all administrative and legal costs.
8 And as part of Drain Code they would be required to have a
9 day of review of apportionments where they would send out
10 what your percentage is of the total cost.

11 So an apportionment is a percentage and you use
12 that apportionment times the total cost gives you what your
13 assessment would be.

14 So in terms of assessments, say there was a project
15 that needed to happen with Regency Lake Estates, assessments
16 would be made to Ottawa County, and Ottawa County Road
17 Commission for the road right-of-way that's within the
18 drainage district. It would be made to Holland Township, in
19 which Joe would determine through an at-large process what
20 percentage the township should pay off the top. And then the
21 remainder of those costs would then be on the property owners
22 that are within that drainage district boundary to pay for
23 the cost of the drainage improvement project.

24 So if we find out today that there are no drainage
25 issues, but ten years down the road one of you guys notice

1 that there is a drainage issue in the future, and this is a
2 county drain, what process you, the property owner would have
3 to go through is called a petition process.

4 So a petition would be needed from either the
5 property owners or from the township for work to be done to
6 maintain or improve the county drain system.

7 This has to be done for typically bigger projects.
8 There is an exception in the Drain Code if the project is a
9 small project, say there is sand in a catch basin and Joe
10 wants to come in and vacuum it out. If the cost is less than
11 \$5,000 per mile of drain, you don't need to go through this
12 petition and Board of Determination process.

13 What Joe then can do is just quick do the project,
14 take care of the issue and get it done without having to go
15 through the petition and Board of Determination process.

16 And once again, all future projects then, the
17 assessments would be made to Ottawa County, Ottawa County
18 Road Commission, Holland Township, and the property owners.

19 That's the end of my presentation.

20 BOARD CHAIRPERSON BILL CARGO: Lucas, just a few
21 questions from me.

22 First of all, how old is this drainage system that
23 was established? You don't have a year for these down here.

24 ENGINEER LUCAS TIMMER: Ken, I would refer to you
25 on that.

1 ENGINEER KEN BOSMA: If I recall right, I believe
2 they were built in the '90s.

3 ENGINEER LUCAS TIMMER: So sometimes in the '90s,
4 so this is a 25- to 30-year-old system at this stage.

5 ENGINEER KEN BOSMA: Yes.

6 BOARD CHAIRPERSON BILL CARGO: Second thing is I
7 just want to clarify, more for the public benefit than my
8 own, I understand that, Steve, when we're talking about minor
9 maintenance of drain systems, that the township steps up and
10 pays for those out of its general fund.

11 So if there is a 5 or \$10,000 project, typically
12 the township would step up and pay for that and not go
13 through the bother of trying to assess the cost to the
14 property owners?

15 HOLLAND TOWNSHIP MANAGER STEVE BULTHUIS: Yes.

16 BOARD CHAIRPERSON BILL CARGO: And you have an
17 actual process for that?

18 HOLLAND TOWNSHIP MANAGER STEVE BULTHUIS: Yes.

19 BOARD CHAIRPERSON BILL CARGO: I do that because I
20 want the public to understand what is happening.

21 Right now as an orphan drain technically no public
22 monies are supposed to be spent on this because it's not
23 actually owned by the public at this stage.

24 HOLLAND TOWNSHIP MANAGER STEVE BULTHUIS:
25 (Indicating).

1 BOARD CHAIRPERSON BILL CARGO: And I see Steve
2 nodding and I understand that's correct.

3 So I'll ask the other Board of Determination
4 members if you have any questions for Lucas?

5 BOARD MEMBER KEN SOUTER: Not at this point. I
6 might later.

7 BOARD SECRETARY RICH VANDER KLOK: No, I don't.

8 BOARD CHAIRPERSON BILL CARGO: Lucas, thank you for
9 the presentation.

10 I'll go back to Jerry from the Ottawa County Road
11 Commission.

12 Jerry, do you have any comments on behalf of the
13 road commission?

14 ROAD COMMISSION JERRY OLMAN: Yes. I'm Jerry Olman
15 with the road commission.

16 I'm not aware of any issues within the plat either
17 drainage wise, and the road commission is in favor of
18 establishing the district so the county, it's under county
19 maintenance.

20 BOARD CHAIRPERSON BILL CARGO: Okay. I appreciate
21 that.

22 At this stage I'm going to open this up for public
23 comment. Everybody who does make a public comment, I simply
24 ask that you stand up, come up to the podium, give your name
25 and address, and I will remind you, and we're looking

1 especially for comments if you're aware of any problems or
2 projects that the engineer or the township are not aware of
3 on this, I would appreciate hearing those comments.

4 I'll start in the second row, the gentleman who is
5 on my right, do you have any comments that you'd like to
6 make? If you do, come up to the podium and again name and
7 address.

8 MR. THOMAS ATWOOD: My name is Tom Atwood. I live
9 at 3116 Crestbrooke. I am the president of the homeowner's
10 association and I've had a few phone calls since the letter
11 came out.

12 The main concern seems to be, and you've addressed
13 this very well, about if there would be any initial costs,
14 and I use the word initial, if this transfer occurs. And
15 that's fine, there should be no cost.

16 The one area which seems to be a real question is
17 in the future, for maintenance of this drainage system, will
18 there be a cost?

19 BOARD CHAIRPERSON BILL CARGO: And the answer to
20 that is based right now, it depends on the size of the
21 maintenance project.

22 If you have a major collapse of the outlet and it
23 requires people to dig up the entire pipe where the outlet
24 goes, that's probably going to be much more than \$10,000.
25 And so the township would pay a portion, the road commission

1 would pay a portion, the county would pay a portion, and at
2 that stage you'd have a portion that would be assessed to the
3 property owners.

4 Now realize infrastructure doesn't last forever.
5 But if you've been there for 25 years and you haven't had any
6 issues, the past is a predictor of the future and we're not
7 expecting any projects unless somebody stands up here today
8 and tells us there is a problem with the system that needs to
9 be corrected.

10 MR. THOMAS ATWOOD: So going forward at this point,
11 there should be no additional assessments?

12 BOARD CHAIRPERSON BILL CARGO: There is no
13 assessments that we're aware of. And the assessments of
14 establishing this is going to be handled by the Holland
15 Charter Township. And as I've noted earlier, they have a
16 policy that minor maintenance issues, and I'll use the number
17 10,000 because I haven't reviewed their policy, they pay for
18 that out of their general fund.

19 MR. THOMAS ATWOOD: Okay. I asked Chad, I think
20 his name is, out there, the area I would say at the bottom,
21 the unnamed watershed and watercourse --

22 BOARD CHAIRPERSON BILL CARGO: Um-hum.

23 MR. THOMAS ATWOOD: -- is that or has there been
24 any inquiries to turn that into residential area, to change
25 the classification? Because right now I believe it's

1 classified as farmland.

2 BOARD CHAIRPERSON BILL CARGO: I think it's
3 classified actually as wetland, but I'm not certain, but I
4 can ask the road commission or the engineer.

5 Can the engineer answer that?

6 ENGINEER KEN BOSMA: He's talking about the whole
7 parcel that would go to 104th Avenue itself where this whole
8 development goes to.

9 At this point I don't think the township has any
10 application or anything to convert that for rezoning or
11 development at this point. It's still in the same property
12 owner's hands.

13 MR. THOMAS ATWOOD: Okay.

14 BOARD CHAIRPERSON BILL CARGO: That would actually
15 be down river of where they are right now?

16 ENGINEER KEN BOSMA: Well I think the west part of
17 their parcel is where some of that water runs; but as you go
18 further east, it's developable land or could be.

19 BOARD CHAIRPERSON BILL CARGO: Thank you.

20 MR. THOMAS ATWOOD: And I know I'm talking more
21 towards the future, if that classification is changed, would
22 our amount of drainage have to be modified tremendously?

23 BOARD CHAIRPERSON BILL CARGO: Well the other thing
24 is typically, and I'm speaking typically as a township, the
25 township is going to assess all development costs on that

1 developer. So if they had to put in a drain or clean out
2 that stream, that unnamed watercourse, that typically would
3 be part of what they're initially doing.

4 The other thing the drain commissioner does very
5 well now days is he tries to retain as much water on site as
6 they can so that they're not overloading the system with the
7 rain events that are going to occur.

8 We can't speak to the future exactly what future
9 boards will do, but now I would indicate that I would not
10 see, based on the policies in place, that you in that
11 development would have much to be concerned about.

12 ENGINEER KEN BOSMA: Real quick, if I may assume
13 you're asking because it traverses across the property, would
14 you have to change it? And usually through the rules of
15 Joe's office when a development comes in, because there is an
16 existing watercourse or water flow, it would continue to be
17 maintained; however, it would be built to Joe's standards and
18 then easements would be established over that.

19 So you still have the rights. We would not
20 envision that your drainage would have to be changed outside
21 of their parcel to get rerouted. It would stay as it is.

22 MR. THOMAS ATWOOD: Okay. I appreciate that
23 comment. That's all I have.

24 BOARD CHAIRPERSON BILL CARGO: Thank you.

25 I'm going to go to the gentleman next to him.

1 MR. MARVIN HINGA: You used the term loosely,
2 gentleman.

3 BOARD CHAIRPERSON BILL CARGO: I'm trying to be
4 polite here.

5 MR. MARVIN HINGA: My name is Marvin Hinga. I live
6 at 10636 Bridgewater Drive.

7 The petition requesting the establishment of the
8 drain district was initiated by Holland Township Board. The
9 Township Board did not reach out to the residents of Regency
10 Lake or to its homeowner;s association prior to initiating
11 the petition.

12 The Water Resources Commission provided the bare
13 minimum notification required under law to hold this meeting.

14 This meeting was scheduled at 11 o'clock on a
15 weekday, which has the effect, whether intentional or not, of
16 minimizing public comment on the proposed drain.

17 Neither the Township nor the Water Resources
18 Commission posted any additional information other than what
19 was mailed to us on their websites regarding the proposed
20 district, and whether -- and which further restricts the
21 public's ability to learn about the need for the proposed
22 drainage district.

23 The notice for this meeting says this Board will
24 determine whether the proposed drain is necessary and
25 conducive to the public health, convenience and welfare.

1 The definition of necessary is needed, essential or
2 required.

3 The definition of conducive is making a certain
4 situation or outcome likely or possible.

5 The definition of public health is the science of
6 protecting and improving the health of people in their
7 communities.

8 The definition of convenience is the state of being
9 able to proceed with something with little or no effort.

10 And finally the definition of welfare is the
11 health, happiness and fortunes of a person or group.

12 Is a new drain necessary for the public health?
13 I've lived at Regency Lake for 22 years. In that time the
14 number of cholera cases reported is zero. The number of Zika
15 virus cases is zero. The number of Eastern Equine
16 Encephalitis cases reported is zero.

17 Is the current drainage district causing the public
18 to be obese, use tobacco, become alcoholic or become addicted
19 to opioids? The answer is no.

20 If the current system is a threat to the public
21 health, we would have seen evidence presented by the Ottawa
22 County Public Health Department regarding the health risks of
23 the current systems. Since no such evidence was presented,
24 we can safely assume the proposed drain is not necessary for
25 public health reasons.

1 Is a new drain necessary for the convenience of the
2 residents? There have been no reports as the Ottawa County
3 Road Commission representative said of traffic tie-ups or
4 road closures due to the drainage issues.

5 I drove around the district this past Sunday during
6 the height of the rainstorm, there was no pooling of water or
7 backed up storm sewers.

8 Is a new drain for Regency Lake necessary for the
9 wealth, or for the welfare or health, happiness and fortunes
10 of the residents of Regency Lake? I've already addressed the
11 public health issues, so the answer there is no.

12 Is the drain necessary for the happiness of the
13 residents? The issue has never been brought up at a meeting
14 of the Regency Lake Homeowner's Associations, and none of my
15 neighbors or family members have ever mentioned the current
16 drainage system being a source of unhappiness. So I can say
17 I'm pretty sure it's not necessary for our happiness.

18 And has the current drainage system harmed the
19 fortunes of the residents of Regency Lake? If the current
20 drainage system were harming the fortunes of the residents,
21 it would be reflected in lower property values and a soft
22 real estate market. Homes in Regency Lake have been selling
23 very quickly, usually within a week, and above the asking
24 price.

25 If the current drainage system was harming property

1 values, we would have heard evidence from the Holland
2 Township assessor to that effect.

3 Since the evidence presented today and testimony
4 have not proven a new Regency Lake drainage system is
5 necessary for the public health, convenience or welfare of
6 the residents of Regency Lake Estates, I ask the Board of
7 Determination to reject the establishment of the proposed
8 drainage district.

9 Thank you for your time.

10 BOARD CHAIRPERSON BILL CARGO: I appreciate those
11 comments.

12 And I'm going to go to the gentleman next to him,
13 over to his right.

14 MR. JOHN ORNEE: John Ornee, I live at 10671
15 Bridgewater Drive.

16 I just want to clarify the definition or the
17 understanding of orphan. What's being presented is not the
18 creation of any kind of new system?

19 BOARD CHAIRPERSON BILL CARGO: The system already
20 exists, that's correct.

21 MR. JOHN ORNEE: Okay. So it just takes what we
22 currently have and makes it public --

23 BOARD CHAIRPERSON BILL CARGO: What would happen is
24 if this orphan drain is not brought under public control, if
25 there was a failure, it would be up to the residents within

1 that district to determine among themselves how they're going
2 to solve the problem.

3 MR. JOHN ORNEE: So there would be no construction
4 of any sort unless there is a problem, and then the county
5 would be involved in it?

6 BOARD CHAIRPERSON BILL CARGO: I think everybody
7 assumed that this existing drain that was created with these
8 developments was under the control of the county.
9 Unfortunately the proper paperwork was not done at that time,
10 something that's being done for all new developments today,
11 and so it's an orphan drain.

12 And that means that public monies cannot be spent
13 to maintain or improve this drain in the future if a problem
14 does occur.

15 MR. JOHN ORNEE: Great, thank you.

16 BOARD CHAIRPERSON BILL CARGO: I'm going to go into
17 the third row and the very back over there, if you have any
18 comments?

19 The gentleman next to him?

20 MR. LEVERNE BAUMANN: I think I'm the only one here
21 that represents the condo association.

22 BOARD CHAIRPERSON BILL CARGO: And your name and
23 address, please?

24 MR. LAVERNE BAUMANN: Leverne Baumann, Regency
25 Parkway, 2039.

1 I've been a resident for 12 years. I came back
2 from -- I moved from a problem where we had all kinds of
3 drainage problems.

4 But what looked so good to me is the layout of
5 everything and it's been absolutely perfect. I don't know of
6 anyone who has had any kind of drainage problems. We've
7 attended all of our yearly meetings and I have never heard
8 any comment on the rain -- on the drain system. And as far
9 as we're concerned, it functions perfectly.

10 BOARD CHAIRPERSON BILL CARGO: That's good to hear,
11 thank you very much.

12 MR. LEVERNE BAUMANN: Thank you.

13 BOARD CHAIRPERSON BILL CARGO: And the gentleman
14 next to him. And again name and address.

15 MR. ROBERT DeBOER: Robert DeBoer, I live at 3094
16 Crestbrooke, which is on the east side.

17 We have walkouts there. I built the house in '93,
18 '94, so we were one of the first couple houses.

19 I don't know if you need to know some history,
20 because you guys said you looked at it, there was at a time,
21 there hasn't been for awhile, but when we had severe rain
22 there was water that stood in those backyards, three -- three
23 homes to the north -- yeah, and three homes to the south.

24 We had some of that and some basements flooded at
25 that time. So I don't know if that's information you guys

1 need to know or knew that before.

2 Does that change anything?

3 BOARD CHAIRPERSON BILL CARGO: It doesn't change
4 anything unless we have somebody saying they think there
5 needs to be a project to correct an existing problem.

6 If a problem existed in '92, '93 or '94, it sounds
7 like it's been solved because we're not hearing that problem
8 today.

9 MR. ROBERT DeBOER: Right. And there was a couple
10 in 2001 and 2005, so about 15 years. But I didn't know if
11 that's information that --

12 BOARD CHAIRPERSON BILL CARGO: We're not trying to
13 solve those problems because they have not been brought to
14 our attention.

15 MR. ROBERT DeBOER: Okay.

16 BOARD CHAIRPERSON BILL CARGO: And the gentleman
17 with the green face mask, again your name and address.

18 MR. JON MERSMAN: My name is Jon Mersman and I live
19 at 3111 Regency, which is in the condos. And I'm here just
20 to express my happiness in the initiation of this because it
21 does nothing but good for the residents, and certainly makes
22 things simpler down the road, if we do have a problem.

23 And I just want to thank the Board of Holland
24 Township and for the engineers working on it, and encourage
25 the Board of Determination to approve the assessment -- not

1 the assessment, but the establishment of the drain.

2 BOARD CHAIRPERSON BILL CARGO: Appreciate it, thank
3 you.

4 And in the very back, is there a gentleman that
5 would like to speak? If you do, come forward, name and
6 address for the court reporter.

7 MR. TERRY LANGELAND: I'm Terry Langeland, I live
8 at 3061 Crestbrooke. And I just, I think I have this whole
9 thing clear, I just want to make sure.

10 BOARD CHAIRPERSON BILL CARGO: Okay.

11 MR. TERRY LANGELAND: That what we're proposing is
12 to take the joint responsibility for this drainage district,
13 and taking it from the individual homeowners and sharing it
14 with the township.

15 BOARD CHAIRPERSON BILL CARGO: I think that's a
16 fair assessment. If there is a problem right now, they can
17 not spend public monies on it. If a problem did exist after
18 it was established as a county drain, a portion will be paid
19 by the road commission, a portion will be paid by the county,
20 a portion will be paid by the township, and a portion is
21 going to be paid by the homeowners.

22 Right now there is no mechanism in place for
23 anybody to pay anything, if a problem happens.

24 MR. TERRY LANGELAND: So any failure of the system,
25 drainage ditches or whatever is involved in this, would now

1 be born by the property owners, is that correct?

2 BOARD CHAIRPERSON BILL CARGO: No. It would be
3 born by -- the Water Resources Commissioner would have
4 responsibility to correct the problem, and if the cost was
5 above, let's say, \$10,000, which the township said they would
6 pay out of the general fund, then it would be apportioned
7 amongst all these different municipalities and the property
8 owners.

9 MR. TERRY LANGELAND: But the way it is now --

10 BOARD CHAIRPERSON BILL CARGO: Nobody is
11 responsible.

12 MR. TERRY LANGELAND: -- nobody is responsible
13 other than the homeowners.

14 BOARD CHAIRPERSON BILL CARGO: Yep.

15 MR. TERRY LANGELAND: Thank you.

16 BOARD CHAIRPERSON BILL CARGO: I've asked for
17 public comments from everybody in the room, we received those
18 public comments, so I'm going to close the public comment
19 portion of this public hearing.

20 And at this stage I'm going to ask the other
21 members of the Board of Determination what your thoughts are
22 on whether this orphan drain should be established as a
23 public drain, we're talking about Regency Lake Estates Drain.

24 Ken, I'll start with you.

25 BOARD MEMBER KEN SOUTER: If anybody thinks that

1 some thing that was constructed is going to last forever,
2 they're kidding themselves. I know I built a really nice
3 house, and I've had to maintain it because I've owned it for
4 25 years. So things are going to happen some day.

5 I love to hear that nobody has got a problem now.
6 That's wonderful. But later when something happens, who do
7 we go to? If we approve this and put it in the jurisdiction
8 of Joe's department, you got a place to go to.

9 So I am always in favor of having a source to go to
10 to fix a problem that will occur, I don't care, it will occur
11 later. So I'm totally in favor of that.

12 BOARD CHAIRPERSON BILL CARGO: That's fair enough.

13 Obviously I'll make -- well I should let Rich speak
14 first.

15 BOARD SECRETARY RICH VANDER KLOK: I was just going
16 to concur with what Ken said and I agree with his statements.

17 BOARD CHAIRPERSON BILL CARGO: The thing I go back
18 to is that everybody had assumed that this drain system was
19 under the control of the Ottawa County, at the time drain
20 commissioner and now the Water Resources Commissioner.

21 To find out it's not, to me if I lived in that,
22 would be a threat, because normal maintenance couldn't occur,
23 public monies couldn't be spent on that.

24 So whether it's just a catch basin filling up with
25 sand where they need to get a vac in there to suck up the

1 sand, or something simple, right now technically public
2 dollars shouldn't be spent on it because it's never been
3 brought under public control.

4 So to me, I support bringing this under the public
5 control for the benefit of the people within the district.
6 There may not be a problem now, but everybody understands
7 that eventually there will be an issue that arises within
8 this drainage district.

9 And so I will make a motion that the location,
10 establishment and construction of the Regency Lake Estates
11 Drain is necessary and conducive to public health,
12 convenience and welfare.

13 Is there support for that motion?

14 BOARD MEMBER KEN SOUTER: Support for that motion.

15 BOARD CHAIRPERSON BILL CARGO: Ken has given
16 support for that motion.

17 Are there comments that the Board of Determination
18 would like to make?

19 BOARD SECRETARY RICH VANDER KLOK: No. I agree.

20 BOARD MEMBER KEN SOUTER: No.

21 BOARD CHAIRPERSON BILL CARGO: The one comment I do
22 want to direct towards the questions that were made, raised
23 about public health, is we're not saying that there is a
24 public health problem now. We're saying that this drainage
25 district, if it's operated properly, which it has been up to

1 this point, won't create any public health problems, and that
2 we can allow the public's money be spent to maintain this
3 district to support the fact that public health issues won't
4 arise. And whether that is flooded basements or other issues
5 or other public health issues, it needs to be maintained, and
6 we want to be able to spend public monies to maintain that
7 district. Especially for minor maintenance such as, I said
8 earlier, sucking out the sand out of catch basins, cleaning
9 out drains, or if one of these drain tiles collapses,
10 something that will eventually occur.

11 And so because of that reason, I am also in support
12 of this motion.

13 And all in favor, say aye.

14 BOARD MEMBER KEN SOUTER: Aye.

15 BOARD CHAIRPERSON BILL CARGO: Aye.

16 BOARD SECRETARY RICH VANDER KLOK: Aye.

17 BOARD CHAIRPERSON BILL CARGO: Opposed?

18 And so this does establish the Regency Lake Estates
19 Drain as a public drain.

20 I'm now going to turn this over to Joe who can talk
21 about the appeals process, if anybody wants to appeal our
22 decision, he'll explain the process and make closing
23 comments.

24 WATER RESOURCES COMM. JOE BUSH: I appreciate
25 everybody's time this morning to hear about the process.

1 Again, I will -- you can appeal today's meeting,
2 and you can do that with the probate court. And then there
3 is a -- from today there is ten days to appeal this meeting,
4 if you want to appeal it for whatever reason.

5 And also I just want to make it very clear that I
6 do not have a project. As you can hear from the engineer and
7 the testimony, everything is working just fine. That's what
8 it's going to be when you guys leave today.

9 So to answer your question, there is no new storm
10 sewer systems, we're not going to upsize it, we're not doing
11 any construction. As we know it today you're going to leave
12 here and nothing is going to change in your neighborhood. I
13 just want to make that clear and on the record.

14 So don't think I'm coming in with anything new or
15 updated or bigger. It is what it is today. So I appreciate
16 everybody's time. And reach out if you have any questions.

17 Thank you.

18 BOARD CHAIRPERSON BILL CARGO: And with those
19 closing comments, unless there are objections, I will adjourn
20 this meeting.

21 The meeting is adjourned.

22 (Board of Determination adjourned at 11:42 a.m.)
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