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STATE OF MICHIGAN
COUNTY OF OTTAWA

IN RE: SMITHFIELD ESTATES DRAIN
BOARD OF DETERMINATION

Proceedings commenced at 11:00 a.m., on Wednesday,
April 18, 2019, at the Holland Charter Township, 353 North
120th Avenue, 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, Chief Deputy to Water Resources Comm.
- Ms. Stacy Hissong,
Attorney for Ottawa County Water Res. Commission

- Mr. Bill Cargo, Board Chairman
- Mr. Ken Souter, Board Secretary
- Mr. Larry Bruursema, Board Member

- Mr. Steve Bulthuis, Manager, Holland Charter Township

- Mr. Ken Bosma, P.E., Engineer, Prein & Newhof

- Mr. Jerry Olman, Ottawa County Road Commission

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Holland, Michigan

April 18, 2019 - 11:00 a.m.

PROCEEDINGS

WATER RESOURCES COMM. JOE BUSH: Good morning.

We're here at Holland Township this morning for a petition that the Ottawa County Water Resources Commissioner received from the Township to establish an orphan drain, also known as the Smithfield Estates Drain, but it is not currently a drain.

So we're here for a public hearing, a Board of Determination. And I guess we have no guests, so we have no explanation because we've been through these multiple times.

So I'll just go ahead and announce who is in the room for the court recorder.

We have a Board of Determination that is appointed by me. And that board consists of Ken Souter, Bill Cargo, and Larry Bruursema.

And then we have Margie, who is our court recorder.

We have our Township Manager Steve Bulthuis. And Ken Bosma is from Prein & Newhof, he's the one that actually put the drain district or the watershed together and will do a small presentation on why we're here, and why it got petitioned. Because currently again I'll state it's an orphan.

And then we also have Stacy Hissong here to join us

1 who is legal counsel for the Michigan Association of County
2 Drain Commissioners. And also she represents me on a lot of
3 different various issues.

4 Also Jerry Olman from the Road Commission. And one
5 of my favorite staff, Chad is my chief deputy. And he's
6 fairly new, but he's learning quickly.

7 So again I'll give these three-panel board members
8 the oath and then they'll run the meeting. And we'll just
9 try to make this as brief and short as possible, but do our
10 legal stuff at the same time through Drain Code.

11 So I'll go ahead and give the oath and they'll run
12 the meeting.

13 Gentlemen, please rise, raise your right hand.

14 Do each of you solemnly swear to faithfully perform
15 and discharge the duties imposed upon you as members of the
16 Board of Determination appointed by the Water Resources
17 Commissioner of Ottawa County to determine the necessity of
18 drainage improvements in a certain drain to be known and
19 designated as the Smithfield Estates Drain in the Township of
20 Holland in said County as required by law, gentlemen?

21 BOARD MEMBER BILL CARGO: I shall.

22 BOARD MEMBER KEN SOUTER: I do.

23 BOARD MEMBER LARRY BRUURSEMA: I so.

24 BOARD MEMBER BILL CARGO: We'll start with the
25 election of a chairperson.

1 Do I have a motion?

2 BOARD MEMBER LARRY BRUURSEMA: I nominate -- what's
3 the name?

4 BOARD MEMBER BILL CARGO: Bill.

5 BOARD MEMBER LARRY BRUURSEMA: Bill Cargo. Sorry.

6 BOARD MEMBER KEN SOUTER: I second that motion.

7 BOARD MEMBER BILL CARGO: We have the motion, we
8 have support. And so I'm not going to have any discussion on
9 this.

10 I'll in favor, say aye.

11 BOARD MEMBER LARRY BRUURSEMA: Aye.

12 BOARD MEMBER BILL CARGO: Aye.

13 BOARD MEMBER KEN SOUTER: Aye.

14 BOARD MEMBER BILL CARGO: Opposition?

15 There isn't any on that. And I will chair the
16 meeting.

17 And then I will make a motion to have Ken be the
18 secretary of this Board of Determination.

19 Do I have support?

20 BOARD MEMBER LARRY BRUURSEMA: I'll support that.

21 BOARD CHAIRPERSON BILL CARGO: Larry provides
22 support. Again, I don't think there is need for any
23 discussion.

24 All in favor for Ken being the secretary of this
25 Board of Determination, say aye.

1 BOARD MEMBER LARRY BRUURSEMA: Aye.

2 BOARD CHAIRPERSON BILL CARGO: Aye.

3 BOARD MEMBER KEN SOUTER: Aye.

4 BOARD CHAIRPERSON BILL CARGO: Opposed?

5 There is no opposition, so you were unanimously
6 elected.

7 The rules of public comment are unnecessary to go
8 over since I don't see any members of the public here.

9 That said, the first thing I'm going to ask is if
10 there are any comments from Holland Charter Township? I see
11 that their superintendent Steve is here.

12 Steve, if you have any comments, please make them.

13 HOLLAND CHARTER TOWNSHIP SUPERINTENDENT STEVE

14 BULTHUIS: Yep, I just want to state that the Township is
15 continuing this process of bringing orphan drains under the
16 jurisdiction of the Water Resources Commissioner's office,
17 and this hearing today is another step in that process.

18 And just to also let you know the Township has not
19 received any complaints regarding this drain.

20 BOARD CHAIRPERSON BILL CARGO: Okay.

21 That said I also notice we have somebody here from
22 the Ottawa County Road Commission.

23 Jerry, do you have any comments that you'd like to
24 make regarding establishing this drain?

25 OTTAWA COUNTY ROAD COMMISSION JERRY OLMAN: I'm

1 Jerry Olman with the Road Commission.

2 I'm not aware of any issues with the drainage, but
3 the Road Commission is in favor of turning over the storm
4 sewer to the Water Resources Commissioner.

5 BOARD CHAIRPERSON BILL CARGO: That said, we also
6 have Ken Bosma here from Prein & Newhof, the engineer for
7 this project works with the Ottawa County Water Resources
8 Commissioner.

9 Since we don't have any public here, I'm going to
10 ask that you give a very brief overview of your presentation.

11 ENGINEER KEN BOSMA: Okay. Thank you.

12 Just real quickly. I think the biggest part to
13 understand is what is involved in this district that we've
14 defined, and you can see that there are four different plats,
15 three of them related to Smithfield Estates and Palomar that
16 are all from that mid '90s and earlier area that we talked
17 about why orphan drain systems are here in the Township
18 today.

19 And then this is the district that we have defined
20 going through construction drawings and using the County GIS
21 system. You can see kind of in blue outline what we would
22 consider the route and course of the drainage system that
23 would be included. There is an aerial of that.

24 And then the rest is as we've discussed with other
25 orphan drains.

1 BOARD CHAIRPERSON BILL CARGO: Appreciate it, Ken.
2 We will open and take public testimony. I do
3 believe we have some written correspondence.

4 Ken, could you read into the record who has sent a
5 letter and kind of the gist of the letter?

6 BOARD SECRETARY KEN SOUTER: We basically got a
7 letter from Robert Witteveen, and it does not say in here
8 what lot he owns.

9 But what the gist of the letter is, and that's
10 good, is the fact that basically saying there is no problem
11 with the water there. They had had at one time a little
12 water in their sump pump that ran for awhile, but they have
13 not had any problems, which is a good thing.

14 And then the rest of the letter basically is
15 objecting to this procedure because of the fact that he's
16 afraid that additional taxes, unneeded taxes are going to
17 come on the property owner, this type of thing.

18 So that's the way I -- what I just read into the
19 letter.

20 BOARD CHAIRPERSON BILL CARGO: And the letter will
21 also be made part of the public record.

22 BOARD SECRETARY KEN SOUTER: Yeah, I would like to
23 have that made part of the public record.

24 BOARD CHAIRPERSON BILL CARGO: That said, I'm going
25 to make at least the request, is there anybody from the

1 public who would like to make any comments?

2 Seeing that there are no members of the public
3 wanting to make any comments, I will close the public comment
4 portion of this hearing.

5 And we'll move directly into the discussion.

6 Larry, I'll start with you again, do you have any
7 comments regarding bringing this drain into the County
8 system?

9 BOARD MEMBER LARRY BRUURSEMA: I have no comments,
10 but if -- does the district have a problem now?

11 BOARD CHAIRPERSON BILL CARGO: I don't believe it
12 has any issues that we have been made aware of. In fact we
13 heard from one member and the letter is that there are no
14 problems with this. But we're bringing this into district
15 for purposes of future maintenance that may need to occur so
16 that public monies can be spent.

17 BOARD MEMBER LARRY BRUURSEMA: Okay.

18 BOARD SECRETARY KEN SOUTER: Well, Bill, you know
19 me on these type things. I think it's the best thing that
20 can happen to this subdivision is to get their storm water
21 system into the County drain system so they have somebody to
22 repair it if something goes wrong. So I'm in favor of this
23 kind of thing.

24 BOARD CHAIRPERSON BILL CARGO: Okay. And I tend to
25 agree that orphan drains could become a problem if they're

1 not brought underneath the responsibility of some public
2 entity.

3 I think everybody understands when this subdivision
4 was created they assumed that this drain was part of the
5 public system. Because we have a legal opinion that it was
6 not, we're going through process of bringing it in.

7 So for the -- with regard to the decision, I will
8 make a motion that the location, establishment, and
9 construction, health and convenience -- excuse me, I will
10 make a motion that the location, establishment, and
11 construction of the Smithfield Estates Drain is necessary and
12 conducive to the public health, convenience or welfare.

13 Is there support for that motion?

14 BOARD SECRETARY KEN SOUTER: Support.

15 BOARD MEMBER LARRY BRUURSEMA: Support.

16 BOARD CHAIRPERSON BILL CARGO: I'll take Ken as
17 being slightly ahead of Larry on that.

18 BOARD MEMBER LARRY BRUURSEMA: That's all right.

19 BOARD CHAIRPERSON BILL CARGO: So we have a motion
20 and support.

21 Any further discussion?

22 BOARD SECRETARY KEN SOUTER: No.

23 BOARD CHAIRPERSON BILL CARGO: And there is none.

24 So all in favor, say aye.

25 BOARD MEMBER LARRY BRUURSEMA: Aye.

1 BOARD CHAIRPERSON BILL CARGO: Aye.

2 BOARD SECRETARY KEN SOUTER: Aye.

3 BOARD CHAIRPERSON BILL CARGO: All opposed?

4 And so this is then approved. The motion is
5 approved.

6 That said, I don't think we need to talk about the
7 appeal process or to have any closing statement by the Water
8 Resources Commissioner. So I will make -- without objection,
9 is there any objection to closing this public hearing and
10 adjourning this meeting?

11 BOARD MEMBER LARRY BRUURSEMA: I just have one
12 question regarding the previous subdivisions. What happened
13 there, the drainage there? Has that been done?

14 BOARD CHAIRPERSON BILL CARGO: You mean the other
15 ones on the side? I'm not sure.

16 BOARD MEMBER LARRY BRUURSEMA: This is the third
17 subdivision of this project, right?

18 BOARD CHAIRPERSON BILL CARGO: This area right here
19 (indicating), has this been -- is this part of the County?
20 Have you looked to the, what would that be, to the --

21 ENGINEER KEN BOSMA: It's the east.

22 BOARD CHAIRPERSON BILL CARGO: Has that subdivision
23 been brought into the drainage system yet?

24 ENGINEER KEN BOSMA: That's one of the newer ones.
25 I think that's a 433.

1 WATER RESOURCES COMM. JOE BUSH: Yes. That's a
2 433.

3 BOARD CHAIRPERSON BILL CARGO: So that's a 433.
4 They're already part of the drain.

5 ENGINEER KEN BOSMA: Yes.

6 BOARD CHAIRPERSON BILL CARGO: I appreciate that.
7 Any other questions or comments?

8 Then without objection, we will adjourn this
9 meeting. Thank you.

10 (Board of Determination concluded at 11:10 a.m.)

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CERTIFICATION OF COURT REPORTER AND NOTARY PUBLIC

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STATE OF MICHIGAN)
) SS
COUNTY OF MUSKEGON)

I certify that this transcript, consisting of 12 pages, is a complete, true and correct record of the Board of Determination - Smithfield Estates Drain, held in this case on April 18, 2019.

DATE: May 1, 2019



MARJORIE A. COVEY, CSR-2616
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Notary Public Expires: October 14, 2021, Muskegon County, Michigan/Acting in the State of Michigan.

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