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STATE OF MICHIGAN

COUNTY OF OTTAWA

IN RE: SHELDON DUNES NO. 2 DRAIN

BOARD OF DETERMINATION

Proceedings commenced on Thursday, November 17, 2022,  
at 4:00 p.m., at the Port Sheldon Township Offices, 16201  
Port Sheldon Street, West Olive, Michigan, held before  
Marjorie A. Covey, CSR-2616, Certified Shorthand Reporter and  
Notary Public.

APPEARANCES:

Mr. Joe Bush, Ottawa County Water Resources Commissioner  
Ms. Marie Snyder, Secretary

Mr. Bill Cargo, Board Chairman  
Mr. Josh Westgate, Board Secretary  
Mr. Rich VanderKlok, Board Member

Mr. Mike Sabatino, Port Sheldon Township Supervisor

Mr. Ryan McEnhill, P.E., ENG Group  
Mr. Joe Westerbeke, P.E., ENG Group

Mr. Jerry Olman, Ottawa County Road Commission

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Port Sheldon, Michigan

November 17, 2022 - 4:00 p.m.

PROCEEDINGS

WATER RESOURCES COMM. JOE BUSH: Welcome everyone, to Port Sheldon Township. We'll go ahead and start our meeting for the Sheldon Dunes No. 2 Drain Board of Determination.

I'm sure a few of you are wondering why you're here, and I'll go through the process of why you're here and why you got a letter of notice to come and give testimony.

I'm Joe Bush, your Water Resources Commissioner. So it used to be the Drain Commissioner. When I got elected back in 2012, in 2013 the name got changed to Water Resources Commissioner, but same office, and same location, and still countywide elected official.

One of the parts of my job is when we get a petition from either the people or a municipality, is to hold a Board of Determination, and that's why you're here today.

What today is is a day that the public can give testimony in a certain drain district. And we're speaking of everything in the red is what we outlined today. That boundary, I wouldn't say, is perfect. So if you live on the edge of it, or you think you're not in, by all means give testimony. This is what the engineers came up with for a mailing list to invite the right people who we think are in

1 it. And that's always adjustable based on testimony and  
2 based on the engineers going out to verify.

3 But we want to make sure we try to include  
4 everybody in the beginning so we don't miss anybody.

5 What we did we got, we received a petition from  
6 Port Sheldon Township because this is an orphan drain. So  
7 technically, it's not under my jurisdiction right now, but I  
8 know there are some issues going on over there with failing  
9 infrastructure.

10 So when that happens, the people either petition,  
11 or the township. So after I receive a petition, my  
12 department, I will have to, by Drain Code appoint a  
13 three-panel board, and that's what these gentlemen are here  
14 for today. They're my three-panel board.

15 They are not affiliated with the Port Sheldon  
16 board, or planning commission, or zoning or ordinance. They  
17 have no affiliation with any of these properties, nor do they  
18 live in the township. So when I hold these, I got the whole  
19 county, I have 17 townships, six cities and a village. When  
20 I do hold these boards of determination, I have to pick three  
21 people who do not live in this area or live in the township,  
22 and I can't pick township board members.

23 So they're here to hear your testimony. They don't  
24 have any idea what's going on until the engineer does a  
25 presentation.

1                   So they didn't go out and look at this issue or  
2                   issues. They haven't talked to anybody. I don't speak with  
3                   them. The only thing my secretary will do is email them and  
4                   tell them, we have a Board of Determination, can you serve  
5                   for that meeting and listen to testimony.

6                   Today is not about a project. We don't have a  
7                   project. We want to make sure we hear everybody's testimony  
8                   on issues or non-issues. All their job is today is determine  
9                   whether we move forward, that is me, with a project down the  
10                  road, based on today's decision.

11                  That is solely their job is just to hear testimony,  
12                  not figure how much is it going to cost, how much am I going  
13                  to pay, you know, how much does the township pay.

14                  I'm happy to answer some of those. I don't know  
15                  those answers, we don't even have a project. But in Drain  
16                  Code the only way to move forward with something with a  
17                  petition is to have a BOD. This is the first step, that's  
18                  why you're here.

19                  I do appreciate your time to come in this cold  
20                  weather, and the drive isn't the nicest either. So I do  
21                  appreciate your time.

22                  When I appoint three people to a Board of  
23                  Determination, number one, they need to know how to run a  
24                  meeting; number two, they need to know about drainage; and  
25                  number three, they need to know about Drain Code.

1                   These three gentlemen have done a lot of these for  
2 me over the years, so they get it. They understand it, and  
3 be willing to serve and to listen is a big part of it. And  
4 then make a decision whether it should be a county drain  
5 moving forward or not.

6                   When we have these orphans, if you have issues  
7 right now, you call the township and they'll say, well it's  
8 not really ours. You call the county, me, it's not really  
9 ours. You call the road commission, hey, there is issues out  
10 there, they'll say it's an orphan system, it really isn't  
11 ours either. So in order to establish a drain, again, this  
12 is the first process, this is the first level of where it's  
13 at.

14                   So once I appoint -- or give the oath to these  
15 three gentlemen, they'll make all the decisions. And if they  
16 have any questions, they're more than happy to ask me, on  
17 anything that you guys ask them, they're more than happy to  
18 ask me.

19                   The engineer will do a presentation. In the agenda  
20 you'll see that. It's a smaller drain district. But again,  
21 it's important that infrastructure, when it's failing, to  
22 kind of look at it and make sure we're fixing it or can fix  
23 it. That's going to be critical, right?

24                   So I'm neutral. I don't tell these guys how to  
25 vote. I don't tell them what to do. They pretty much run

1 this as their meeting, once I give them the oath.

2 Everything is court recorded today, Margie is our  
3 court recorder. Usually it takes about four to six weeks  
4 after a Board of Determination, she will give us the  
5 transcripts. We put it on our website, you go to  
6 MIOttawa.org and look me up. And then you will go under  
7 Petition Projects, and you go in there. Everything is court  
8 recorded word for word. That's not required by law but I do  
9 that to protect you guys, me, the township. Because nothing  
10 might be said today, but five years from now I won't remember  
11 this meeting and what was said and who was here. It could be  
12 another issue, or if I get hit by a bus, at least everything  
13 is court recorded on how to move forward. You never know.

14 So it's not somebody taking hand notes. It's good  
15 to have a court reporter, it's word for word. This is what  
16 Joe said, this is what the Board decided to do, and this is  
17 what the public said. We just want to make sure we have  
18 documentation.

19 So Margie is here with us, she's done a lot of  
20 these over the last ten years.

21 I'll go ahead and do introductions. The  
22 engineering firm is ENG out of Grand Haven. Well they have a  
23 Lansing office as well. But out of Grand Haven, and we have  
24 Ryan McEnhill and Joe Westerbeke.

25 And my secretary, Marie, who gives everybody the

1 notices and does the legal stuff for me.

2 We have Jerry Olman from the road commission. He  
3 joins us at all the BODs because there is county roads in  
4 there. So he might say something later, give testimony on  
5 why he thinks these are important to do.

6 Then we have Mike, your township supervisor, he was  
7 lucky enough to let us in and stay warm.

8 Other than that, I think -- again, I'm happy you're  
9 here.

10 I'll going go ahead and give these three gentlemen  
11 the oath. They'll pick a chair and secretary and run the  
12 meeting. And again, I'm happy to answer any questions when  
13 we get to that part of the testimony. So thank you -- oh,  
14 before I do that, I'd better introduce my Board. We'll start  
15 from left to right.

16 Josh Westgate, he was a previous township  
17 supervisor in Wright Township. He's done many of these  
18 boards with me.

19 In the center is Bill Cargo. He is the Grand Haven  
20 Township superintendent, or manager.

21 And then we have Rich VanderKlok, who was  
22 previous -- Georgetown Township board member. And again,  
23 they understand why -- what the purpose is here today.

24 So gentlemen, now please rise and raise your right  
25 hand. Thank you.

1                   Do you each solemnly swear that you will faithfully  
2                   perform and discharge the duties imposed upon you as required  
3                   by law as members of the Board of Determination, appointed by  
4                   the Ottawa County Water Resources Commissioner, to determine  
5                   the necessity to maintain and improve the Sheldon Dunes No. 2  
6                   Drain, located in Port Sheldon Township, in said county,  
7                   gentlemen?

8                   (All said, "I do.")

9                   BOARD MEMBER BILL CARGO: Well the first thing we  
10                  need to do is elect a chairperson and secretary. So I'll  
11                  take any motion for the chair.

12                 BOARD MEMBER RICH VANDERKLOK: I'll make a motion  
13                  that Bill Cargo serve as chair.

14                 BOARD MEMBER JOSH WESTGATE: I will second that  
15                  motion.

16                 BOARD MEMBER BILL CARGO: We have a motion in  
17                  support.

18                 All in favor of Cargo being chair, say aye.

19                 (All said, "Aye.")

20                 BOARD CHAIR BILL CARGO: Okay. Have we decided --  
21                  I take it that you're going to be the secretary?

22                 I'll make a motion that Josh be the secretary for  
23                  this board of review.

24                 Do I have support from you, Rich?

25                 BOARD MEMBER RICH VANDERKLOK: Support.



1 BOARD CHAIR BILL CARGO: We have a motion and  
2 support.

3 All in favor of Josh being the secretary for this  
4 board of review, say aye.

5 (All said, "Aye.")

6 BOARD CHAIR BILL CARGO: Then I just wanted to have  
7 some comments on the rules of public comment.

8 Basically, you can summarize War And Peace in two  
9 minutes. And so would ask people during the public hearing  
10 to try to keep their comments to two minutes. That way we're  
11 not spending 25 minutes listening to one person, and we will  
12 be able to figure out hopefully what you're saying. If we  
13 need clarification or further comments we will go back to  
14 that person.

15 Do I have a motion to limit public comments to two  
16 minutes?

17 BOARD MEMBER RICH VANDERKLOK: I would make that  
18 motion, Mr. Chair.

19 BOARD CHAIR BILL CARGO: We have a motion by Rich.  
20 Support by Josh?

21 BOARD SECRETARY JOSH WESTGATE: I will support the  
22 motion.

23 BOARD CHAIR BILL CARGO: Then all in favor of  
24 limiting public comments to two minutes, say aye.

25 (All said, "Aye.")

1 BOARD CHAIR BILL CARGO: The -- we talked a little  
2 bit about the role and function here. We're here to  
3 determine if there is a problem, if there are actual issues  
4 here that need to be corrected.

5 We aren't going to be talking about a project.  
6 We're not going to be talking about cost at this stage. So I  
7 just want you to understand that. We have a very limited  
8 role at this point.

9 The first thing we're going to do is to have the  
10 engineer -- who is going to be giving the presentation by the  
11 engineer?

12 ENGINEER JOE WESTERBEKE: I will.

13 BOARD CHAIR BILL CARGO: And you're Ryan?

14 ENGINEER JOE WESTERBEKE: I'm Joe.

15 BOARD CHAIR BILL CARGO: I had a 50/50 chance.

16 ENGINEER JOE WESTERBEKE: Good shot.

17 BOARD CHAIR BILL CARGO: I got it wrong, I  
18 apologize for that.

19 Joe, thank you.

20 ENGINEER JOE WESTERBEKE: My name is Joe  
21 Westerbeke. I'm a professional engineer in the state of  
22 Michigan.

23 So we're just going to run through here, the  
24 Sheldon Dunes No. 2 Drain Board of Determination. It's our  
25 preliminary engineering review.

1 I work for ENG. We're a civil engineering firm,  
2 and with offices in Lansing, Grand Rapids, and Grand Haven.  
3 I work out of the Grand Haven office.

4 We work with drain commissioners and water  
5 resources commissioners throughout the state on projects just  
6 like this, so we're very familiar with Drain Code, and with  
7 projects just like these.

8 Joe got into this a little bit so I'll go through  
9 this real quick.

10 There was a petition filed by Port Sheldon  
11 Township. Once that petition was filed, Michigan Drain Code  
12 requires that a Board of Determination meeting is setup,  
13 which is what we're here for today. The Board is composed of  
14 three disinterested members outside of the township affected.  
15 And we're here to determine the project necessity based on  
16 public health, welfare, convenience, after hearing all your  
17 testimony.

18 All right. So once Joe gets that petition, he goes  
19 to one of his civil engineers to do this preliminary  
20 engineering review. Like we said, the project may not move  
21 forward yet, so we typically try to stay pretty high level  
22 with it, and try to keep costs to a minimum.

23 Here is a list of just some of the stuff we do with  
24 our engineering review. We look at the plat maps for the  
25 development from when it was built, I believe in the '70s.

1                   We review and research existing record information,  
2                   mostly topographic aerial GIS info from the county.

3                   We evaluate what the drainage system is out there  
4                   and what would be established as county drain. And then with  
5                   that we determine the lands that would drain to that county  
6                   drain system.

7                   And then after we do that, we're looking at  
8                   electronic data a lot. And then we go out into the field to  
9                   confirm that everything matches what we saw in the electronic  
10                  data. So you may have seen me or a staff engineer with our  
11                  company out in the neighborhood in the last few months  
12                  wandering around.

13                  And then we come here, report these to the Board of  
14                  Determination to provide an independent, unbiased assessment  
15                  of the storm water conditions here.

16                  So one thing I mentioned on the last slide was we  
17                  determined what would be established as county drain and as  
18                  the drain district.

19                  So if you look off to the right here on the screen,  
20                  you can see all those colored lines are the storm sewer  
21                  system that runs through the neighborhood currently. We've  
22                  got the dark blue line which is up here, and down here.

23                  So that storm sewer running underneath these roads,  
24                  that's collecting the storm water runoff. It's collecting it  
25                  and it's conveying it up to this light purple area which is a

1 natural area owned by the township. It's a lower area, so  
2 the storm water runoff would flow through those pipes, go  
3 into that area and infiltrate to the ground.

4 Then we have this light blue and light green area  
5 on Whispering Sands Drive. Those areas are collecting storm  
6 water runoff, collecting it and then draining it out through  
7 the beach access at both locations. There is outlet pipes  
8 within the sand dunes, and then that water would make its way  
9 into Lake Michigan.

10 And on the bottom you can see there is a couple of  
11 real small pieces of pink pipe there. Those are just  
12 culverts that convey the storm water runoff and send it to  
13 some ditches that are close by there, and the water will  
14 infiltrate into those ditches.

15 So once we establish what would be the county  
16 drain, then we determine everything that drains to that land.

17 So in the drain world it's called a drain district,  
18 or if you think of a watershed. That's what this red line  
19 here is with the light yellow hatch over it, that's roughly  
20 what we think makes its way into that storm sewer system  
21 shown by those colored lines there.

22 It's about a total of 85 acres, and like Joe said,  
23 exact limits of that drain, county drain, and of the drainage  
24 district will be adjusted if this project moves forward once  
25 we get more information.

1 UNIDENTIFIED SPEAKER: Excuse me. Where are the  
2 pink lines? Can you point those out?

3 ENGINEER JOE WESTERBEKE: Right here. It's hard to  
4 read that, Sheldon Dunes Drive right there. There is a small  
5 piece right there and then --

6 UNIDENTIFIED SPEAKER: Sheldon Dunes and Lakeshore,  
7 or Sheldon Dunes and --

8 ENGINEER JOE WESTERBEKE: At Sheldon Dunes and  
9 Lakeshore there is one there. I'm having a hard time seeing  
10 that. The next road up.

11 UNIDENTIFIED SPEAKER: So it's the blue that's on  
12 our maps, not pink, correct? I thought you said pink.

13 ENGINEER JOE WESTERBEKE: On yours, I believe all  
14 are shown in blue. On this map just so I could differentiate  
15 them I made them colored.

16 UNIDENTIFIED SPEAKER: So this a different map than  
17 what was online.

18 ENGINEER JOE WESTERBEKE: It's the same one you  
19 have here. The only difference is the lines are colored.

20 UNIDENTIFIED SPEAKER: It's a different map than  
21 what we --

22 ENGINEER JOE WESTERBEKE: There may have been a  
23 preliminary map that was posted online, that would have been  
24 with the original petition. But as we get into the  
25 engineering review then we adjust those limits as we look

1 through the date. So it might be slightly different.

2 I believe we added some. Originally it was a  
3 smaller one to the north. But everyone was notified based on  
4 the larger district here.

5 UNIDENTIFIED SPEAKER: (Inaudible.)

6 BOARD CHAIR BILL CARGO: What we're going to do is  
7 we're going to limit public comments. Let him give his  
8 presentation, and during public comments you can direct  
9 questions towards me and we can have the engineer answer  
10 those.

11 Is that fair?

12 ENGINEER JOE WESTERBEKE: Sounds good.

13 Next slide, Joe touched on this already too, but  
14 like he said this is all a private system, or an orphan  
15 system. So an orphan drain system would need to be  
16 maintained or improved by private landowners, subdivisions,  
17 associations, or the township. Usually when systems need to  
18 be maintained by those entities, they don't always get  
19 maintained, which is the case here too.

20 BOARD CHAIR BILL CARGO: I want to make a  
21 clarification. Technically you're not supposed to spend  
22 public money on private property. So technically, the  
23 township, without this being a county drain, doesn't have the  
24 authority to spend public monies on private property.

25 ENGINEER JOE WESTERBEKE: Right. So our intent

1 here is to establish this entire thing as a county drain, so  
2 if there was ever a failure of a pipe or any areas that need  
3 maintenance, that Joe would have the authority to come in and  
4 perform that work.

5 Currently, if there is a big issue, Joe would have  
6 no authority to come in and work on that system. So that's  
7 our intent with establishing this as a county drain.

8 Another thing we look at for all these drain  
9 projects is what the soils are like, so there is --

10 BOARD CHAIR BILL CARGO: One other further  
11 clarification. You talk about it being an orphan drain, if  
12 it's a public drain and it is accepted by the county, that  
13 does mean that county monies can be used on it, county road  
14 monies can be used on it, township monies can be used on it.

15 But until it's brought into the system, no public  
16 monies from any entity can be. So the opposite of where it  
17 is right now means it can have public assessments to pay for  
18 some or all of the improvements that may be necessary.

19 Is that correct?

20 ENGINEER JOE WESTERBEKE: Correct.

21 BOARD CHAIR BILL CARGO: Okay. Thank you.

22 ENGINEER JOE WESTERBEKE: So we look at an online  
23 tool called USGS Web Soil Survey to get a rough idea of what  
24 soils are out here. As you might guess, there is a lot of  
25 Plainfield sand, with a fairly deep water table and high



1 infiltration rate, which is great for drainage.

2 Now I'm just going to go through -- like I said, we  
3 were out a few different times in the last few months after  
4 rain events trying to look at what some of the issues are out  
5 here.

6 So to start off here, you can see the photo  
7 location is at Whispering Sands Drive, and Sheldon Dunes  
8 Drive, at that intersection near the beach access point. You  
9 can see there is water ponding on both the east and west side  
10 of the road there.

11 Originally when they designed it, I'm sure the  
12 water was supposed to flow off the road and get into catch  
13 basins, which are probably all filled in, or they've been  
14 filled with sediment over time. So obviously this is not how  
15 it was originally designed.

16 And then if you head to the west of that location  
17 you can see the stairs going down to the beach there, I found  
18 the outlet pipe, a little bit difficult to see here, within  
19 the dune.

20 We went there right after it rained all morning and  
21 looked in through the pipe, and there is a little bit of sand  
22 sitting in that pipe, and it was dry. So obviously, we'd  
23 expect after a rain event, water would be flowing out of  
24 there. In this case it must be clogged at the upstream end  
25 so it's not working as it was originally intended to.

1                   Then if we go to the next beach access point to the  
2 north, you can see on the right here there is a piece of pipe  
3 that's just sitting right along the stairs there. So  
4 originally like the other one, it would have been sitting  
5 within the dune. But over time either the dune has shifted,  
6 or possibly there is erosion because of the storm water that  
7 that piece of pipe fell out. And we weren't able to find the  
8 next piece. I'm sure it was buried. So again, that's not  
9 how it was originally designed to work.

10                   And then here is the intersection of Lakeshore  
11 Drive and Sheldon Dunes Drive, where those pink lines are,  
12 the small pieces. You can see in both the center and the  
13 right picture there is culverts circled. They're about 90  
14 percent or more filled up with sediment.

15                   Originally those would have been wide open and the  
16 idea would be storm water would be able to flow through there  
17 back and forth and infiltrate into the ditches. But here  
18 they're filled in so they're not working as they originally  
19 were meant to.

20                   And then again up at this natural area where I  
21 showed earlier where the pipes outlet, the two different  
22 locations there, we looked back there and we can not find  
23 either of those pipes. So it appears that the ends of those  
24 pipes have been covered up or filled in over time as well.

25                   UNIDENTIFIED SPEAKER: Are these slides going to be

1 available somewhere?

2 SECRETARY MARIE SNYDER: They'll be on the website.

3 ENGINEER JOE WESTERBEKE: So just in summary,  
4 ponding in various areas throughout the drain district.

5 There is some of the catch basins, and some of the storm  
6 sewer segments appear to be filled in with sediment over  
7 time. It just has happened because no one has maintained it  
8 in 40 or 50 years.

9 And then we don't really get into solutions with  
10 these presentations, but just wanted to give you guys a rough  
11 idea of the type of things that would be needed potentially  
12 is just perform maintenance on a lot of the existing system  
13 that's out there. Review the existing storm sewer system  
14 capacity and make sure all problem areas are being serviced.  
15 That's what the public testimony portion is to hear about is  
16 if there is other problem areas we don't know about right  
17 now.

18 And then overall, we would be focusing on solutions  
19 that are going to rely on the infiltration. So like I said,  
20 the sandy soils are very good for drainage, obviously, so  
21 we're going to focus on different leaching basins or  
22 infiltration areas so that that storm water runoff has  
23 somewhere to go .

24 And then next steps. So we'll have public  
25 testimony, and the Board will determine the necessity of this

1 petition.

2 If the project is found not necessary, then this  
3 project would just end. If the project is found necessary,  
4 then we would keep going. We would review any of your public  
5 testimony here today, evaluate the scope of the project, and  
6 any design alternatives. And we would talk through that with  
7 Joe, and then work on finalizing the design and getting the  
8 permits or easements that would be needed, and eventually  
9 preparing the bid plans so the work can be done.

10 So that's all I've got. I don't know if the Board  
11 has any questions here.

12 BOARD CHAIR BILL CARGO: Any questions?

13 BOARD SECRETARY JOSH WESTGATE: Not at this time.

14 BOARD CHAIR BILL CARGO: Any questions?

15 BOARD MEMBER RICH VANDERKLOK: Not at this time.

16 BOARD CHAIR BILL CARGO: I appreciate that.

17 We're now going to go into the public testimony  
18 portion of this meeting.

19 The first thing I want to do, is there anybody from  
20 Port Sheldon township that would like to make a statement?  
21 Okay.

22 In that case, I'm going to go through from one row  
23 to the other, just kind of back and forth, and I'm going to  
24 be kind of informal and point. You can stand up where you're  
25 at because we don't have a podium, and I think we can hear

1 each other fairly well. So just stand up, give your name and  
2 address.

3 Do that so that the court reporter can record that  
4 information. And then tell us what you would like to share.

5 I'm going to start right in the front row, there is  
6 somebody that looks familiar.

7 MR. KEN SOUTER: Hi, Bill. My name is Ken Souter,  
8 and I live at 17240 Hidden Treasure Drive. I probably am the  
9 instigator for most of this because I deal with drains quite  
10 often through my job.

11 I went and looked at, through the manholes in the  
12 back area there and we were starting to have some backup of  
13 water. We were starting to have some surcharging of the  
14 drain in the road where the water would buildup in the drain,  
15 go out through the joints, come back in. And we had several  
16 failures of the joints on Hidden Treasure Drive.

17 So I took a look at it. I talked to the township,  
18 and I said -- they said, and I knew it, they didn't have the  
19 jurisdiction, the drain commissioner didn't have  
20 jurisdiction, nor the road commission doesn't have  
21 jurisdiction.

22 So to get something done, I talked to the township  
23 and they agreed to sign the petition to do this.

24 The real basic problem here is it's 50 years old,  
25 and there has been 50 or more houses built, and the sand

1 moves all over. That drainage basin that used to be there is  
2 no longer there. The tile that used to go out to Lake  
3 Michigan, that disappeared probably about ten or 15 years  
4 after it was built. And they went in and put a leaching  
5 system in on the drain out by the road. Any water that comes  
6 down and goes over it, comes down Rolling Dunes Drive, and  
7 gets into the system.

8 It's just basically the system has not been  
9 maintained for 50 years, and we need the drainage basin  
10 cleaned out so that water has some place to go. That's how I  
11 see it.

12 BOARD CHAIR BILL CARGO: It looks like the pipes  
13 are pretty well plugged too.

14 MR. KEN SOUTER: The pipes are plugged basically  
15 because the basin is not open enough to be able to take the  
16 water. I mean it used to be three foot down, and now it's  
17 above the in-flow line on the pipe.

18 BOARD CHAIR BILL CARGO: Just as a follow-up  
19 question to Joe.

20 Nowadays every subdivision has to be part of a  
21 drainage district as part of the approval process, but back  
22 in the '70s, they put the infrastructure in, but they didn't  
23 put any procedures in to maintain that. Is that correct?

24 WATER RESOURCES COMM. JOE BUSH: I would say that's  
25 correct. This is one of those ones that was not approved

1 back then.

2 BOARD CHAIR BILL CARGO: Going to the first row?

3 MR. DON SHEILL: Don Sheill, Ottawa House Drive. I  
4 just wanted to pick up on what Ken said. I think Ken was  
5 talking about this area.

6 MR. KEN SOUTER: That's the area I'm talking about.

7 MR. DON SHEILL: And there is a pipe that ends  
8 about here, and another one that ends right about there. The  
9 diameter of that one is about like that in size, and the  
10 other one is about like that.

11 My understanding is this is the biggest problem  
12 that Ken is talking about.

13 ENGINEER JOE WESTERBEKE: And that was one area,  
14 when we were out there, we're not doing a survey at this  
15 point so we walked along the back and didn't see them.

16 But from our understanding too, it seems like that  
17 would be an issue, whether it's plugged or whether it's --  
18 the basin has been filled, it seems like that would be an  
19 issue.

20 BOARD CHAIR BILL CARGO: Appreciate it.

21 Again front row?

22 MS. WENDY SHARPE: My name is Wendy Sharpe, and I  
23 live right here at the corner of Lakeshore Drive and Sheldon  
24 Dunes Drive, right by the pink culvert, that is full .

25 But we have no drainage problems at all down there.

1 And so -- and we're at the bottom of the dune down there, but  
2 we have no pooling even with that.

3 So would that just be left then, I assume?

4 ENGINEER JOE WESTERBEKE: It potentially could be.  
5 I mean we probably would clean it out, at least. You're  
6 probably not having issues because along here it looks like  
7 there is low areas.

8 So I'm guessing, even if water isn't going through  
9 the culvert, it's probably making its way along Lakeshore  
10 Drive and finding somewhere to infiltrate.

11 MS. WENDY SHARPE: I've never seen it. The back of  
12 my house, there is a Consumers Energy right-of-way right  
13 through here (indicating) which is cleared for brushing, like  
14 once every ten years.

15 I have never, ever seen any drainage problems  
16 anywhere even around there. So I'm just a little concerned  
17 -- what I'm saying is I wouldn't want something done when  
18 there is no need to do that.

19 And then my other question is is this it as far as  
20 public input goes? Is this the meeting? If you decide to go  
21 forward with a meeting --

22 BOARD CHAIR BILL CARGO: We're simply determining  
23 is there a problem, is there a need for maintenance, is there  
24 a need to bring this under public control so somebody can  
25 maintain it.



1                   There would be -- if there is an assessment, if the  
2                   township doesn't pick up a hundred percent of the cost, for  
3                   the township of Grand Haven, if it's less than 20 thousand  
4                   dollars of maintenance, we just pay for it.

5                   But every community makes that decision. So, yes,  
6                   there would be an opportunity for public input if a project  
7                   is determined.

8                   We're fortunate in Grand Haven Township, and in  
9                   Port Sheldon Township that we have mostly sandy soils. If we  
10                  went 15 miles to the south, every time they have a rain, with  
11                  all their clay soils, they have floods. So this becomes a  
12                  very important thing. But I recognize the sandy soils here  
13                  makes most solutions pretty simple.

14                  I'm going to go to the second row.

15                  UNIDENTIFIED SPEAKER: I have no comments.

16                  BOARD CHAIR BILL CARGO: Okay. Second row, if you  
17                  stand up and give your name or names.

18                  MS. KATHY KREMER: I'm Kathy Kremer, and this is  
19                  Paul Schultz. We're at 17270 Sheldon Dunes Drive. He'll  
20                  point out where it's at.

21                  We're here because we received the notice about  
22                  being an affected property. And we were a tad confused  
23                  because the map that the township approved is not this map.  
24                  The map that the township approved, we are not on. None of  
25                  the Sheldon Dunes people are on that map.

1                   So we're seeing this for the first time today. We  
2 did not see this previously.

3                   Our property is not in the Sheldon Dunes  
4 development. We live on Sheldon Dunes Drive. We're in the  
5 West Olive Beach development, which is entirely different.

6                   Our property does not have storm drains. So the  
7 folks talking about we need to clean out our system, we don't  
8 have a system, because we weren't part of their development.

9                   So our concern is that we're going to be, at some  
10 point in the future, if this gets approved, and if a project  
11 gets developed, that we'll have some financial liability for  
12 a project that we don't need.

13                   BOARD CHAIR BILL CARGO: Okay.

14                   MS. KATHY KREMER: Folks on the other side of the  
15 neighborhood need it.

16                   So what we're asking is that the West Olive Beach  
17 development and Sheldon Dunes Drive be removed from this  
18 drainage district.

19                   BOARD CHAIR BILL CARGO: One of the things that  
20 when we do this, they will take a look at the boundaries of  
21 this.

22                   This is based on a preliminary review, taking a  
23 look at the county elevation maps and with the slopes and so  
24 forth. And at that point it looks like some of your land may  
25 slope into this, but it's a very, very small percentage, but

1           they will double-check that.

2                       Again, we won't get to the point of saying you have  
3           to remove a property or add a property, all we can say is  
4           we'll have them review the borders of this district if it is  
5           created.

6                       Is that a fair summary?

7                       WATER RESOURCES COMM. JOE BUSH: That's fair.

8                       MS. KATHY KREMER: We are actually -- everything  
9           you're talking that's on the upper two-thirds, is all uphill  
10          from us.

11                      BOARD CHAIR BILL CARGO: And that may be perfectly  
12          valid. We don't put people in two different districts, I  
13          mean one property in two districts doesn't happen. The water  
14          either flows one direction or the other, and they will make  
15          that determination.

16                      MS. KATHY KREMER: So who?

17                      BOARD CHAIR BILL CARGO: The County Water Resources  
18          Commissioner.

19                      Again, this is preliminary. They've said, they  
20          don't want to spend a lot of engineering dollars this early  
21          because it may or may not be determined as necessary.

22                      MS. KATHY KREMER: So this is an important point,  
23          this change in map, because people who live in our area of  
24          the neighborhood made the assumption, when they received the  
25          notice that had a different map, that this didn't impact

1           them.

2                   BOARD CHAIR BILL CARGO:   Okay.

3                   MR. PAUL SCHULTZ:   There are people who are not  
4           here --

5                   MS. KATHY KREMER:   There are people that are not  
6           here because they believed this did not impact them.

7                   So we'd like you to take that into consideration  
8           that there may be more people from the southern part of this  
9           map had we seen this map previously.

10                   And when we moved from the original map to this map  
11           is a grand mystery to us.  Those of us in the south part of  
12           this, we don't have any need for anything.  And perhaps they  
13           do in the northern part of this, and that's great, let's get  
14           their needs met.  But don't include us in it, because it's  
15           not our problem right now.

16                   BOARD CHAIR BILL CARGO:   I appreciate it.

17                   MR. PAUL SCHULTZ:   I just want to make one comment.

18                   Wendy said that you don't have ponding down at your  
19           end, the main reason is because most of what rolls down that  
20           road, comes into our yard.  We've spent thousands of dollars  
21           in landscaping because we get all the down flow from  
22           upstream.  And it doesn't make it --

23                   BOARD CHAIR BILL CARGO:   But it's infiltrating into  
24           the sand, and you're not having a problem with it?

25                   MR. PAUL SCHULTZ:   Okay.  We're not having a

1 problem, and we don't want to be a part of this drain.

2 BOARD CHAIR BILL CARGO: Okay. Jerry from the road  
3 commission, do you have anything you'd like to add?

4 ROAD COMMISSION JERRY OLMAN: Just that the road  
5 commission would be in favor of taking the orphan system  
6 under the county's jurisdiction for a point of contact for  
7 the residents to make repairs.

8 And as far as repairs go, I went back about ten  
9 years and looked to see what kind of repairs have been done.  
10 I did find a couple of minor repairs in 2016 that were done,  
11 as Ken mentioned, a joint separation. I believe that's what  
12 the repairs were at that time.

13 BOARD CHAIR BILL CARGO: Okay. Jerry, just for the  
14 court reporter, could give your last name and spelling?

15 ROAD COMMISSION JERRY OLMAN: Jerry Olman,  
16 O-l-m-a-n, Ottawa County Road Commission.

17 BOARD CHAIR BILL CARGO: Okay. Next?

18 MS. VICTORIA POPOWICH: I'm Victoria Popowich. I  
19 live at 17329 Sheldon Dunes Drive. It's right here  
20 (indicating).

21 And I'm just here for informational reasons, and no  
22 questions at this time.

23 BOARD CHAIR BILL CARGO: And you have no problems  
24 or water problems on your property, correct?

25 MS. VICTORIA POPOWICH: I do not.

1 BOARD CHAIR BILL CARGO: Okay. I appreciate that.

2 We're going to go to the third row. I know the  
3 township doesn't have any comments.

4 Next? If you'd stand up and give your name and  
5 address, again?

6 MR. ERIC ANDERLE: Yep, it's Eric Anderle,  
7 A-n-d-e-r-l-e, 17229 Sheldon Dunes, Wendy's neighbor.

8 Yeah, no problems on my property as far as I'm  
9 aware.

10 I just had one question. So like if this project  
11 were to not move forward and it were to remain a  
12 private/orphan system, and the private holders of this system  
13 decide they do want to do something, I mean how does that --

14 BOARD CHAIR BILL CARGO: They'd all have to come  
15 together and decide how they're going to assess themselves.  
16 It would be some sort of private -- or you could make it a  
17 public sort of assessment through the township.

18 But again, because it's private, the township  
19 wouldn't be able to contribute to it.

20 Just like the road commission apparently did some  
21 work on it, technically that's not their responsibility. So  
22 they, out of their good graces, did that, but they don't have  
23 any legal obligation to maintain the system.

24 MR. ERIC ANDERLE: Okay, thanks.

25 BOARD CHAIR BILL CARGO: Next?

1 MR. ONDER ORS: I'm Onder Ors, I live on Whispering  
2 Sands at 9433, right where the bend is, right about here  
3 (indicating).

4 And we don't notice the water, but we do know where  
5 the common areas to the beach there, and the water drains  
6 there, and it does pool up, but it drains pretty fast. So  
7 it's not a constant issue.

8 But when we got the notice, we didn't get a map  
9 with our notice. Maybe it was a technical -- we didn't know  
10 if there was a map so we went to the website which was good.

11 Our question, basically is it's always good to be a  
12 part of a system, we think, part of the county, spending the  
13 monies, we want to support it, it will be great for  
14 maintenance.

15 But my question is, what is the problem? Like what  
16 will happen? As it was noted by Ken, 50 years ago it was  
17 done. And what's going to happen to this site eventually  
18 that, if we don't take care of it, so that everybody  
19 understands the urgency, and people just appreciate it so it  
20 would be a good thing.

21 BOARD CHAIR BILL CARGO: You're fortunate in that  
22 you do have very sandy soils around here. I'm speaking very  
23 generally here.

24 To have a piece of infrastructure that hasn't been  
25 maintained in any significant fashion for 50 years is pretty

1 unusual. And the fact that it's gone this long before you  
2 begin to see some failures is fairly remarkable.

3 That said, based on what we're hearing, the  
4 solution seems to be fairly simple, and not expensive. I  
5 don't see anything based on the preliminary discussion we've  
6 had at this point, that this is a large project.

7 It seems more like somebody has to be responsible  
8 for maintenance. That may be cleaning out the drains and  
9 maybe digging a little bit of the sand from where it used to  
10 go, to the retention basin.

11 But this does not seem, from what I heard, and  
12 maybe you guys agree with me or not, if there is a need, the  
13 need seems to be more for maintenance. They're not going to  
14 recreate the wheel and put in some major infrastructure as  
15 far as the roads that aren't having any problem.

16 And again, you're fortunate because of the sandy  
17 soil.

18 MR. ONDER ORS: My other question is related to the  
19 -- it was noted there is drainage going into the lake on the  
20 other side of the hill. You said a pipe was busted or  
21 something?

22 ENGINEER JOE WESTERBEKE: We found a pipe  
23 outletting through the dune at those two locations. I'm not  
24 sure if those were active or when they were installed. We  
25 don't have a lot of information.



1 MR. ONDER ORS: I noticed that pipe there and I  
2 wasn't sure if that was part of the system or not, or had  
3 anything to do with it.

4 BOARD CHAIR BILL CARGO: Often on these road ends  
5 you will have -- somebody will at some point in the past put  
6 the water from the road to go into the lake. It never goes  
7 into the lake itself, it goes into the dune, and then  
8 infiltrates from that point.

9 We've had many of these in Grand Haven Charter  
10 Township where you have a drain. And what we end up doing is  
11 covering them with rock and covering them knowing the water  
12 will flow, and infiltrate. It won't actually be a direct  
13 line of water going into Lake Michigan.

14 ENGINEER JOE WESTERBEKE: It's pretty high up on  
15 the dune. So right now if anything was going through it, it  
16 would come out through the pipe --

17 BOARD CHAIR BILL CARGO: And you wouldn't want to  
18 try to get that all the way down to the lake. It would be a  
19 mess.

20 MR. ONDER ORS: Just the amount of the erosion  
21 that's been there, that's another mess.

22 BOARD CHAIR BILL CARGO: Exactly.

23 Third row in the back, the first gentleman?

24 UNIDENTIFIED SPEAKER: I have no comment.

25 BOARD CHAIR BILL CARGO: Next?

1 UNIDENTIFIED SPEAKER: No comment.

2 BOARD CHAIR BILL CARGO: That said, everybody has  
3 had --

4 MR. KEN SOUTER: Can I have one more comment?

5 BOARD CHAIR BILL CARGO: If you keep it very short.  
6 You know the rules.

7 MR. KEN SOUTER: I'll keep it short.

8 I think a lot of the confusion here is that the  
9 system that's in jeopardy right now because it's getting  
10 filled up is the system that drains the Rolling Dunes Drive,  
11 Hidden Treasure Drive. That's the system that's that part up  
12 there.

13 It has nothing to do with all the way down or  
14 across Lakeshore Drive. It was built for draining those  
15 roads and the frontages of those houses that were there.

16 The storm system that used to go to Lake Michigan  
17 has been gone for 40 years. I mean it isn't there. It fell  
18 into the lake, and it went gone. So that was made into a  
19 leaching basin.

20 But the system that we're talking about, there is a  
21 lot of people here that think they're going to have anything  
22 to do with it, they don't because their water don't go there.

23 BOARD CHAIR BILL CARGO: And I'll just ask a  
24 clarification. Normally if there is ever a need for  
25 assessing the roll, if this is something that you can't pay

1 for just with the maintenance dollars that you have, and the  
2 maintenance contributions from the township, you would put  
3 together an assessment roll.

4 If there is an assessment roll, you normally would  
5 look at things such as benefit.

6 WATER RESOURCES COMM. JOE BUSH: Correct.

7 BOARD CHAIR BILL CARGO: So if you're dealing with  
8 -- you may put the entire, almost the entire benefit on the  
9 people who are along these roads and are benefiting from it,  
10 and you may not touch the people who are in the outlying  
11 areas. But again, that's a decision that the Water Resources  
12 Commissioner will have to make.

13 And by the way, he then has to present it to the  
14 public and they have a chance to comment on it or to make --  
15 or to disagree with it. And that's part of the normal  
16 process.

17 So that's why for Grand Haven Township, we just pay  
18 for it, because we don't want to go through the headache of  
19 trying to decide whether somebody should be assessed at one  
20 level or another level, especially for small maintenance  
21 projects.

22 I think Georgetown and some of the other  
23 communities do much the same.

24 MS. KATHY KREMER: Can I say one more thing?

25 Kathy Kremer, 17270 Sheldon Dunes Drive.

1                   The township approved a resolution with a map, with  
2                   a map. There was a map with the township resolution that was  
3                   the first map.

4                   BOARD CHAIR BILL CARGO: That doesn't determine the  
5                   district though. That determines what they thought it was at  
6                   the time and they're requesting the drain commissioner to  
7                   come in there and look.

8                   So that's why we did preliminary. Again, these  
9                   boundaries could be adjusted another time.

10                  So that does not limit what the drain commissioner  
11                  looks at. He just has to work with what information he has  
12                  at time.

13                  MS. KATHY KREMER: So for point of clarification  
14                  then, the township resolution is not indeed what you acted  
15                  upon, the map that you act upon, but rather what the drain  
16                  commissioner --

17                  BOARD CHAIR BILL CARGO: We have to act upon the  
18                  drainage district as determined by the Water Resources  
19                  Commissioner. And this district may be amended further at  
20                  some point in the future based on contours of the land, where  
21                  the water is draining and so forth. Yes.

22                  Because, again, you can't. You have to get out  
23                  there and do the engineering. And that's what they've done.  
24                  They've done the engineering. Everybody received notice  
25                  that's within this district, even though the map has changed.

1                   If you weren't in this district, you wouldn't --  
2                   into this proposed district, you wouldn't have received a  
3                   First Class Mail.

4                   MS. KATHY KREMER: Unfortunately, the map that went  
5                   out to people and that was on the website was not this map.

6                   BOARD CHAIR BILL CARGO: Okay. That's fair. I  
7                   understand.

8                   With that, we're going to close the public comment  
9                   portion of the meeting. And now we'll have some discussion  
10                  amongst ourselves.

11                  Josh, do you want to lead off with any thoughts  
12                  that you have on this?

13                  BOARD SECRETARY JOSH WESTGATE: Obviously, like we  
14                  have discussed already, it looks like this is a minor  
15                  maintenance issue to be resolved with this project, and they  
16                  don't foresee any major work to be done for this area.  
17                  Obviously sandy soils do help the drainage. I don't foresee  
18                  this being a major endeavor by any means.

19                  BOARD CHAIR BILL CARGO: Rich, do you have any  
20                  comments?

21                  BOARD MEMBER RICH VANDERKLOK: I've heard what  
22                  you've said, Bill, and what Josh has said. And in part, I  
23                  agree.

24                  However, I'm curious, from an engineering point of  
25                  view, and this certainly is your expertise as engineers, do

1           you see this as simply some maintenance issues that are  
2           easily fixed?

3                         ENGINEER JOE WESTERBEKE:   Yes, mostly that's what  
4           it appears to be.   We wanted to listen to what the public had  
5           to say too to see if there are any other larger issues in the  
6           area, and it doesn't sound like there is.

7                         But overall it seems like most of the ponding we're  
8           seeing out there is just as a result of the lack of  
9           maintenance over the last several years.

10                        BOARD MEMBER RICH VANDERKLOK:   Good.   Thank you.

11                        BOARD SECRETARY JOSH WESTGATE:   And there is a  
12           benefit of bringing this into the county drainage system, so  
13           if repairs need to be done down the line, they can be done.  
14           Joe's office would have jurisdiction to make those repairs.  
15           Without that there is no jurisdiction of any government  
16           agency to make any repairs to this area.

17                        BOARD CHAIR BILL CARGO:   And I think this is a  
18           failing of the Subdivision Control Act and how it was  
19           enforced back 50 years ago.   They put the infrastructure in  
20           the ground, but they didn't put responsibility to anybody to  
21           maintain it.   That's not how it's done now days, but that's  
22           what happened 50 years ago.

23                        I happen to agree that this is an orphan drain, an  
24           orphan drain that should have been brought under the county  
25           system.   The county will determine what type of maintenance

1 needs to occur.

2 This seems to be a simple solution to me. I do not  
3 expect to have anything in here that would shock anybody in  
4 terms of costs. And the assessing roll for this, for the  
5 work maintenance that is done, could be picked up by the  
6 township; and the people who don't benefit at all, the drain  
7 commissioner will take that into account.

8 For that reason, I do think there is need, it's a  
9 small need, but it's a need, to bring this under the county  
10 system.

11 So I would make a motion to -- that the location,  
12 establishment, and construction of proposed Sheldon Dunes No.  
13 2 Drain as petitioned on April 22nd, 2022, is necessary and  
14 conducive to the public health, convenience, and welfare.

15 Is there support for that motion?

16 BOARD MEMBER RICH VANDERKLOK: I'll support that.

17 BOARD CHAIR BILL CARGO: We have a motion with  
18 support.

19 Is there any further discussion? Anything else  
20 that you would like to add, Rich?

21 BOARD MEMBER RICH VANDERKLOK: No.

22 BOARD CHAIR BILL CARGO: Rich, I'm sorry.

23 Josh, I looked right at you. There is that 50  
24 percent again.

25 BOARD SECRETARY JOSH WESTGATE: That's right.

1 BOARD MEMBER RICH VANDERKLOK: My question has been  
2 answered. Thank you.

3 BOARD CHAIR BILL CARGO: Okay. Then all in favor,  
4 say aye.

5 (All said, "Aye.")

6 BOARD CHAIR BILL CARGO: Opposed?

7 And so that is passed. This will be brought in  
8 under the county control so somebody can maintain the  
9 infrastructure that was put in almost 50 years ago.

10 The other thing is that I do want the record to  
11 show that we want the engineer, as they actually do more  
12 serious engineering with this, to take a look at the  
13 boundaries to see if the boundaries need to be adjusted. And  
14 I suspect they will be. But again, we will leave that up to  
15 the county road -- County Water Resources Commissioner to  
16 address.

17 That said, I'm going to turn this over to the Water  
18 Resources Commissioner to talk about the appeals process, if  
19 somebody wants to appeal the decision that was made by this  
20 Board of Determination.

21 WATER RESOURCES COMM. JOE BUSH: So if anybody  
22 wanted to appeal the decision made by the Board of  
23 Determination, you can do that up to ten days from today  
24 through circuit court, so not through my department. So you  
25 can appeal it.



1 And I do appreciate everybody's time, testimony.

2 And then for people who may not feel like they're  
3 in, by all means we'll have the engineer go out, like Bill  
4 said, and make sure that this is actually correct.

5 But we don't do a whole preliminary with a lot of  
6 engineering, if the Board decided to say no, because then I  
7 have a cost that I have to figure out how to pay for if the  
8 Board turns it down. It's very preliminary, this is what we  
9 came up with.

10 I appreciate everybody's time. Make sure we get  
11 some addresses, and we'll be more than happy to come out and  
12 visit with you and walk your property and talk it through.

13 So thank you.

14 BOARD CHAIR BILL CARGO: One of the things, and I  
15 don't think this makes any difference, I noticed we had an  
16 email. So I wanted to note that Gary and Rita VanderVen from  
17 9491 Lakeshore Drive, did write an email saying that this is  
18 an ongoing problem with regard to the drainage.

19 Motion to adjourn? Everyone agree?

20 BOARD SECRETARY JOSH WESTGATE: Agree.

21 BOARD MEMBER RICH VANDERKLOK: I agree.

22 BOARD CHAIR BILL CARGO: Without objection, the  
23 Board of Determination is adjourned.

24 (Board of Determination adjourned at 4:50 p.m.)

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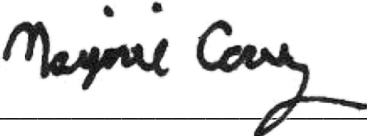
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COUNTY OF OTTAWA )

I certify that this transcript, consisting of 42 pages, is a complete, true, and correct record of the SHELDON DUNES NO. 2 DRAIN - BOARD OF DETERMINATION, held on November 17, 2022.

DATE: November 28, 2022



\_\_\_\_\_  
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