

DRAINAGE DISTRICT MEETING
JOINT DISTRICT BOONE #93B-STORY #4
OCTOBER 5, 2009

The Drainage District Trustees of Boone and Story Counties met in the United Community School gymnasium in a continuation of a public hearing which was recessed on July 10, 2009, and to consider bids for tile replacement in Joint Drainage District Boone 93B-Story #4 (93B-4), Boone County controlling. Members present were Mike O'Brien, chair, Bill Lusher, and Tom Foster of Boone County and Wayne Clinton, James Strohman, and Jane Halliburton of Story County. Also present were Boone County Auditor Phil Meier, Engineer Bob Kieffer, and Drainage Clerk Janet Otten, Story County Engineer Darren Moon and Drainage Clerk Scott Wall, Drainage Attorney Greg Schiller, Engineer Scott Renaud of Fox Engineering, Engineer John Milligan of MHF Engineering, Ames Municipal Engineer Tracy Warner, and 14 land owners in the district (see attached).

O'Brien re-opened the hearing at 6:30 p.m. and asked if any of the land owners present had new or additional comments beyond what was presented on July 10.

Land owner Mike Johannes said he would like to hear any new information the trustees had acquired since July 10 before making any comments.

Schiller said he had been brought in to advise the trustees on what could and could not be done at this meeting given the constraints of the Code of Iowa. His input has been to provide written responses (on file in the Boone and Story County Auditors' offices) to procedural questions from the trustees such as, "Can the district be dissolved?", and "Can the boundaries be changed?" While these are valid questions they cannot be discussed at this meeting as the only items on the agenda are the Annexation and Reclassification and the consideration of bids. If the trustees wish to pursue other issues it would require a separate meeting which is certainly possible.

O'Brien asked Renaud and Milligan if they had additional information since July 10. Both replied they did not.

Land owner John Emery said he thought Renaud and Milligan were going to work up new benefits without including the proposed annexation. Renaud said the trustees did not ask for that. Emery said the only reason the district wants to annex the new properties is to provide an additional funding source and he receives no benefit from the district. Renaud replied that under the law Emery is receiving a benefit. It may not be obvious or tangible but it is there. Emery disagreed.

Johannes thought the trustees were going to talk to the City of Ames after July 10. Did this happen? Schiller said he had written a letter to the Ames City Attorney after July 10. This morning he received an emailed proposal from Warner which was forwarded to him by Clinton (on file in the Boone and Story County Auditors' offices). Warner said her proposal had been sent on Friday. Clinton said he received and forwarded the proposal

just this morning. There will be ongoing communication concerning the proposal but it is not a subject for this meeting.

Land owner Jim Nelson said he had been looking at contour maps and believed there were other properties like his that are not being considered for annexation. If this is the case it would be unfair to the annexed properties if additional properties are not included. Milligan asked him how many properties he was talking about. Nelson said maybe half a dozen.

Clinton said the engineer must consider other factors besides the storm sewers. He doesn't know everything that goes into the determination of who should be in the district which is why the trustees hired the engineer in the first place.

Halliburton asked if there were any Story County residents present who had not had the opportunity to look at the information available on the county's website. No response. Halliburton said the current situation was brought about by a maintenance issue which is still pending and she would like to see that issue resolved. The cost is only \$25-35.00 for most of the properties in Ames and it is not worth holding up the entire repair project.

Johannes said he was being assessed for something he'd already paid for through city taxes. He does not benefit from the district and his estimated cost for this project has gone from \$18.00 to \$36.00 since he became aware of it. That is a 100% increase. He asked if this was going to be a one-time cost. Wall replied that the cost of this project would be a one-time assessment but once properties are brought into the district they will be subject to future assessments as repairs are done going forward. This would probably mean a \$5.00 assessment for residential properties every 5 or 6 years. Johannes repeated that this was unfair.

Halliburton pointed out that the City of Ames and both counties also are assessed for benefits to land they control in the district.

Nelson didn't understand why an agreement with the City of Ames was necessary. Clinton said the city is requesting the agreement, not the district.

Many land owners said since they drain into College Creek and not the tile they do not benefit from the district and the location of the district boundary on College Creek is arbitrary and includes an excessive portion of the creek. Moon said it is common practice for drainage districts to extend up to 1,000' downstream from the tile headwall. The flatter the terrain the more open ditch is needed for the district to maintain a clear outlet for the tile.

O'Brien said drainage districts in cities are not unusual. He does not think there is a city in Boone County that doesn't have some land in a drainage district and almost all of Madrid is in a district. He understands that it is difficult for residential property owners to understand drainage issues but the districts are there regardless of whether the land is rural or urban.

Land owner Steve Kaltenhauser asked if there were any cases where district lands had been annexed by a city and removed from the district. Wall spoke about how benefits are spread when land is annexed and developed as had happened here with Bentwood Subdivision. Story County does not remove land from drainage because of changes in land use.

Emery said the trustees are trivializing the amount of the assessment which is the wrong approach. The real issue is the principal and he is opposed to paying for repairs that are upstream from him and cannot benefit him. Renaud explained that drainage districts function through everyone sharing all maintenance costs. Emery still believes he should not be in the district and should not pay for upstream repairs whether he is in the district or not.

Land owner Brant Lemer missed the last meeting but there had been talk in a meeting two years ago (March 28, 2007) about trying to get a federal grant for watersheds to alleviate some of the costs of this project. What became of that? The trustees did not recall that discussion but Halliburton did recall talks with Prairie Rivers Research & Development.

Land owner George Belitsos said the tile is in urgent need of repair and has been for two years. The tile runs under his property before it reaches the city limits and his neighbor in the city has extensive damage to her property from erosion. She will certainly see a benefit from the tile repair as will College Creek. He hopes talks can keep going forward on an agreement between the district and the city but that should not stop the repairs from being done now.

Warner said she hoped the trustees could give her some positive feedback on her proposal for a maintenance agreement with the City of Ames concerning College Creek and set a time for a joint meeting with the city. If not she will advise the city to start their project at the district boundary and leave the upstream portion of the creek to the district. Clinton said that could not be addressed at this time as the trustees had only seen the proposal this morning. The trustees will need time for themselves and the county engineers and attorneys to go over the proposal and formulate a response. Schiller supported Clinton's response saying a meeting date cannot be set before the parties involved can familiarize themselves with the proposal and its ramifications. It is certainly something that can be done, just not tonight.

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

Clinton moved, seconded by Foster, to adopt the Classification and Annexation Report of Benefit Commissioners in 93B-4 from MHF Engineering, P.C. subject to a requested field review of three properties once the crops are harvested from said lands. Milligan said he does not anticipate major revisions and will submit a revised benefit schedule after he can view the land in question. MCU.

O'Brien stated that submissions from 9 firms interested in the tile replacement project had been opened at 1:00 p.m. today at the Boone County courthouse and tabulated by Fox Engineering (see attached). He then read the name of each company and the amount of their bid from the lowest to the highest.

Clinton asked if Renaud had any comments or concerns on the bids received. Renaud recommended that the trustees accept the low bid contingent on the bidder's ability to provide the required bond and proof of insurance. The only time the low bid would be passed over is if there was evidence the bidder had failed to complete previous jobs.

Strohmman noted that the low bidder had a significantly lower cost for the replacement tile than Renaud's estimate or the other bidders. How is that possible? Do they have a relative in the concrete business? Renaud said bids vary widely between companies and he can't explain why differences like this appear. Renaud's only obligation is seeing that the bidders can fulfill the contract. Clinton was at the bid opening and said the differences between the bid amounts were discussed at that time as well.

Renaud said the work was to be completed by December 30, 2009 with the exception of seeding. That item would likely be postponed until spring.

Clinton moved, seconded by Foster, to accept the low bid of \$111,482.00 from Spring Lake Construction, Inc. of Polk City, IA contingent on their ability to meet bonding requirements and provide proof of insurance. Failure to do so will result in the acceptance of the next lowest bid. MCU.

Lusher moved, seconded by Clinton, to adjourn. MCU. Meeting adjourned at 7:30 p.m.

Respectfully submitted,

Scott T. Wall