

DRAINAGE DISTRICT MEETING
JOINT DISTRICT BOONE #93B-STORY #4
JULY 20, 2009

The Drainage District Trustees of Boone and Story Counties met at United Community School in Boone County to hold a public hearing and consider a tentative plan for reclassification of Joint Drainage District Boone #93B-Story #4 (93B-4), Boone County controlling, and to consider putting a tile replacement project out for bids in said district. Members present were Michael O'Brien, chair, Tom Foster, and Bill Lusher of Boone County and Wayne Clinton, James Strohman, and Jane Halliburton of Story County. Also present were Boone County Engineer Bob Kieffer, Auditor Phil Meier, and Drainage Clerk Janet Otten, Story County Engineer Darren Moon and Drainage Clerk Scott Wall, Scott Renaud of Fox Engineering, John Milligan of MHF Engineering, and 30 members of the public and residents of the district (see attached sign-in sheet).

O'Brien called the meeting to order at 6:30 p.m. with introductions of those representing the district. He then asked Milligan to present the proposal (on file in the Boone and Story County Auditor's Offices) for reclassification and annexation.

Milligan explained the placement of the district boundaries in 1912 with particular attention to the eastern boundary on College Creek. The original description of 93B-4 says there are 28 acres in the east half of the northwest quarter of Section 7, Washington Township (Bentwood Subdivision). The district's boundaries were extended easterly along the watershed until 28 acres were encompassed then a north/south line was placed to form the eastern boundary of the district.

Milligan discussed the original process of establishing the district through petition by land owners. Everything was based on walking the land and observing where it was wet or dry, high or low. Today aerial photography and topographic mapping have been added to the process.

93B-4 consists of a main tile, 3 lateral tiles, and a part of College Creek. The reclassification is based on an arbitrary value of \$100,000. The lateral tiles were assigned smaller values which are also arbitrary. The values don't relate to any 'real world' figures and are used solely as a basis for assessment. The sum of the benefits of all the parcels in the district equals \$100,000. If the district has a \$50,000 project the district is levied at 50%, for a \$100,000 project the levy is 100%.

Milligan next described how each parcel's benefits are assigned. Parcels are assigned a point value based on their soil types (wet, dry, sandy, clay, etc) and this value is multiplied by other factors to arrive at a final number. The other factors are proximity to the facility outlet (tile) and land use (soil vs. pavement vs. a combination of the two). The final figures for all parcels are summed then divided by the total to get a percentage. This is multiplied by \$100,000 to get each parcel's benefit to drainage.

Once benefits are assigned the per acre assessments are examined across the district to look for discrepancies. Does a given parcel have a benefit wildly different from its neighbors? Is it an error or is there a reason for the discrepancy?

Prior to taking comments from those in attendance O'Brien read the written objections (attached) into the record. Objections were received from Dennis Cooper, James S. Nelson, Jon Emery, Theodore Pope, and the City of Ames represented by Tracy L. Warner, Municipal Engineer, Public Works Department.

Jim Nelson, Bentwood Subdivision, asked why no consideration was given to moving the eastern boundary of the district west to the Ames City Limits? Milligan said he was asked to reassess the area within the original boundaries of the district, not to judge the placement of those boundaries. The 1912 boundary may or may not make sense today but the people in Bentwood Subdivision are served by storm sewers which drain into College Creek at Wilder Boulevard which is within 93B-4.

Glenn Rippke, Bentwood Subdivision, asked why the City of Ames is not being asked to share in the cost since the storm sewers belong to the city. Wall said the city receives a significant assessment as they have streets and parkland within the district. Milligan said the taxes people pay to the city cover maintenance and repair of the storm sewers, the assessments they receive from the district cover repairs to the district facilities into which the storm sewers drain.

Warner said the city also maintains College Creek from the west corporate limits eastward. If the district's eastern boundary is kept in place the city will no longer maintain the portion of College Creek within the district. Nelson said that would negatively impact the creek and those along it inside the district.

Warner said Ames has spent a considerable amount to maintain tile they learned belonged to the district as well as maintaining the open creek. The district should be doing this but the city has had a poor response from the counties when it asks for work to be done.

Gretchen Meyer, Bentwood Subdivision, lives at the tile outlet and described a large sinkhole that had developed from which a dog had to be rescued. It is a hazard that could trap a child next time and it is not the only hole along the tile.

Marilyn Clem lives on College Creek downstream from the district. She fears anything that improves the drainage will dump more water on her and her neighbors during high water events.

Mimi Wagner asked what the intent of the trustees was tonight. What goal did they hope to achieve by the end of the meeting? Strohman asked Wall to explain where the trustees had left off at the last meeting in August 2007. Wall said the trustees had moved to have 93B-4 reclassified then move ahead with procuring bids for Option 2 from Fox Engineering's preliminary engineering report dated November 2006 (on file in the Boone and Story County Auditor's offices). Option 2 proposed to replace the existing, failing tile with new tile in the same location at a cost of \$131,000.

Renaud pointed out the area the Option 2 repair would cover on a map of the district. He showed the alternate route under Option 3 which followed property boundaries. Option 3 would have the same cost to the district as Option 2 since any additional material and labor would be paid by the individual land owner. Renaud also showed where an open ditch would be constructed if the tile were simply removed. This was a proposal which surfaced in the August 2007 meeting and was not part of the preliminary engineering report.

George Belitsos said large sinkholes have opened along the tile across his property which abuts the city limits. The one Meyer referred to is the worst but not the only one. This has created a dangerous situation and he and co-owner Peter Wolfe support replacing the tile as soon as possible. He does not think waiting another year is an option and does not support an open ditch. He has no opinion on the annexation as it does not affect him directly.

Warner said Ames is also supportive of replacing the tile. They feel an open ditch would increase peak flows substantially in College Creek and lead to further damage around the creek.

Steve Kaltenhauser, who farms land west of the county line and south of Lincoln Way, said the city is going to get the water no matter what. If the tile is replaced it puts things back the way they were in 1912 but that is insufficient for the way things are now. When the tile can't handle the water it will flow across the surface and into the city anyway. With an open ditch that flow can be contained. He knows it costs more to do things right but we need to look at the future, not maintain the past.

Clem said she has a neighbor who has tracked water levels over a period of years and, as more development has occurred, high water levels have consistently increased.

Cheryl Rippe, Bentwood Subdivision, thinks the annexation is questionable but Ames' College Creek project is a real benefit which is threatened by what is happening with 93B-4.

Halliburton pointed out that drainage district law is archaic and it has been very difficult to get the legislature to address the law. The district trustees are bound by that law, however. She said she was hearing that no one in Ames is opposed to the repairs, but they want the city to pay for it.

Warner said increasing the flow significantly (open ditch) would impact everyone along College Creek as the street culverts were sized to handle the water as things are now. The city will not be resizing their culverts so more water means higher water upstream of streets crossing the creek.

Mimi Wagner said the residents of Bentwood are opposed to paying because their water is entering the creek at a point where Ames is maintaining the creek. The trustees pointed out Ames maintenance does not change the fact that the creek is inside the district where the storm sewers enter the creek.

Nelson referenced Iowa Code Section 468.188 which he said would allow the trustees to remove lands from the district (move the eastern boundary to the city limits) or split the district into two districts, one maintained by the counties and the other by the city.

Erv Klass, director of the Water Conservation District, said cities with populations over 50,000 must have plans in place for managing water and keeping pollution under control. Counties are not mandated to do anything. He said if the law is archaic then move away from the law and regulate the water through zoning or some other method. Rainfall has been increasing steadily and we can't just keep things the way they were. We need to design for the future.

Clinton asked if anyone could point to something the counties have not considered that would alleviate the problems the district is facing right now.

Strohman said when the trustees asked for the reclassification no one anticipated annexing additional land to the district. It was felt that development since 1912 on the land already in the district had introduced inequities in the original classification. Could Milligan provide a rationale for the proposed annexation? Milligan said, in the case of Bentwood Subdivision, the area of the proposed annexation drains into College Creek at a point where it is still a district facility. Once the storm sewers were installed those lands began to benefit from the district.

Meier said the reason the district boundaries extend beyond the outlet of the tile is so the district has the authority to clean the open ditch of obstructions that can impede flow at the outlet.

Renaud echoed Meier and added that in a tile district such as 93B-4 silt, corn stalks, and other debris that are carried by surface runoff are not a drainage district issue as they would be if the district used an open ditch. He said Ames is partly responsible as it allowed the land to be developed and the storm sewers to empty into College Creek.

John Emory, Bentwood Subdivision, said the engineer is making the residents' point for them. This is a tile district, the tile ends at the city limits, and the district should end there too.

Strohman asked Renaud what would happen if the City of Ames was removed from the district. Renaud said Milligan would have to rework his numbers and we would have to go through the whole process of publishing and mailing out notification of public hearing again.

Milligan said if Ames is removed from the district the 7% of the total benefit those lands receive would be pushed west onto the remaining district properties.

Strohman felt Renaud had a valid point about Ames' culpability by its growth into the district.

Wagner said the counties were invited to join the project to restore College Creek but they declined so the city went ahead on its own.

Meier pointed out that drainage districts in cities are not unique. The City of Boone encompasses part of a district.

Nelson again referred to the Code section allowing the trustees to split a district. Renaud and Milligan both said the section refers to land like that owned by Dennis Cooper in which a public improvement (Highway 30) has the potential to cut that land off from the remainder of the

district. It also gives authority to create a subdistrict in which repairs to a lateral or branch tile are assessed against the properties served by that lateral rather than the district as a whole. Because the area in Ames is the outlet for the main tile, it serves the entire district and cannot be split off.

Rippke said it was her understanding that this project was not a one-time expense. She was told that everyone in the district would have to pay any future costs as well.

John Crane owns much of the land north of Lincoln Way in Story County which is served by Branch A. It is zoned commercial but he can't develop it because it is under water most of the time. It is, essentially, a detention pond that is costing him money and benefiting everyone downstream from him. Ames will continue to grow – what happens when they annex more of the district?

Strohman asked if the project could be put out for bids prior to accepting the reclassification. Ames could be approached at the same time to investigate whether the city would be willing to maintain College Creek from the mouth of the tile.

Milligan said that was a possibility. He could create a new classification schedule while the bid process goes forward. It would necessitate another hearing for the new classification.

Bob Stevenson said the current residents of the district have already paid to remove the tile. Can we just drop new tile in the existing ditch? Renaud said the ditch would have to be reworked so it had the right amount of fall or the land owners could ask that the tile be rerouted at their expense so it isn't that simple.

Foster moved, seconded by Halliburton, to close the public hearing. Motion carried unanimously (MCU).

Strohman asked if we could proceed with a motion to put the project out for bids.

Strohman moved, seconded by Lusher, to direct Fox Engineering to draw up the plans for Option Two from the Preliminary Engineering Report dated November 2006 and to put out a request for bids on said Option 2. Halliburton pointed out that taking bids on Option 2 would not preclude the trustees considering other options. MCU.

Lusher expressed concern that the district does not have any direction from the Ames City Council at this point.

Halliburton asked Milligan what his additional work would cost. Milligan said it would be several thousand dollars but less than \$10,000.

Halliburton proposed to seek legal counsel and table consideration of amending the reclassification until such council is received. Strohman questioned the need for legal council. Halliburton said the district should not enter into an agreement with Ames or any other entity without legal council.

Strohman asked Renaud how long the bid process would take. Renaud said there are not even plans drawn up at this point. It would take 60-90 days to prepare plans and receive bids. Strohman asked if we could get the repairs completed this year if we have to wait another 90 days. Renaud said yes, there was still time.

O'Brien asked if we could split the difference and make it 75 days. Renaud said that would be adequate. O'Brien said that would put the next meeting on October 5.

Strohman said there needed to be some clarity about what had to happen between now and October 5 and who had to see that it got done. O'Brien said there are two issues – annexation and discussion with Ames about College Creek.

Clinton moved, seconded by Lusher, to continue the meeting to October 5th, 2009 at 6:30 p.m. at United Community School at which time the public hearing would be reopened and bids from the previous motion would be considered, said bids to be delivered to the offices of the Boone or Story County Auditor by 4:30 p.m. or 5:00 p.m. on October 5, 2009 respectively and to be opened at the October 5 continuance of this meeting. MCU.

Halliburton moved, seconded by Lusher, to recess. MCU. Meeting recessed at 9:20 p.m.

Respectfully submitted,

Scott T. Wall
Story County Drainage Clerk