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STATE OF MICHIGAN

COUNTY OF OTTAWA

IN RE: WURTSBORO CREEK DRAIN

BOARD OF DETERMINATION

Proceedings commenced at 11:30 a.m., on
June 28, 2022, at the Holland Charter Township Fire Station
No. 1, 131 Riley Street, Holland, Michigan, held before
Dawn M. Houghton, CSR-3071, RPR, Certified Shorthand Reporter
and Notary Public.

APPEARANCES:

Mr. Joe Bush, Ottawa County Water Resources Commissioner
Mr. Josiah Timmermans, Chief Deputy to Water Resources Comm.
Ms. Marie Snyder, Secretary

Mr. Rich VanderKlok, Board Chairman
Mr. Josh Westgate, Board Secretary
Mr. Ken Souter, Board Member

Mr. Lucas Timmer, P.E., Prein & Newhof
Mr. Ken Bosma, P.E., Prein & Newhof

Mr. Jerry Olman, Ottawa County Road Commission

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Holland, Michigan

June 28, 2022 - 11:30 a.m.

PROCEEDINGS

WATER RESOURCES COMM. JOE BUSH: Well, good morning everyone. Welcome to the Holland Township Fire Barn for the Wurtsboro Creek Drain Board of Determination.

Again, I'm Joe Bush, the Water Resources Commissioner, also known as the Drain Commissioner. Same office, just different title from when they changed the name in 2012 with the Board of Commissioners, but still the same office.

And we're here today for a Board of Determination. Some people are like, why are we here? What's this about? Is there a project? So, I'll go ahead and explain why we're here today.

We got a petition from Holland Charter Township to establish, possibly establish an orphan drain. What's an orphan drain? An orphan drain is nobody owns it. The road commission, the county, myself, or the township does not own any infrastructure or own anything in the subdivision when it comes to storm water. Whether it's enclosed pipe or open channel, nobody has jurisdiction over it.

So years ago, back in 2013 when I got elected, Holland Township put a plan together to establish so many orphan drains a year, and today, we actually have five of

1 those that we're doing. We're on Number 3 today of orphan
2 drains and holding a Board of Determination.

3 So, a petition either comes from the people, the
4 road commission, or the township, and the township has been
5 petitioning these, like I said, for -- we do about anywhere
6 from five to seven or eight a year, establishing these orphan
7 drains that are older with possible failing infrastructure.

8 This particular case, I don't know of any issues in
9 this one, and I don't think the presentation later from Prein
10 & Newhof, I don't believe they have any known issues to them
11 either when they went out and did a field inspection and a
12 preliminary inspection of the overall system.

13 What Prein & Newhof usually does is go in and look
14 at the plat, look at when it's established, and do an overall
15 view of the files to see if there's any issues currently or
16 has there been issues.

17 These older plats, they just become orphans over
18 the years. If it was done in today's standards, this would
19 be a county drain, if the same subdivision was developed
20 today. If you drive around Holland Township, you see a lot
21 of subdivisions. Those are all under my jurisdiction moving
22 forward, so somebody can call somebody to fix infrastructure
23 or if they have issues.

24 Right now, if you call the township, they say,
25 well, not ours, call the road commission. If you call the

1 road commission, well, it's an orphan, you might want to call
2 Joe, myself, call the county. People call me. I don't like
3 people getting the run-around. Nice to get these under one
4 jurisdiction. Then we all work together to come up with a
5 solution down the road.

6 So, again, we appreciate you taking the time this
7 morning to learn about why you're here. Everybody in the
8 watershed or drain district in the red on the map got a
9 notice to be here today. Sometimes we get a lot of people,
10 sometimes we don't, because if there's not issues, usually a
11 lot of people don't really participate because they know that
12 there's not an issue.

13 The infrastructure is already in the ground. We
14 don't have a project. Some people say, well, what's the
15 cost? Well, there is no cost today because there's no
16 project.

17 What this board -- and I have to appoint a
18 three-panel board. These three gentlemen have been doing
19 these Board of Determinations for several years, some more
20 than others, but they definitely understand why -- what their
21 reasoning is to be here today, and it's to see if there's a
22 necessity to make this a county drain or not.

23 They're not here to say, hey, there's a cost to
24 this. They're not here to say, well, we're going to have a
25 project. That's not their job. By Drain Code, it's totally

1 about is it a necessity or not to make this under the Ottawa
2 County Water Resources Commissioner's jurisdiction moving
3 forward.

4 That being said, today's meeting is recorded, so we
5 have a court reporter at every one of these. I've been doing
6 this since 2013, and that is for the protection of everybody.
7 Whether it's the people in the audience, whether it's the
8 Board, myself, the engineer, anybody else who talks, we can
9 always use this to reference down the road.

10 If you have five, eight, seven years down the road,
11 you go, hey, what did so-and-so say, it's always good to go
12 back. Because I use that almost weekly to go back and read
13 minutes from previous Board of Determinations to figure out
14 what happened, what was said, what was the testimony, what
15 did the engineering firm say, and why did we determine it
16 necessary or not.

17 Sometimes we forget over time, so it's always good
18 to have a court reporter, which is not required by state law,
19 but I do it just to have that in writing, word for word, on
20 what's being said today. So we do have Dawn Houghton here.
21 And again, she's our court reporter.

22 And then we do have Prein & Newhof, and the two
23 engineers here today is Ken Bosma and Lucas Timmer.

24 And then we always have the road commission. They
25 seem to be at every one of these. Jerry Olman is from the

1 road commission, and he kind of goes through and says is the
2 road commission in favor or not in favor of, or we have
3 issues, so he's here today to give public testimony.

4 We have two of my staff, Josiah Timmermans, chief
5 deputy, and my secretary is Marie Snyder. So we love having
6 our staff to help out.

7 These three gentlemen, again, their sole
8 responsibility is to see if it's necessary or not to move
9 forward with making it a county drain, again, not a project,
10 not a cost.

11 Prein & Newhof will do a brief overview of that
12 with a PowerPoint. But once I give these three gentlemen the
13 oath, they will run the meeting. Any questions will be to
14 them. And they're more than happy to ask anybody, whether
15 it's me or the engineers, for a response to any questions.

16 VICTORIA ABUD: Do you have a handout or notes that
17 we could toggle through?

18 WATER RESOURCES COMM. JOE BUSH: Yes.

19 VICTORIA ABUD: Thank you.

20 WATER RESOURCES COMM. JOE BUSH: No problem.

21 There's an agenda there.

22 VICTORIA ABUD: Thank you very much.

23 WATER RESOURCES COMM. JOE BUSH: And there's a
24 handout. Lucas, want to give her a handout to follow?

25 VICTORIA ABUD: Thank you.

1 WATER RESOURCES COMM. JOE BUSH: Yes, that's fine.

2 VICTORIA ABUD: We are property owners. We own a
3 rental unit on 132nd, so I think we're the only ones here.

4 WATER RESOURCES COMM. JOE BUSH: That's fine. We
5 appreciate you being here to learn and listen and have any
6 questions.

7 VICTORIA ABUD: Thank you.

8 WATER RESOURCES COMM. JOE BUSH: By all means,
9 we're happy to answer them.

10 So then, at this time, I guess I'll go ahead and
11 give these three gentlemen the oath, and then they'll run the
12 meeting from here on out.

13 Gentlemen, please rise. Do you each solemnly swear
14 that you will faithfully perform and discharge the duties
15 imposed upon you as required by law as members of Board of
16 Determination, appointed by the Ottawa County Water Resources
17 Commissioner, to determine the necessity to locate,
18 establish, and construct the proposed Wurtsboro Creek Drain
19 located in Holland Charter Township in said county;
20 Gentlemen?

21 BOARD MEMBER RICH VANDER KLOK: I will.

22 BOARD MEMBER KEN SOUTER: I do.

23 BOARD MEMBER JOSH WESTGATE: I do.

24 WATER RESOURCES COMM. JOE BUSH: Thank you.

25 BOARD MEMBER RICH VANDER KLOK: Okay. Thank you,

1 Joe.

2 Our first order of business is the election of a
3 chairperson. Is there a motion?

4 BOARD MEMBER JOSH WESTGATE: I'll make a motion to
5 appoint Rich VanderKlok chairman of the Determination.

6 BOARD MEMBER KEN SOUTER: I'll support that motion.

7 BOARD MEMBER RICH VANDER KLOK: Motion made and
8 supported that Rich VanderKlok be appointed chair.

9 All those in favor, say aye.

10 BOARD MEMBER JOSH WESTGATE: Aye.

11 BOARD MEMBER RICH VANDER KLOK: Aye.

12 BOARD MEMBER KEN SOUTER: Aye.

13 BOARD CHAIR RICH VANDER KLOK: That's carried.

14 And then we have the election of secretary. Is
15 there a motion?

16 BOARD MEMBER KEN SOUTER: Yeah, I'll move that --

17 BOARD CHAIR RICH VANDER KLOK: Josh.

18 BOARD MEMBER KEN SOUTER: -- Josh, sorry, Josh, I
19 make a motion that Josh serve as secretary.

20 BOARD CHAIR RICH VANDER KLOK: And I will support
21 that. Motion is made and supported that Josh serve as
22 secretary.

23 All those in favor, say aye.

24 BOARD MEMBER JOSH WESTGATE: Aye.

25 BOARD CHAIR RICH VANDER KLOK: Aye.

1 BOARD MEMBER KEN SOUTER: Aye.

2 BOARD CHAIR RICH VANDER KLOK: And opposed? That's
3 carried.

4 Then I will make the motion for public comment,
5 we'll have an opportunity for the public to make comment, a
6 three minute time limit, and I'll make that motion.

7 BOARD SECRETARY JOSH WESTGATE: I'll support.

8 BOARD CHAIR RICH VANDER KLOK: Moved and supported
9 that public comment be limited to three minutes.

10 All those in favor, say aye.

11 BOARD SECRETARY JOSH WESTGATE: Aye.

12 BOARD CHAIR RICH VANDER KLOK: Aye.

13 BOARD MEMBER KEN SOUTER: Aye.

14 BOARD CHAIR RICH VANDER KLOK: That's carried.

15 The Board has already -- we've already had the
16 outline of the function of the Board that Joe gave us, and so
17 now I'm going to turn it over for the engineering
18 presentation.

19 ENGINEER LUCAS TIMMER: Thank you, Board.

20 My name is Lucas Timmer. I'm an engineer with
21 Prein & Newhof out of Holland. We were hired by the Ottawa
22 County Water Resources Commissioner to do the preliminary
23 engineering work that's needed for today's Board of
24 Determination of the Wurtsboro Creek Drain.

25 So, the Wurtsboro Creek Drain is an orphan drain

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

6 So, essentially, as Joe mentioned, no county or
7 township entity owns that storm sewer system or that
8 detention pond system, and this, in a sense, is a legal
9 formality that's giving that existing infrastructure and
10 transferring it, then, over to the county system so there's
11 someone responsible for it.

12 So, Holland Township filed a petition to establish
13 a drainage district on March 3, 2022, and we are here today
14 as part of the Michigan Drain Code process, and we're
15 required to have this Board of Determination, then, where we
16 notify everybody in the drainage district, the township, and
17 the county about this becoming a possible new county drain.

18 So, the first thing that we do is we review utility
19 record drawings, so we look at the water main, the sanitary
20 sewer, the storm sewer, and the road plans for that
21 neighborhood when that neighborhood was put in.

22 We also look at the plat maps. So Wurtsboro Creek
23 is the plat, and Wurtsboro Creek was established in 1995.
24 And as Joe mentioned, typically subdivisions after 1995 go
25 through the formal process to have their infrastructure

1 established as county drains. Oftentimes, subdivisions
2 before 1995 didn't go through that formal process to become a
3 county drain, and then those are considered orphans.

4 So we were then hired to delineate the drainage
5 district or watershed boundary, and we did that by using
6 county GIS contour data, which is one-foot counter --
7 one-foot contours, and we also then look at aerial maps to
8 determine where our watershed boundary should be. After
9 that, we then visit the site to locate drain infrastructure
10 and confirm the drainage patterns that we determine from our
11 GIS program.

12 So here's the drainage district map. We also have
13 a large map in the back that you guys can look at following
14 the presentation. The drainage district map shows existing
15 infrastructure in Wurtsboro Drive that flows to the east to a
16 detention pond located at the southeast corner of the
17 neighborhood. This detention pond, then, overflows through a
18 storm sewer into Drain Number 8, which is the open drain
19 creek that's running along the west side there of 132nd.

20 So Drain Number 8 is its own entity. It's not --
21 it's a separate drain and a separate drainage district, so
22 that portion of that drain is not being established under
23 this drain. We're only establishing that storm sewer.

24 There's also a storm sewer in Wurtsboro Drive right
25 near 132nd that takes flow from the north, and then it

1 crosses Wurtsboro Drive, then flows through a ditch, and ends
2 up getting into Drain Number 8 further south.

3 The red boundary here is the drainage district
4 boundary, which is the watershed boundary, so this land
5 within this drainage district is considered contributing
6 runoff to the drainage district. We also have easements.
7 You can see a large pond easement that was established as
8 part of the plat establishment.

9 So, following this, we'll have time for public
10 testimony. The Board will then determine the necessity of
11 the petition based on health, welfare and/or convenience. If
12 deemed necessary by this Board, that existing system that was
13 put in as part of the Wurtsboro Creek plat will become a
14 county drain, so then they'll have a government entity
15 attached to it to help maintain it.

16 If deemed not necessary by the Board, then no
17 further action would occur. That system, then, would still
18 continue to be an orphan system, or no government entity has
19 the legal attachment to that drain.

20 So this is the most likely situation here. If the
21 drain is deemed necessary by the Board and there's no
22 drainage issues that are brought up during public testimony,
23 then what will happen is Holland Township, Ottawa County, and
24 Ottawa County Road Commission will pay all costs of
25 establishing this as a county drain.

1 However, in the future, if this drain is deemed
2 necessary by the Board, and we either find out today in
3 public testimony from you guys that there are issues, or
4 following public testimony we find out that there are issues
5 with the existing system, then what would happen is we'd go
6 through a project design, and we would then have to acquire
7 easements, if needed.

8 Upon completion of the design, the project will be
9 let out to contractors for public bid. After the project is
10 bid, project costs then are determined, and those costs will
11 then be sent out through the Day of Review apportionments
12 process.

13 Construction then would commence on the project,
14 and all those costs, then, would be assessed to Holland
15 Township, Ottawa County, the Ottawa County Road Commission,
16 and also to the parcels as a special assessment within that
17 drainage district boundary. So it would be split between
18 those different entities who would pay for that project.

19 If drainage issues occur in the future, then a
20 petition would be needed if the costs are greater than \$5,000
21 per mile. So we'd go through a similar process as today. If
22 a big project were ever needed, a petition would be given by
23 either the property owners or the township, and we'd have
24 another Board of Determination like today, and the residents
25 would be informed of that.

1 And any sort of future assessments for all future
2 projects would also still be made to Ottawa County, the road
3 commission, the township, and property owners. So, if a
4 large project ever happened 50 years from now, those costs
5 then would be assessed to those entities.

6 So, that's the end of my presentation. Thank you.

7 BOARD CHAIR RICH VANDER KLOK: Okay. Thanks,
8 Lucas.

9 BOARD MEMBER KEN SOUTER: Okay. Might as well get
10 it over with. You show everything within red as being in
11 this particular district?

12 ENGINEER LUCAS TIMMER: Correct.

13 BOARD MEMBER KEN SOUTER: Now, we have lands that
14 are within the subdivision that are not included in this,
15 which are back yard areas?

16 ENGINEER LUCAS TIMMER: Correct.

17 BOARD MEMBER KEN SOUTER: Is there -- does that
18 drain to a different drain?

19 ENGINEER LUCAS TIMMER: Yeah.

20 BOARD MEMBER KEN SOUTER: Okay. So, that would be
21 included in a different drainage district, so the back yards
22 of the drains on the south would drain probably to that storm
23 sewer that is in the back there, which is or is not a county
24 drain?

25 ENGINEER LUCAS TIMMER: That's a good question.

1 So, the Randall Bos Drain infrastructure here is considered a
2 county drain, so the back yards here for these homes on the
3 south side of Wurtsboro would go into the Randall Bos Drain.

4 BOARD MEMBER KEN SOUTER: Okay.

5 ENGINEER LUCAS TIMMER: The homes on the north side
6 here would go into the Country Creek drain which we
7 established last year.

8 BOARD MEMBER KEN SOUTER: Okay.

9 ENGINEER LUCAS TIMMER: And then the homes along
10 the west side of 132nd, their back yards go into the ditch
11 for Drain Number 8.

12 BOARD MEMBER KEN SOUTER: Okay. Very good.

13 ENGINEER LUCAS TIMMER: Thanks, Ken.

14 BOARD CHAIR RICH VANDER KLOK: Thank you, Lucas.

15 Jerry, do you have any comments that you want to
16 make before public comment time commences?

17 ROAD COMMISSION JERRY OLMAN: Yeah, same with this
18 one here, the road commission isn't aware of any issues in
19 the roadway where the storm sewer is at, so -- and we are in
20 favor of establishing this for -- establishing this direct
21 and have the storm sewer become a county system.

22 BOARD CHAIR RICH VANDER KLOK: Okay. Thank you,
23 Jerry.

24 Now we'll open it to public comment. If you'd like
25 to make a comment, we'd ask that you state your name, give us

1 your address, and then identify whether you live or have land
2 in the drainage district. And so if you'd like to --

3 VICTORIA ABUD: I guess we're the only ones. Okay.
4 I'm Victoria Abud. This is my husband Ken Abud.

5 BOARD CHAIR RICH VANDER KLOK: Your address,
6 please.

7 VICTORIA ABUD: Yes, it's 2955-57 132nd. It's a
8 duplex. And we are the owners. It is a rental property.

9 BOARD CHAIR RICH VANDER KLOK: Okay.

10 VICTORIA ABUD: Okay. If I'm hearing you clearly,
11 if we establish that there are no issues, and you decide
12 still to go forward, it would not be a cost to the home
13 owners; is that correct?

14 BOARD CHAIR RICH VANDER KLOK: Correct.

15 VICTORIA ABUD: Okay. We're not aware of any. How
16 many years have we owned the property?

17 KENNETH ABUD: Almost 20.

18 VICTORIA ABUD: 20 years, and there's been no
19 flooding, no issues, no damp back yards.

20 BOARD CHAIR RICH VANDER KLOK: Sure.

21 VICTORIA ABUD: And I'm assuming there's no
22 representation here. There's a lot of owners here. I don't
23 know why we're the only ones. I guess --

24 BOARD CHAIR RICH VANDER KLOK: Obviously, we can't
25 answer that question.

1 VICTORIA ABUD: All right. Okay. So, that's our
2 take on it.

3 BOARD CHAIR RICH VANDER KLOK: Okay. Good. Thank
4 you. Does your husband want to make any comments?

5 KENNETH ABUD: No. Thanks.

6 BOARD CHAIR RICH VANDER KLOK: All right. Then I
7 would move that public comment be closed.

8 BOARD SECRETARY JOSH WESTGATE: I'll support.

9 BOARD CHAIR RICH VANDER KLOK: Moved and supported
10 to close public comment time.

11 All those in favor, say aye.

12 BOARD SECRETARY JOSH WESTGATE: Aye.

13 BOARD CHAIR RICH VANDER KLOK: Aye.

14 BOARD MEMBER KEN SOUTER: Aye.

15 BOARD CHAIR RICH VANDER KLOK: And that's carried.

16 And now the Board, in terms of our decision.

17 BOARD MEMBER KEN SOUTER: Well, I see that, I mean,
18 I thought maybe I could trap him that they didn't have an
19 answer for me, but they did. Everything seems to be included
20 in -- within county drains other than the storm sewer system
21 and pond system there, so I'm always in favor of getting
22 those within the jurisdiction so somebody's responsible for
23 them.

24 BOARD CHAIR RICH VANDER KLOK: Sure. Josh?

25 BOARD SECRETARY JOSH WESTGATE: I'm going to agree

1 with everything that was just said. It makes sense to pull
2 this into the county drainage system, and it looks like a
3 well-constructed system. We don't see any issues at this
4 time, but it's a great protection to all the residents in the
5 future if there would be an issue.

6 BOARD CHAIR RICH VANDER KLOK: Okay. Good.

7 Then I would make the motion that the location,
8 establishment and construction of the proposed Wurtsboro
9 Creek Drain, as petitioned on March 3, 2022, is necessary and
10 conducive to the public health, convenience or welfare.

11 BOARD SECRETARY JOSH WESTGATE: I'll support that.

12 BOARD CHAIR RICH VANDER KLOK: Motion is made and
13 supported.

14 All those in favor, say aye.

15 BOARD SECRETARY JOSH WESTGATE: Aye.

16 BOARD CHAIR RICH VANDER KLOK: Aye.

17 BOARD MEMBER KEN SOUTER: Aye.

18 BOARD CHAIR RICH VANDER KLOK: That motion is
19 carried. And, Joe, do you want to say anything about the
20 appeal process?

21 WATER RESOURCES COMM. JOE BUSH: Yeah, you can
22 appeal today's Board of Determination with circuit court.
23 You have ten days from today if you want to appeal it. And
24 again, that's through circuit court. And I appreciate you
25 taking the time this morning.

1 And then, to answer your question, why aren't more
2 people here, typically, on these orphans, a lot of people
3 don't show up because they don't have issues. If they have
4 issues, they are here. They're usually the ones petitioning.

5 So, with these orphans, everybody does, by law,
6 have to notify everybody in the drain district of this
7 notice, so they all got notices. Sometimes they don't open
8 them. Sometimes it's not a priority at the moment. So I
9 understand. But with no known issues in here, typically, you
10 know, nobody really shows up.

11 So that's all I have, Board. So, thank you.

12 BOARD CHAIR RICH VANDER KLOK: Okay. Thank you.

13 VICTORIA ABUD: Can I go ahead?

14 BOARD CHAIR RICH VANDER KLOK: Go ahead.

15 VICTORIA ABUD: I just had one more question. So,
16 it's my understanding you are going to move forward, but it
17 will not be an assessment to the home owners. It's just for
18 the welfare of the general vicinity?

19 BOARD CHAIR RICH VANDER KLOK: That's correct.

20 VICTORIA ABUD: Okay. And is it down the road, or
21 what would that mean like in terms of property like the back
22 yard? I guess I'm saying that major tear-up, or how does
23 that -- how will that happen?

24 ENGINEER KEN BOSMA: So, right now, again, there's
25 no issues. It just depends where the issues would occur if

1 something ever had to be done. If we don't have easement
2 rights, if there's nothing there, nothing will be done.

3 But if need be, then they would have to contact
4 everyone if easements needed to be obtained for whatever
5 reason. But, again, without any issues, and until the issues
6 arise, we wouldn't know what that process would be.

7 VICTORIA ABUD: Good. Thank you.

8 BOARD CHAIR RICH VANDER KLOK: All right. You're
9 welcome.

10 And I would declare that we are adjourned.

11 (Board of Determination adjourned at 11:51 a.m.)

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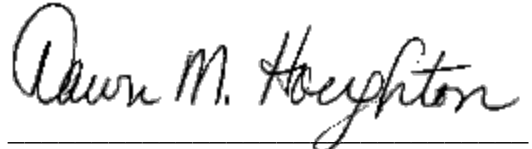
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CERTIFICATE OF COURT REPORTER AND NOTARY PUBLIC

STATE OF MICHIGAN)
) SS
COUNTY OF KENT)

I certify that this transcript, consisting of 21 pages, is a complete, true and correct record of the Board of Determination - Wurtsboro Creek Drain, held on 06/28/2022.

DATE: July 12, 2022



Ms. Dawn M. Houghton
Michigan License CSR-3071
Certified Shorthand Reporter
Registered Professional Reporter
Illinois License 084.004881
Wisconsin License 20109559
Oregon License 20-0469

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