

DRAINAGE MEETING
JOINT DISTRICTS HAMILTON #138-STORY #2 & HAMILTON #105-STORY #1
APRIL 14, 2022

The Hamilton and Story County Drainage District Trustees met via Zoom in the Public Meeting Room of the Story County Administration Building to consider a levy for deficiency against Joint Drainage District Hamilton #138-Story #2, Hamilton County controlling, and to consider the recommendations in an Engineer's Report on Joint Drainage District Hamilton #105-Story #1, Story County controlling, and to move forward with plans for a repair of the open ditch in the latter district. Members present were Latifah Faisal, chair, Linda Murken, and Lisa Heddens of Story County and Rick Young, Dan Campidilli, and Jerry Kloberdanz of Hamilton County. Staff present were Hamilton and Story County Drainage Clerks Lori Kloberdanz and Scott Wall, Story County Engineer Darren Moon, Civil Attorney Ethan Anderson, Conservation Director Mike Cox, Outreach and Special Projects Manager Leanne Harter, Watershed Coordinator Sara Carmichael, IRVM Technician Tyler Kelley, Engineer Caleb Rasmussen from JEO Consulting Group, and Engineers Kent Rode and Tyler Conley from Bolton & Menk. Landowners present were Austin Carlson and Kenneth Miskell and, attending virtually, Nick Hermanson, Kris Frandson, James, and 4 others identified only by their phone number or device type.

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

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

Wall said Drainage District Hamilton #138-Story #1 had some repair work done in 2021 that had left a negative balance in the district's fund, requiring that the district be levied to pay the outstanding debts and restore a positive fund balance. As the control county, Hamilton is recommending a 64% levy (see attached) against the original, \$29,298.50 assessed value of the district. Said levy will generate \$18,771.20 leaving a balance of \$3,952.48 after bills are paid. Hamilton County approved the levy in a meeting on April 5, 2022 and is requesting that Story County approve the levy as well. It is not unusual for levies against joint districts to be approved by the two sets of trustees separately for repairs that do not require public hearings.

Heddens moved, seconded by Murken, to approve the 64% levy against Hamilton #138-Story #2 as recommended by Hamilton County, said levy to be dated April 14, 2022 with assessments due and payable on or before September 30, 2022. MCU.

Rode presented the Engineer's Report on Hamilton #105-Story #1 (on file in the Hamilton and Story County Auditor's Offices). The report was presented at an earlier meeting on November 17, 2021 and was being reconsidered now because proper service of notice to district landowners necessitated re-holding this meeting. Rode said he would be briefer this time around but could go into more detail if there were questions from those attending. The district was established in 1910 and includes just under five miles of open ditch which is the focus of the project. The ditch currently has many sections that are overgrown with trees and the ditch bottom has considerable siltation. The ditch is to be reshaped and dredged to its original grade. Trees and brush in the ditch and in the established right-of-way (ROW) along the ditch will be removed. The side slopes will be reshaped to a 1.5 to 1 slope. Spoil from the ditch will be spread along the top of bank and levelled back from the ditch with a 10 to 1 side slope so that landowners will still be able to use that area. Damaged tiles entering the ditch will be repaired or replaced. Construction could begin as early as late spring/early summer and is to be completed by May 1, 2023. The exact dates of construction are up to the contractor who gets the job. The estimated cost of the project from November 2021 is about \$490,000. When the district was established a ROW along the open ditch was also acquired but never precisely defined. The Engineer's Report recommends defining the ROW as being 50' from the centerline of the open ditch on both sides for a total ROW of 100' in width. The ROW

should be removed from the tax rolls but landowners still have the beneficial use of the area in the ROW. The report also had sections on annexation and reclassification but it was decided last November not to pursue those options.

Rode noted that the report addresses water quality issues. It was brought to his attention that Sara Carmichael is working with district landowners Brent and Jody Larson on a saturated buffer on property they own along the open ditch. This is an excellent edge of field project and will slow the flow of water into the ditch, reducing the levels of nitrates and phosphorus that reach the ditch. Rode would like to see implementation of this project delayed until the ditch repair is complete and vegetation is established so the banks are stable.

Carmichael said the project will take water from 5 private tiles. If these two projects can be done concurrently it could reduce the need for reseeding after the saturated buffer is constructed. The land is in CRP and restrictions prevent them from doing any work on the saturated buffer until after August 15.

Rasmussen is the engineer working with Carmichael and the Larson's on the saturated buffer. He concurred with Rode on establishing new vegetation on the ditch side slopes. He wants to see what the completed ditch looks like before proceeding with the Larson's project.

Murken asked how long it takes to establish new vegetation.

Rode said there was another option that could be done in that area. They could flatten the slopes to 2 to 1 near the buffer project to add stability to the ditch bank in that area.

Rasmussen said another option is to construct the Larson's project concurrently with the ditch repair but not set the control structures until the ditch repair is completed. In other words, the tiles would not be diverted until vegetation is established.

Murken asked about funding. Are there deadlines on when the funds have to be used?

Carmichael said she would have to check on any deadlines for the funding.

Rasmussen asked about how much disturbance of the existing banks would be caused by the removal of trees. He has not done a site visit as that was performed by NRCS and Story County and isn't sure how many trees are inside the banks of the ditch at the project location.

Rode said he did not recall if there were substantial numbers of trees on the Larson property but there could be substantial disturbance of the ditch wherever trees are removed.

Kelley said there were a significant number of trees along the ditch on the residence (north) side of the Larson property.

Miskell owns an acreage on the ditch on E18 west of Highway 69 and has tile that goes to the ditch. Because the spoil will be used to raise the ditch banks he wanted to know if there will be tile inlets installed so water behind the banks can still reach the ditch.

Rode said any tiles entering the ditch will be repaired or replaced as needed.

Rode asked Carmichael if any of her funding would cover the additional cost of flattening the ditch banks near the saturated buffer.

Carmichael was unsure. Also, this is one project of several she is working on and their bid proposal may end up covering more than just this project.

Rode said if the saturated buffer is done after the ditch repair they would have to flatten the ditch slope as part of that project. If the two projects can be done concurrently it might be easier to have the district contractor flatten the side slopes through a change order. The contractor for the saturated buffer also may not have the equipment needed to flatten the side slopes.

Rasmussen asked if it would be helpful to move the distribution line back based on a final slope of two to one.

Rode said that would be good.

Conley asked for clarification. The saturated buffer project would be installed based on a 2 to 1 slope before the ditch is reshaped?

Rasmussen said that was correct. When the ditch is repaired the buffer project would be far enough back for the contractor to flatten the ditch banks without damaging the control structures.

Rode felt that would be a good way to avoid duplicating excavation efforts.

Carmichael said the Larson project could be bid in the late summer with construction late this summer or this fall.

Rode said because we don't know when either contractor will want to be on site it will require some coordination between the two projects.

Carlson still has some questions/concerns which he included in a letter (attached) to the trustees dated April 7, 2022. He owns one of three residential acreages he knows of along the ditch. He believes it is not necessary to remove all of his trees along the ditch for the repairs to be done. It is clear to him that the trees have been there for a long time, including being left alone during an earlier removal of some of the trees in 2015. He's marked trees on his property that he believes can be retained. He is also concerned that construction damages may not be confined to the 50' ROW. How much of his property might be impacted? He has invested time and money to establish vegetation on his acreage. Will damages be paid for property he owns inside the ROW? Based on what he thinks the damages on his land could be he believes the report's total estimate of damages is too low.

Kloberdanz moved, seconded by Murken, to approve the Engineer's Report on Joint Drainage District Hamilton #105-Story #1. MCU.

Young moved, seconded by Heddens, to approve the repair of the open drainage ditch in Hamilton #138-Story #1 as recommended by the Engineer's Report. MCU.

Murken moved, seconded by Campidilli, to establish a defined, uniform right-of-way along the Hamilton #138-Story #1 open ditch 50' in width on either side of the centerline of said ditch as defined in the surveyor's January 28, 2022 addendum to the Engineer's Report. MCU.

Conley spoke briefly about the Design Plans and Specifications (on file at the Hamilton and Story County Auditor's Offices) that had been presented at an earlier meeting on January 11, 2022. The plans include 3 alternates for seeding and qualifying bids must include all three. Those three alternates are hydroseeding

with a conventional seed mix, seeding with native plants, and seeding with native plants provided by Story County Conservation.

Rode noted that the notice to bidders must be published in area newspapers twice, on consecutive weeks prior to the bid opening on May 5, 2022. Bid documents will also be posted on QwestCDN.com and mailed to a list of contractors maintained by Bolton & Menk. The contract award will be at 8:30 a.m. on May 10, 2022.

Kelley said he has been in discussion with several non-profits to provide seed under Section C concerning getting native seed mixes for the project.

Murken moved, seconded by Kloberdanz, to direct the engineer to proceed with holding a bid letting at 10:00 a.m. on May 5, 2022 and awarding a contract at 8:30 a.m. on May 10, 2022. MCU.

Conley said there had been a couple of written questions from people attending virtually which he had responded too. They had not heard anything about this project until a sheriff's deputy showed up at their door and wanted to know if there was a way to learn about projects like this in the future.

Wall said mailings were sent to everyone in the district notifying them of both the November meeting and tonight's meeting. Notice for both meetings was also published in newspapers in Hamilton and Story Counties. No notice was required for the January meeting on the Plans and Specifications. Once the letters are mailed we have no control over them reaching the recipients. Notices are mailed to the owners of record in Story County's tax records.

Carlson said he had only received the notice of the November meeting, which he didn't open, and the served notice for this meeting but not the mailed notice for this meeting.

Carlson asked how much of his property will be affected by the project. What damages will he be reimbursed for?

Rode said they will stress that the contractor keep the area impacted on residential properties as small as possible. In addition to vegetation there are septic systems in that area that must be avoided. The Code of Iowa requires that damages outside the ROW must be reimbursed. It will be Rode's recommendation to the trustees that all damages be reimbursed.

Wall said in recently completed drainage district projects with Bolton & Menk Story County had followed that recommendation and reimbursed all damages.

Miskell asked about the ROW. Will it be accessible to just county personnel? He doesn't want an access point for people to drive along the ditch and do what they please.

Rode and Murken both responded that the ROW is simply an easement along the ditch. No road or path along the ditch will be constructed.

Campidilli moved, seconded by Murken, to adjourn. MCU. Meeting adjourned at 7:50 p.m.

Respectfully submitted,



Scott T. Wall

Austin and Tarra Carlson
54314 140th St
Story City, IA 50248

April 7, 2022

Story County Auditor
Via Drainage District Clerk Scott Wall
900 6th St
Nevada, IA 50201
515-382-7210

FILED-STORY CO AUDITOR
APR 13 '22 AM 7:42

Written Objection to Engineer's Report and Matters Connected to:

Main Open Ditch Repair of Joint Drainage District No 1-105

Scott,

We are writing to you today to submit our formal objections to the Engineer's report and other matters connected to the main open ditch repair that is proposed for DD1. This is in response to the letter we were served dated February 14th with notice of the hearing to take place April 14th where the trustees will decide what action is to be taken. This ditch being discussed runs along our property on two sides.

We have several objections so we will try to make them as clear and concise as possible so that they may all be considered and addressed by the board.

The objections that we have can be divided into two main categories, removal of trees and debris and right of way (ROW), work limits and damages.

Please see the comments below and pass them on to the appropriate parties ahead of the meeting.

Removal of Trees and Debris

The engineer's report states that "all trees and debris will be removed within the ROW." This was from the beginning, and still is our main objection.

The county cannot do anything without ROW access on our property which currently does not exist formally. We know now after taking the time to better understand drainage law on these matters that even though a ROW is not currently defined, it can be established at this time as part of this project.

However, just because you can decide to cut down every tree within the ROW doesn't mean that it is "necessary to restore or maintain the drainage to its original efficiency and capacity" which is the requirement of the district supervisors by law.

The county does not need to remove the trees to maintain the ditch. Concrete evidence of this is the age of the trees along our ditch. The county has already performed multiple rounds of maintenance on this ditch since it was established in the early 1900s and not once did they decide that it was necessary to remove the trees that are in question along my property. In fact, the records in the engineer's report state that as recently as 2015 they "completed removal of trees and brush from the ditch". It is clear that the trees on my property would have been standing when that cleanout occurred and they did not consider it necessary to remove them. Furthermore, if the trees currently along the ditch were under water at any frequency at all, they would be dead or fallen over by now.

We would prefer that not even one of the over 100 trees slated for demolition on our property be taken down. However, we understand that it may be more convenient for the contractor to clean the ditch with the removal of some of them and that there are a couple of the trees that are not the healthiest and should be removed so that they don't cause problems in the future. So, we have gone through the trees along our property and marked with flagger tape the ones that we want to keep that are within the proposed ROW. We marked less than half of them to keep which allows for over half of them to be removed. Care was given when selecting the trees to keep, making sure they were significantly above any potential water level and spaced in a way that they can be worked around with heavy equipment.

We have in the past and will continue in the future to maintain our section of the ditch as needed if my trees cause any issues.

We ask that the BOS not simply accept the engineer's report as written just because that's how it was written. Rather that they consider representing the people of the drainage district by reviewing our proposal to leave a few of the trees and decide as to whether it is reasonable or not based on the law and statutory requirements therein, not on what is easiest for the engineer to suggest.

ROW, Work limits and Damages

As mentioned above, although we had no way to know about it when we purchased the property, the ROW establishment is allowed by the drainage law. This ROW will be accessible by the county at any time for the purpose of maintaining the ditch and we will maintain rights of beneficial usage. However, it is stated in the engineer's report that work limits for contractors are to be "25-50' outside the toe of the soil pile of the ditch". Furthermore, the engineer's report states that the toe pile is to be up to "18' wide from the ditch bank". If you put this information together, it would assign a 43-68' work limit from the edge of the ditch bank. The engineer should provide clarification on this as it seems like the engineer is trying to establish some type of right to work outside of the proposed 50' ROW from the center of the ditch. The ROW establishment allows 20' total from the ditch bank, not the proposed distance of 43-68' from the ditch bank.

Another concern in this area that we have had from the beginning is that we have well established grass and alfalfa in the proposed ROW. The work limits and damages section of the engineer's report does not cover damages within the ROW as it reads "Landowners are entitled to full reimbursement for damages resulting from the work on lands outside of open ditch rights-of-way." Even though it will potentially be a ROW we still have the right to beneficial use and it is still part of our lawn that we established and maintain and part of our alfalfa field. We should be entitled to repair and restoration of any damages to our property regardless of if it is in the right of way or not.

To that end, construction related damages for the entire project are estimated at \$20,000. This is concerning to us because for restoration of our property alone we would anticipate around \$2,500 for the grass portion, \$500-1,000 for the crop portion, and another \$1,000 for tree planting for a total of \$4,500 to \$5,000.

We ask that the BOS ensure that the home and landowners do not have any property accessed or damaged outside of the proposed 50' from centerline ROW and that at the conclusion of the project they ensure ample compensation to have property within the ROW restored back to its original condition as much as possible.

Thank you for your time and consideration on these matters. Please let us know if you have any questions for us.

Respectfully,

Austin and Tarra Carlson
In collaboration with attorney Ryan L. Haaland