

DRAINAGE MEETING
DISTRICT GRANT #5
JULY 26, 2021

The Story County Drainage District Trustees met in the Public Meeting Room of the Story County Administration Building in Nevada, IA to present a reclassification of Drainage District Grant #5 to district landowners and consider adopting it as the basis for future assessments. Members present were Lisa Heddens, chair, Latifah Faisal, and Linda Murken. Also present were Story County Outreach and Special Projects Manager Leanne Harter and Drainage Clerk Scott Wall, Drainage Engineers Kent Rode and Tyler Conley of Bolton and Menk, Inc., County Engineer Darren Moon (attending virtually), 11 landowners in person (see attached), and 5 landowners attending virtually (Joyce Cofer, Rsporrer, David Damerrel, Susan, and Donna).

Heddens called the meeting to order at 6:00 p.m.

Faisal moved, seconded by Murken, to approve the agenda. Motion carried unanimously (MCU).

Rode summarized the contents of the Commissioner's Report: Reclassification of Benefits (on file in the Story County Auditor's Office). Following a recent court case, the annexation of additional lands into Grant #5 is complete. The next step is to assign new benefits to drainage to the annexed properties as well as re-evaluating the benefits to existing properties in Grant #5. The original classification treats Grant #5 as a single entity. The costs of work done anywhere in the district are shared by all landowners in the district. The reclassification breaks Grant #5 into 5 sub-districts: the open ditch, the main tile, and lateral tiles A, B, and C. Under the reclassification landowners will only pay for work that benefits them. For instance, the cost of any work done on the open ditch is shared by all properties in the district because they all use the open ditch but work done on Lateral Tile A will only be paid by properties that use that lateral tile. When Grant #5 was originally established most of the classification was determined by commissioners walking the district and making decisions on how much each parcel benefitted through direct observation. Today the process is much more technical, utilizing soil maps, LIDAR, survey data, and GIS.

Conley pointed out that there are 5 tile districts that are encompassed within Grant #5's boundaries that use the Grant #5 ditch as their outlet. Each of these districts have their own classification for their tiles and those classifications are not a part of the Grant #5 reclassification.

Rode listed the 5 primary factors that were considered in reclassifying Grant #5. They are benefitted acres, wetness, proximity, facility use, and runoff.

Conley showed a series of maps illustrating how each factor is calculated for each property in the district and how the factors are combined to arrive at each property's benefits to drainage. Elevations are key to all of this and Bolton & Menk use LIDAR flown by the State of Iowa to determine those elevations. The claimed accuracy of the state LIDAR coverage is 6" per square meter. While LIDAR can struggle with water bodies the state coverage is quite accurate for elevations within that coverage relative to each other. The elevation determines the watershed boundary for the district and the area of each parcel that falls within the district. This is the area (or acres) factor. The elevation data is also used to create flow paths which show the direction surface water moves across the district and help in determining the proximity and facility use factors.

The second factor, wetness, is determined by soil types as taken from USGS soil survey maps. The hundreds of soil types are combined to create 4 classifications of wetness, each of which is assigned a

value – high (20), low (50), wet (75), and swamp (100). The numbers within each parcel are then averaged to create a wetness factor for that parcel.

The third factor is proximity to a district facility. The farther a parcel lies from a district facility the more a landowner must do to get their water to that facility and the less they benefit from that facility. This yields a second number which describes the ratio of each parcel's proximity to the district facilities relative to the other parcels in the district.

Fourth is the facility use factor or how much of the district facility any given parcel uses. Parcels on the open ditch use only the open ditch while parcels served by the tile use that tile and the open ditch. Parcels that use the entire length of the district facilities are given a factor of 1 and smaller numbers are assigned to downstream parcels as you progress towards the district outlet.

Finally, the runoff factor is based on how quickly the land sheds water. Agricultural lands are given a factor of 1. Wetlands and swamps are given a lower number because they retain water longer while developed areas, railroads, and roads are given a higher factor because they absorb little or no water.

All of these factors are multiplied together to determine the 100 parcel, the parcel which receives the most benefit to drainage in the district. All other parcels are then compared to the 100 parcel. If a parcel has a number of 40.25 that means it receives 42.5% of the benefit of the 100 parcel. This is used to determine each parcel's dollar benefit for a \$100,000 assessment. This process is then repeated for the main and lateral tiles to create assessment schedules for each of them.

Murken asked if the runoff factor reflected only current land use. What happens when the agricultural land in Ames' commercial development project is developed?

Conley said the current land use is all they have to work with. They can't speculate on potential future use. We know the area between Ames and Nevada will develop commercially but we can't say how quickly that will occur. When that, or any other area, is developed the trustees can reclassify just the altered lands without having to redo the entire district.

Murken asked if the assessments are cumulative. If you live in the northern part of Grant #5 you would be paying for the use of both the open ditch and the main tile?

Conley said if you use the main tile and both it and the ditch are repaired in the same year you would receive two assessments. Conley pointed out that the classification schedule is just a set of numbers that the trustees can change before the new classification is adopted. The final determination of benefits is made by the trustees.

Rode pointed out that the Code requires that the classification of benefits be fair and equitable. There is not much detail on how to classify drainage districts but the result must be fair and equitable and the trustees need to keep that in mind if they consider changing individual benefits.

Dave Bruns and Ron Jensen both said, based on one parcel that is a quarter mile wide and a mile long, that it looked like the larger parcels were being charged more because of their size.

Conley said on some of the maps it does appear that way but on the assessment per acre map it can be seen that this large parcel's benefit is very much in line with its neighbors. If it was four 40-acre parcels instead of a single, large parcel it would match its neighbors on the assessment per parcel map as well.

A landowner asked how they could get access to the maps being shown here.

Rode said the county could probably make them available on its website following tonight's meeting.

Wall said the maps will be too large to email to people but, in the past, Bolton & Menk has provided a link to the documents on their website which Wall can share with anyone who requests it.

Howard Hill asked if the 2020 drainage assessment was based on the same factors and process as they are being shown this evening.

Rode said that the original classification was done a long time ago and he can't know precisely how the benefits were assigned but it is a similar process. Today the process is based more on technology where 100 years ago there was more hands-on observation.

Hill said he was asking because he had a 40-acre parcel that was levied at \$5,000 last year. Does that seem reasonable? It doesn't to him.

Wall said there can be large differences between adjacent parcels depending on where the district facilities are in relation to each parcel. It's difficult to say if a particular parcel's assessment is out of line without being able to compare it to similar parcels plus we can't know what the conditions were like when the district was established.

Randy Collings asked about the claimed accuracy of the LIDAR. When was it flown?

Conley said it was taken in the spring and fall when the crops were out so the ground was bare. The state claims the accuracy to be within 6" per square meter. LIDAR does struggle with water surfaces but is pretty accurate overall. In one of the disputed areas, ground surveys showed the LIDAR to be accurate to within 4".

Ron Jensen said the recent lawsuit removed the people that are causing 90% of the problem from the annexation. Now the existing owners are footing the entire bill for problems caused by people outside the district who are paying nothing. That is why there is a petition being circulated by Randy Collings, Dave Jensen, and himself for the landowners to take over as Grant #5 trustees. There are a lot of problems in Grant #5 and we need to get some people who know what is going on out there on the ground. They are tired of having their money wasted and not getting anything.

Heddens pointed out that the issues brought to the trustees during her tenure and before came from the landowners in Grant #5. She said the landowners can become their own trustees at any time but the new trustees will still be required to follow the Code of Iowa.

Randy Collings said there has been a lack of continuity between one group of trustees and the next. The landowners in Grant #5 were told they would not be charged for the work done on the north annexation area but last year they were assessed for it. The landowners want to take over the district so they have continuity. *(Note: Randy specifically referred to a letter from Wall stating that landowners would not pay for the west tile project. What the letter actually says is that the cost of the west tile improvement will only be assessed to the properties in the west tile area. Because this project was never done there was no project to pay for. The engineering fees, however, were paid by the existing landowners. The notice Collings cited was the sixth letter to landowners. All five previous letters clearly stated that the landowners will pay all of the costs incurred by Grant #5.)*

Ron Jensen said he told the previous trustees that they should be suing every one of the people north of Grant #5 to force them to get their water flowing to the southwest, the way it's supposed to go.

Randy Collings said if the new classification goes through then the Ames Industrial Area along Lincoln Highway gets developed and paved over and dumps more water on Grant #5 will they get a refund?

Rode said there is no drainage project.

Collings said there is a development project that starts in two weeks. That is why Ames annexed all that land. They are talking about 30 acres under roofs.

Rode said the reclassification is based on zoning and that land is still zoned agricultural. While some land may be slated for development the engineer has to work with what exists today. They can't predict future land use or when that use will change. If there are changes in the future the classification can be changed to take those into account.

Wall pointed out that during his presentation Conley had alluded to the possibility that some areas of the district could have their classifications modified if the land use changes without having to reclassify the entire district.

A landowner asked what that meant after they've spent all this money on a reclassification.

Rode said the amount of work he would have to do to reclassify a small area of Grant #5 is minimal. There would be costs to the district of course, but not large costs. The altered parcels would get increased assessments and the rest of the district would see a decrease.

Collings said that is what he was asking. Would he get a refund because of the change in classification.

Wall said no because the assessments that have been sent out were for work that has already been done with the district in its current configuration under current land uses. Any change in the classification would impact future assessments.

Rode asked if there was a planned levy.

Wall said Grant #5 was levied by the trustees in May and those assessments will be mailed out sometime next week. The levy is to cover the legal fees incurred by the district to defend against three lawsuits, one of which is ongoing. It is using the current (original) classification.

Tracy Peterson, Ames City Engineer, said the city's storm water regulations reduce storm water runoff from commercial properties to less than that from agricultural lands so development of the Lincoln Highway corridor may have little to no effect on benefits to drainage. She does not think development will increase the volume of water flowing into the open ditch. It will likely decrease the flow. She believes the trustees should not make any decisions at this meeting because the landowners had not seen the maps shown by Conley tonight prior to this meeting nor had they had an opportunity to compare the original classification to the new classification.

Murken asked where the factors used in classifying the district come from. Are they in the Code? Do all drainage district engineers use the same process?

Rode said they are based on reclassifying numerous drainage districts and the Code is vague on how that process should be done. He has worked for three different firms and they have all used a similar process.

Collings asked if there was an industry standard.

Rode said there are no standards for the classification of drainage districts. A different engineer could use a totally different methodology to determine benefits to drainage.

Howard Hill owns property on South Duff Avenue in Ames and, based on his experiences with that land, he has no confidence that Ames' stormwater runoff mitigation strategies are effective.

Collings said the way drainage works is the land at the top of the district drains first, before his tiles can function to drain his land. If the city can guarantee that development along the Lincoln Highway will not add to the amount of water in the ditch – fine. If they cannot make that guarantee then they are indirectly backing up water on his land and that's a problem.

Peterson said the rate of release will be lower than it was pre-development.

Collings was not convinced. A retention pond cannot contain a 5" rain on an impervious surface.

Murken said she understands the engineers can't guess how future land use changes will impact drainage. She expects that those who are keeping an eye on what the city is doing will bring it to the trustees' attention when they feel there have been significant changes. Until then the trustees have to look at the land as it is today.

Ron Jensen reiterated that the root cause of the problems in Grant #5 is the water coming in from the north. The reclassification and everything else that has been proposed is a waste of money until that water is diverted away from Grant #5. That is 50% of the water coming into Grant #5 and it should be going into the creek that runs between Barilla and Country Landscapes. The drainage engineer for the plaintiffs showed, and the judge agreed, that water goes to the southwest. We need to get the water going the way it's supposed to go. Ron Jensen said he could have fixed this problem for free and now we've spent \$360,000 and aren't one inch closer to resolving anything. *(Note: The landowners threw out several figures for what has been spent in Grant #5. For the record the total assessments against the district since August 2015 are \$360,903.46 including the 2021 assessment which was mailed out on August 6.)*

Collings said if the trustees were truly representing Grant #5, as they should be, they would be working to get the water from the north running to the southwest and away from Grant #5 but that is not happening.

A landowner asked about the flowpaths on the maps Conley had showed earlier. They are showing the direction water is going. Is that the issue here – which way the water goes?

Ron Jensen said when they put in tile aerial photos are good for preliminary planning but when the tile gets installed it has to be on grade and the LIDAR is not worth crap. Two years ago, someone had dumped dirt 4' deep under the bridge on 570th Avenue, forcing the water that should have gone to the southwest to go southeast instead. Old aerial photos show the water used to flow to the southwest. That's why the county built the bridge. He's heard second hand that the bridge was moved at some point in the past and is now a foot higher than the original grade was before it was moved, impeding the flow of water to the southwest. The bridge used to be north of a road that went west but when that road was closed to make way for I-35 the bridge was moved south of where that road had intersected 570th.

Jensen said he's asked the County Engineer to clean out the road ditch around that bridge because that's 75% of the problem right there.

Damerell asked how the reclassification impacts past assessments. He thought he remembered hearing that the trustees could adjust past assessments.

Rode said there is no impact. Once the reclassification is accepted it becomes the basis for all future assessments but assessments based on the old classification still stand. Damerell is probably asking about the areas being annexed and the Code does allow the trustees to assess those areas for past benefits to drainage

Damerell said there had been a mention of an assessment that is coming out soon. Will that be based on the old classification or the new one?

Wall said that will be based on the old classification. The Code section that allows the trustees to levy annexed areas for past benefits could be used to levy those areas back to 2015/2016 when this all started. Prior to 2015 the trustees do not have any evidence that those areas were benefitting from the Grant #5 facilities.

Jensen said the coming assessment was for legal fees. Why wasn't the County Attorney used instead of a private attorney?

Wall said when the lawsuits were filed the County Civil Attorney's recommendation was that the district should find an attorney who was familiar with drainage district law.

Jensen asked what the legal costs were.

Wall said he didn't have that information in front of him but he could get it to Jensen tomorrow.
(\$73,438.45)

Jensen said he filed one of the lawsuits against the district so he has to pay his attorney and the district's attorney. Furthermore, his drainage bill was attached to his tax statement so he had to pay it or be delinquent on his taxes. He doesn't think that is according to law.

Wall said everyone received a separate assessment notice for drainage in 2020 but a software error caused those assessments to also appear on the property tax statements. *(Note: The software allows the county to include drainage levies on property tax statements because it is permitted by law. The Story County Treasurer does not want the drainage assessments to appear on the property tax statements but it did anyway because we had incomplete instructions from our software vendor. Regardless of that drainage assessments are a special tax and will be treated as a delinquent tax whether they are paid as part of property taxes or separately.)*

A land owner asked if the county got a loan at 6% to pay the \$360,000 from the last assessment? *(Note: The actual assessment in 2020 was for \$262,683.46.)*

Wall said the 2020 levy was to pay off debt that had been accumulating since a levy in 2016. That debt was building interest at 6%.

Jensen asked who in the world made that deal to have 6% interest?

Rode said the interest rate is set higher because contractors and engineers operate on a cash only basis. The Auditor's Office issues stamped warrants which accrue interest until there are adequate funds to pay them. Contractors and engineers typically sell those warrants to investors who will not buy them unless the interest rate is high enough to make them an attractive investment.

Collings said this all started in 2016 and the landowners were not afforded the opportunity to pay down the district's debt until 2020. Meanwhile interest on that debt was accumulating.

Ron Jensen said on top of that they were told they wouldn't have to pay for that.

Rode said the thinking at the time was that work would have progressed, the district would have been reclassified long before now, and there would have been a much earlier assessment under the new classification.

Ron Jensen said the letters from Wall stated that the engineering fees would not be paid solely by the existing owners in Grant #5 but would be spread over the existing district and the annexed areas.

Collings said they have paid for engineering outside of their district.

Rode confirmed that was correct.

Collings said that should not have happened and questioned the legality of the assessment.

Wall said that in March of 2016 Paul Toot told the landowners in existing Grant #5 that they would be liable for all expenses incurred by the district unless there was an annexation.

Murken got involved in Grant #5 two years after it all started. Every time we have a meeting and every time there is another change she thinks about the money being spent. She understands the frustration. She is frustrated too. A lot of people involved in the original discussions about diverting water to the southwest changed their minds when they saw the cost, including the original petitioners. The trustees used the county's civil attorney at no cost to the district for four years before bringing in outside counsel, at the County Attorney's recommendation, to defend the district in the lawsuits that were filed against the district. The county does not fund the drainage districts. The board of supervisors manage drainage districts as trustees for the people in those districts but the districts belong to the landowners and they pay for whatever is done

Ron Jensen said the problem when this all started was a petition was filed and the trustees hired Bolton and Menk without asking the landowners what they thought should be done. Everyone who lives out there knows where the water goes and what needs to change and he would have done it for free.

Heddens read the minutes from past meetings when she came onto the board and every time there was a meeting the landowners requested more data and additional solutions to the problems. That translated into more work for the engineer and more expense for the district.

Murken said in hindsight Grant #5 should have been levied sooner but every time the trustees met it looked like a solution was imminent. Then more issues would be raised and the engineer would have to revise his report. Most of the discussion this evening has been about what has happened in Grant #5 since 2015 and how it could have been done differently but the trustees can only act on the reclassification tonight as it is the only thing on the agenda.

Heddens asked if anyone was disputing the reclassification.

A landowner said if it was going to cost them thousands of dollars he would dispute it but the landowners haven't seen it.

Rode said the new classification schedules can be used for any amount. The main ditch schedule is for a \$100,000 project but that can be replaced with any number and the schedule will be valid. At this point there is no levy so there is no additional cost beyond the engineering for the reclassification.

Heddens asked if the landowners received a copy of the reclassification report.

Wall said it was not included in the notice but the notice informed landowners that the report was available in the Auditor's Office, that it was attached to the agenda on the County's website, and that landowners could request that a PDF of the report be emailed to them. *(Note: the notice was mailed on June 25, 2021. Prior to this meeting Wall received phone calls from two landowners asking how the reclassification would impact them.)*

Heddens asked if the maps we'd seen this evening were available as well.

Wall said no one had seen those maps until this meeting. They are not part of the report but illustrate the process of how the figures in the report were generated.

Peterson said she would like to see something that compares the costs under the original classification with the costs under the reclassification.

Murken said every time someone requests more information at one of these meetings it is an added cost to the landowners. She will question every request and ask how much it is going to cost the district.

Rode said there is an existing schedule that landowners can look at and compare to the new schedule.

Heddens asked if that was something we had.

Wall said yes. We are currently using a schedule created around 1920 when Grant #5 annexed an adjacent district. That schedule is available to anyone who asks. The original classification is for \$7,841.14 so there is some math involved to convert those numbers to match a \$100,000 assessment but nothing complicated.

Roger Engstrom said the \$100,000 on the reclassification is just a base but you have to take that times x to get everyone's cost and nobody knows what x is.

Wall said we have an engineer's estimate of costs from 2016 for the cleanout of the open ditch and for various improvements to Grant #5. That estimate might have to be updated now but we never really know the costs until a bid has been accepted.

Ron Jensen said in the past the guy on the ditch drained last and the guy on the high ground drained first but the guy on the ditch paid the most. In the new classification has that changed?

Wall said the people nearest to the district facilities would still likely pay more than those farther away.

Jensen said if the reclassification doesn't make things a lot fairer, we've just wasted a lot more money. He can tell you whose water will drain first and whose will drain last just by the topography.

Rode said he believes the classification is fair. Drainage is more complicated than who is on the high ground and who is on the low ground. It is more a matter of whose water gets to the ditch first. A lot has changed since Grant #5 was established. Land use and pattern tiling have significantly impacted drainage districts statewide and most are now undersized by modern standards.

Dave Jensen asked what mechanisms are in place, for transparency? For the landowners to see what is being spent? Is there a budget? Are there minimum and maximum amounts in place so if the district gets to a certain amount the trustees can't spend any more? Is there a portal where landowner can track what is being billed? The landowners had no idea of the enormity of the debt the district had accrued until the assessments showed up in 2020.

Rode said Bolton and Menk does only what they are requested to do and they bill on a time of service basis. Every time additional requests are made it means additional costs. Landowners are notified of every hearing and can avail themselves of what is being spent at any time by asking for those records.

Wall talked about the availability of district records. All of the bills for drainage work go through the Auditor's Office. In 2020 Ron Jensen had requested and received copies of everything back to the beginning of this project in August 2015. There is no "portal" but anyone can contact the Auditor's Office for information at any time.

Heddens asked for confirmation that billing information is not sent out to landowners unless they request it.

Wall confirmed that was the case. However, the initial Engineer's Report included estimates for the cost of cleaning out the open ditch and for improvements to the district tile, including engineering costs. Every time the report was amended those costs were amended as well. It was evident from the reports that this would be an expensive undertaking.

A landowner said he was having trouble understanding why the low ground next to the ditch benefitted more than the high ground. If the ditch is full and the tiles back up it is the low ground that floods so how does it have a higher benefit?

Rode said because it doesn't have to do as much to get access to the district facility.

Landowners said that isn't right as they are still losing their crops when the land floods.

Rode said if the ditch were cleaned out it could move the water away more quickly and reduce the risk of flooding.

Collings said if the ditch is cleaned and there is a 5" rain it will silt up again and we'll be right back where we are today.

Rode said the ditch is failing. It is silted in, it has tiles entering into it that are also failing, it is meandering, and the district tile system is drastically undersized.

Ron Jensen said he knows what shape the ditch is in. He's lived on it all his life and his great grandpa was on the crew that helped dig the ditch in 1910. 90% of the ditch does not need to be cleaned. The only part that needs cleaning is along Randy's land at the top and as soon as there is a big rain that will silt right back in. When the water comes down there is twice as much as the district was designed for and that is why the water needs to be stopped at the north and sent to the southwest. Until that is done everything else is a waste of time and money.

Rode said you can't change the flow of water, at least not legally.

Ron Jensen said the water does flow to the southwest but that flow was changed when someone dumped a load of dirt at the 570th Avenue bridge, diverting the water to the southeast. He cleaned that out himself because it would take an act of congress to get the county to do anything about it. *(Note: The day after this meeting Darren Moon said in an email that his department cleaned the area around the bridge on 570th last fall and someone had built berms on both sides of the road.)*

Rode said aerial photos show that water has been flowing into Grant #5 from the north for some time.

Ron Jensen said aerial photos from 1939 show the water draining to the southwest.

Rode said aerials from the 1950 onwards show that the direction of flow has changed to the southeast and that pattern was becoming more pronounced in more recent aerials. He concurred that things have changed but it wasn't overnight. You can't build a dam in the north and force the water onto someone else. What you can do is build an improved tile system to move the water off the land before it can damage the crops.

A landowner said that was the idea behind putting in a tile to drain the water from the north towards the creek that runs between Barilla and Country Landscapes.

Rode said when that project was bid almost everyone objected to it, even the ones who had pushed for it – even the original petitioners.

Ron Jensen said that was because they didn't want to pay for it. It was all well and good until they saw the bill and then they changed their minds.

Joyce Cofer, owner of Hubbard Harvest, LLC, was calling in from Oklahoma. She said every meeting has talked about the problems in the district and what should be done about them but there has been no action on any solutions. What can the trustees do today without incurring additional costs?

Heddens said the trustees can only act on what is on the agenda this evening which is the reclassification.

Cofer asked who gets to decide what is put on the agenda. Do the trustees set up the agenda so the landowners don't have a chance to talk about what they want?

Wall said anyone can request to be put on an agenda. If the landowners want something specific discussed they can request that as an agenda item.

Murken said the trustees get requests and petitions from landowners. They do not speculate on what might have to be done in any given district but they rely on the landowners to make them aware of any issues which they can then act on. The landowners own the district and the supervisors manage it as trustees because the Code of Iowa has placed that responsibility on them. The trustees are not drainage experts which is why they rely on an engineer. If there are things that need to be done that are not on the agenda then there will have to be another meeting to discuss those things.

Faisal asked why the district was being reclassified.

Cofer said it has been two hours and it's just venting. No one has suggested taking any action on what we need to do and the last couple of meetings have been that way as well. We haven't even made a decision on the reclassification which is on the agenda tonight.

Rode answered Faisal's question. There was an annexation that was approved which is the primary reason for the reclassification. There were also inequities in the existing classification.

Faisal said the reclassification then, is primarily due to the water entering the district from outside and that is the only thing the trustees can act on tonight. We've talked about a lot of things because we don't see each other every day and she understands that but if there are other issues there will have to be another meeting to consider what to do about those.

Ron Jensen said there was land north of the land that was removed from the annexation by the judge. The water on that land will run across the land that was removed then into Grant #5. How does that get dealt with?

Rode said only areas contiguous to the district can be annexed. When the judge ruled that the plaintiff's lands were served by the 18" private tile the implication was that the lands north of the plaintiffs are also served by that tile.

Conley said the lands east of 570th Avenue were not affected by the court case and remain annexed. That is why the reclassification was necessary. It accounts for the lands that were not removed from the annexation by the court decision and are still annexed into Grant #5.

Ron Jensen said a lot of those properties are tiling their water to the southwest. How will they be assessed when it is only their surface water coming into Grant #5.

Rode said they only know what is given to them regarding underground water. The classification is based on surface drainage.

A landowner said there was something about a \$1.8 million project at some point. Do we know what cleaning the open ditch will cost under the new assessment schedule?

Wall said the \$1.8 million was the estimate for the west main tile project. The estimate for the open ditch cleanout was about \$560,000. To see what that would cost each parcel you would have to multiply each parcel's benefit by about 5.6. Bear in mind that estimate is 5 years old and construction costs have likely increased. On the other hand, the estimate includes engineering fees and most of the engineering work has been done, outside of preparing bid documents and construction administration.

Murken said the trustees had received a written objection from Michael Meetz to his inclusion and classification in Grant #5 because he has 36 acres in a permanent conservation easement. He does not believe his lands receive any benefit from Grant #5 and, in fact, benefit the district by filtering the water on that 36 acres. Were his benefits to drainage reduced because of the wetland designation?

Rode said wetlands receive a reduction on their classification regardless of the existence of conservation easements.

Murken asked if there should be a bigger reduction because we know the easement on this land is permanent and it cannot be returned to agricultural production.

Rode said the trustees can make whatever adjustments to the classification schedule they see fit and consider whatever other factors they want to consider.

Cindy Hildebrand said her land at the outlet of the district is the same as the Meetz property. She had not spoken up until now because she feels there is nothing more she can do to avoid being annexed and the law is antiquated.

Rode said they based their wetlands determinations on the National Wetlands Inventory. All lands in Grant #5 that are on that inventory were given a 50% reduction. Under Code Section 468.2.1, "The drainage of surface waters from agricultural lands and all other lands or the protection of such lands from overflow shall be presumed to be a public benefit and conducive to the public health, convenience, or welfare." Surface water does drain out of wetland areas. Meetz also contends that his property provides a benefit to the district by cleaning the water but the Code does not give credit for water quality.

Damerell asked if the management of perpetual wetlands differed from that of non-perpetual wetlands.

Rode said not in his opinion. The only difference is that wetlands that are not under a permanent easement can be converted back to agricultural use.

Faisal said she was hearing that several people were concerned that they had not seen the maps shown this evening ahead of time.

Rode said the maps are used to explain the process used in classification and are difficult to understand without accompanying explanation though they can be provided.

Conley said he would not be opposed to providing the maps now that the process has been explained.

Faisal said she doesn't want to approve the new assessment schedules if there are people that feel they did not have access to all of the available information before this evening's meeting.

Hill said he and Peterson had done a quick calculation of his benefits and he would pay about \$8,600 on a \$550,000 ditch cleanout under the new classification. He doesn't understand how that can be when he just paid \$18,000 on a \$360,000 assessment.

Wall said it appears the reclassification is working in Mr. Hill's favor. No one here can know exactly how the original classification was determined. Under the reclassification it is likely that some landowners will see little change, some will see a reduction, and some will see an increase in their benefits.

Murken said it is apparent that some lands will pay less under the reclassification and some will pay more. How can the trustees make a judgement on what those lands are? They need to either accept that the classification process was fair or go back the beginning and start over and she does not see that as realistic. She thinks the new classification will be better but certainly it will not make everyone happy. We could go back and spend a little more of everybody's money and a lot more of their time but she does not believe that would get us anywhere different from where we are right now.

Hill said he wasn't arguing against the reclassification. He hasn't had a chance to look it over and determine if it seems reasonable as he did not receive a copy of the report. The cost of the reclassification is already spent but he wants to know what comes next. Ron Jensen doesn't think the ditch needs to be cleaned out aside from a few spots. Do we get a contract to clean the whole thing or do we take another look and maybe just take care of the worst areas? This is where the trustees need to get together with the landowners and decide what we can spend money on to get the most return versus simply working on the entire ditch.

Rode said before any further repairs or improvements are done there will be a hearing and all the landowners will receive notice. When the engineering report for Grant #5 was done they didn't use drones but today Bolton & Menk uses drone footage in evaluating open ditches and they've found it to be very valuable in evaluating the condition of those ditches. He thinks that would be money well spent if the desire is to proceed with the open ditch repair.

Conley said the existing report will still be good. The drone footage would be used to supplement that report and the only additional cost would be in obtaining the footage. There would be no new engineering work.

Peterson asked what the drone expense would be added too. A project to clean out the ditch that we really don't have any details on or know what the cost is going to be or a scaled back project like the landowners are suggesting?

Rode said it would be based on the original report from 2016 which recommends the cleaning of the entire open ditch.

Murken asked if the drone footage would then be shown in a public meeting to illustrate the problem areas along the ditch.

Rode said that was correct.

Damerell asked if there could be a work session prior to the next public hearing where everyone sits down together and works out what needs to be done because at these public hearings we just go around and around and nothing gets decided.

Heddens noted that if there are any meetings involving the engineer that is an added cost.

Damerell said if such a meeting could result in a compromise it might be money well spent though he can't say for sure that would be the case.

Heddens said if the engineer obtains drone footage and revises their 2016 report there can be a meeting to decide what to do.

Damerell asked why there couldn't be a work session.

Heddens said that is what we are having right now.

Ron Jensen said if the trustees haven't heard it already the landowners don't want to see the engineer in this room again. Is it plain enough for the trustees that the landowners don't want any more fees of any kind? He farms half the open ditch and Collings farms most of the rest. They know what needs to be done. They don't need someone else to come in and tell them what's wrong.

Damerell asked how can the landowners have a discussion with the trustees?

Heddens said there would have to be a posted notice with an agenda because they fall under open meetings law.

Murken said she was hearing the landowners are interested in presenting a proposal to the trustees which is very doable but if any proposal exceeds a certain amount an engineer's report is required by law.

Wall noted that we have an engineer's report from 2016 which is valid for 10 years.

Murken said the question is do we want to get an update on the estimated cost of cleaning the ditch.

Ron Jensen asked why. You don't need an update, you just put the project out for bids and then you know the cost. Jensen said when you have an estimate of what a job will cost the bidders don't pay much attention to what the job is going to take. They are just trying to come as close to the estimate as they think they can and still be under the next lowest bidder.

Damerell asked if the landowners can put together a proposal of their own and present it to the trustees.

Heddens said certainly they can do that. When they meet with the trustees it will have to be a formal meeting with an agenda posted ahead of time and all landowners notified.

Murken said that proposal needs to be available to all the landowners in Grant #5 because the trustees don't just represent the people in this room.

Hill suggested that the trustees give them two weeks to look at the reclassification and put together a proposal of what they think needs to be done. Then the trustees can set up a meeting and consider the reclassification plus the landowner's proposal.

Ron Jensen asked, if the landowners present a proposal the engineer doesn't have to be back do they?

Murken said, like it or not, the trustees hired the engineer for expert advice and they would want him to evaluate anything the landowners present.

Rode said he believed everyone would see some value in acquiring drone footage. There are things you can see from the air that are not apparent on the ground.

Ron Jensen and Collings said they didn't need drone footage to know what the ditch looks like. Right now you can drive down the ditch in an ATV!

Murken asked what it would cost for drone coverage.

Conley thought the footage could be obtained for between \$1,000 and \$1,500 using the Algona Office. He didn't know what the Ames office has available but if they have an available drone they may be able to have a summer intern get the footage for even less cost. He can look into the cost of using the Ames office to obtain the drone coverage.

Damerell said he doesn't think the drone coverage will change what the landowners think needs to be done. Is there any likelihood that drone footage would change the engineer's opinion of what needs to be done on the open ditch?

Rode said he could potentially change his thinking. He hasn't looked at the ditch for quite some time. He is not in favor of spot repairs to open ditches as they just delay the inevitable clean out of the entire ditch.

Ron Jensen said the judge in the recent court case agreed with Clappsaddle-Garber over Bolton & Menk that the north annexation water goes southwest. Has that changed the opinions of the three trustees about where the water is supposed to go? Will they appeal that decision or live with it?

Wall said the decision was made not to appeal on the advice of both the County Attorney and the attorney hired to represent Grant #5. He said the judge's finding was that the plaintiff's water was handled by the existing 18" private tile that runs to the southwest.

Peterson asked if she could get a copy of CGA's report that was presented at the trial.

Wall said he would get a copy to her.

Heddens said what she is hearing is the landowners want the trustees to hold off on any decisions while the landowners meet to put together a proposal for what they think should be done to the open ditch which they will submit to Wall for inclusion on a future agenda along with consideration of the reclassification at that time.

Ron Jensen wanted to know if, when the landowners submit a proposal for the open ditch, will the trustees listen? Don't listen to Bolton & Menk or the City of Ames but to the landowners, the people they represent.

Hill said he wanted time to look at the reclassification but with today's technology he can't believe it isn't fairer than what the district is using now.

Ron Jensen agreed with Hill. He wants a chance to evaluate the reclassification next to the original classification before the trustees adopt anything new.

Wall said he can provide both the existing and new classifications and guidance on how to make them match up so they can be compared directly.

Murken said we need to have a meeting where we stay on topic and not get sidetracked or nothing will get done.

Damerell said it was okay to push this back a couple of weeks as long as there isn't some new assessment coming out based on the old classification.

Wall said the district was levied in May to cover the costs of legal fees incurred over the past year and that assessment is based on the old classification. The assessment notices should be mailed out in the next week or two. Because of the way the law is written drainage assessments must be approved before May 31 and the reclassification did not exist then. As of tonight, it still could not be used unless the trustees approve it and we did not want to have another instance where district debt was accumulating interest for two years. He noted that, once the reclassification is in place, the trustees can go back and levy just the annexed areas for their share of the costs from 2016 forward and it is his recommendation that the trustees do that. That doesn't mean a refund for existing landowners but it will reduce the amount of the next levy against the district as a whole.

Heddens said she has the trustees holding off on the reclassification until the landowners have had time to review the new benefits and to prepare a proposal for cleaning the ditch. She also heard that drone footage will be beneficial and there were no objections to obtaining that at a minimal cost.

Conley said that since the trustees cannot act on the drone footage this evening he can get some solid numbers on the cost by next week and the trustees can decide how to move forward on obtaining drone imagery.

Peterson asked if the drone footage can be provided to the landowners for their meeting.

Conley said that it could. He can provide Wall with a link to the footage which can then be emailed to whoever requests it.

Wall noted that the trustees would have to meet to approve acquiring the drone footage and that meeting would just be posted on the county website. We could notify all the landowners by mail that the trustees are considering getting the drone but that would push the timing out by 2-3 weeks.

Murken said if we get to the point where we have to notify landowners of every meeting where the trustees have to consider spending \$500 or \$1,000 we're not going to get anything done.

Rode asked what the advantage was of delaying a decision on the reclassification?

Heddens said the landowners want some time to compare the old and new classifications.

Rode said they've had 40 days.

Ron Jensen said they aren't going to change the report, they just want to know what they are accepting.

Peterson said she had a copy of the reclassification but no one around her did and no one had the old classification or the maps the engineer showed tonight.

Heddens said that the classification report was available on our website but she noted the maps shown this evening had not been available to anyone prior to this meeting.

Murken said the next meeting needs to cover the reclassification and discussing the open ditch including the landowner's proposal for that work along with drone footage of the ditch.

Ron Jensen asked if they come back with a recommendation from the major landowners about the ditch, if they all say they are against doing anything, are the trustees going to listen to the landowners.

Heddens said that yes, the trustees will listen to the landowners but they also have to follow the requirements made in the Code of Iowa including that they shall maintain the district facilities.

Peterson wanted to be sure that if Bolton & Menk flies the drone footage they don't spend a lot of time, and money, in post flight analysis.

Conley said that was his interpretation of what they are supposed to do but they won't be able to give an opinion on the footage if they don't do any analysis.

Heddens said if we are going to show the drone footage for everyone to see, the engineers will have to be able to explain what they are seeing and why it is important.

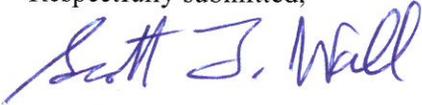
Peterson said it sounds like the trustees want the engineer to be able to refute anything the landowners propose.

Murken disagreed. She doesn't see this as the landowners being on one side and the trustees on the other. The engineers will be able to point out features, based on their experience, that the trustees and landowners wouldn't know to look for, and that should be beneficial to everyone.

Ron Jensen said the landowners know what is needed. The drone is just more money and another report with nothing being done.

Murken moved, seconded by Faisal, to adjourn. MCU. Meeting adjourned at 9:35 p.m.

Respectfully submitted,

A handwritten signature in blue ink that reads "Scott T. Wall". The signature is written in a cursive style with a large, stylized "S" and "W".

Scott T. Wall

