

DRAINAGE MEETING
DISTRICT GRANT #5
OCTOBER 29, 2019

The Story County Drainage District Trustees met in the Public Meeting Room of the Story County Courthouse in Nevada, IA to consider the annexation of additional lands into Drainage District Grant #5 and the awarding of a contract for an improvement to those annexed lands. Members present were Linda Murken, chair, Lauris Olson, and Lisa Heddens. Also present were Story County Assistant Attorney Ethan Anderson, Engineer Darren Moon, Conservation Director Michael Cox, Drainage Clerk Scott Wall, Drainage Engineers Kent Rode and Tyler Conley from Bolton & Menk, and 16 members of the public (see attached sign-in sheet).

Murken called the meeting to order at 6:09 p.m. and introduced county staff. She stated that the supervisors act as drainage district trustees under the Code of Iowa unless the residents of a drainage district wish to elect their own trustees from amongst themselves. The Grant #5 Improvement Project got started with a request in August 2015 and the trustees have met 10 times on Grant #5 prior to this evening, including four prior hearings like this one for which notice was sent to every landowner in the district's watershed. Because there had been talk earlier about creating a new drainage district she wanted to make clear that the trustees cannot create a new district on their own. That process is completely landowner driven.

Rode spoke briefly about how we got to where we are today. The farm manager for BlackDirt Farms, a landowner on the northern edge of Grant #5, requested a watershed study in 2015 as they believed water was surface draining into the district from the north. The watershed map was presented at a public meeting on March 22, 2016 and the trustees were petitioned for an engineering study of the district on March 23, 2016. That study, the original Engineer's Report, was presented to landowners on March 28, 2017. Based on feedback from that meeting the report was amended to take into account the City of Ames annexation of land in Grant #5, the size of the culvert under Lincoln Way in the Ames annexation, and the contention that some of the water in the north annexation area flows to the southwest, away from the existing facilities. The amended report was presented at a hearing on March 20, 2018 and landowners at that meeting requested more study of a potential new tile for a western annexation area. The amended report with an addendum was presented at a hearing on December 11, 2018 and the trustees moved to proceed with annexation and plans for the west tile improvement project. That date was the last chance for the landowners to file a remonstrance against the west tile improvement.

Bolton & Menk prepared final design plans and bid documents which were accepted by the trustees on August 13, 2018. The Engineer's Annexation Report was accepted by the trustees on October 9, 2019. Bids on the west tile improvement were opened on October 24, 2019. Part of tonight's meeting will be to award a contract to the low bidder for the west tile improvement. Once that is done construction can begin with a completion deadline of December 1, 2020. Once construction is complete owners whose land was directly affected can file for damages caused by the construction. Drainage District Commissioners appointed by the trustees will prepare a new classification of the district and there will be a final hearing for landowners to comment on that classification.

Rode spoke about the Annexation Report (on file in the Story County Auditor's Office as are all prior reports). The report lists all lands to be annexed into Grant #5 alphabetically by owner along with parcel numbers, legal descriptions, and the number of acres that will benefit from Grant #5 as well as a map showing the areas to be annexed. In all, 2,203 acres are proposed to be annexed into Grant #5.

Rode had showed a map of flow paths for water that was not included in the reports. It is a computer model based on LIDAR elevations that shows where a drop of water would flow to if it were dropped on a parcel of land anywhere within the district watershed.

Olson asked if the flow path map was available to landowners if they requested it.

Rode said that it was available by request but was not part of the report because it is a complex map and difficult for most people to interpret.

Olson asked how Rode determined the watershed boundaries. Was it just by LIDAR or were there ground surveys as well?

Rode said there are a number of sources for determining elevations but they rely primarily on the LIDAR data.

Murken called for public comments and asked that people limit their comments to two minutes so everyone would have a chance to speak. If not many wished to speak those who wanted more time could return to the podium once everyone else had spoken.

Eric Eide is an attorney representing Martha Clifford and Elwell Ruetters, LC, both landowners in the west annexation area. He visited with most of the landowners in the northern and western annexation areas about the project and found that most did not fully understand what the west tile improvement entailed. Earlier today he submitted objections against the project (remonstrances) and against the annexation signed by landowners controlling, in total, about 2,000 acres (on file in the Auditor's Office). Eide does not believe landowners were given enough time to file a remonstrance prior to December 11 and the size of the annexation is excessive. He is sympathetic to the fact that the current Board of Supervisors inherited this project from the previous board but feels that they are forcing this project on landowners who don't want it or fully understand it. The supervisors' job as trustees is simply to listen to what the landowners want. Eide spoke to Rode prior to the meeting and was told that the deadline for remonstrance was December 11, 2018. He does not believe the landowners in the west project area could remonstrate at that time because they had not been annexed into Grant #5. They wouldn't have the right to remonstrate until they were brought into the district. The annexation report is not adequate. You should be able to tell from the report how your land is materially benefited. The big problem here is that the project was done before the annexation. If land should be annexed, fine, but it is inconceivable that 2,000 acres were missed when Grant #5 was established.

Olson noted that Eide referred to the supervisors' responsibilities several times. She pointed out that in drainage district matters the supervisors act as drainage district trustees and should be referred to as such.

Eide acknowledged Olson's point. He was using supervisors and trustees interchangeably but understands that trustees is the appropriate term here. In reference to the trustees' duties he said they have to clean the existing open ditch as that is a "shall" under the Code of Iowa.

Murken said the reason we are here is that someone in the district brought the issue to the trustees. They weren't asking about the open ditch, they were asking about the land north of the district. The trustees didn't go out looking for this project.

Eide said he understands that but the issue is how the district went from a request for annexation to a \$2,000,000 project.

Gerald Johnson owns 86 acres south of Jim Ketelsen Greenwing Marsh in the west annexation area. He is near the downstream end of an existing 18" private tile that was installed in 1907. It is very overloaded and backs up leaving wet spots on his land. He bought the land in 1989 and about 20 years ago NRCS told him he couldn't improve the tile because his land is a prior converted wetland. A lawsuit in the 1940's diverted water that had drained to the southwest to the east into Grant #5. He opposes the annexation. He wants more water diverted to the east, not brought across his land. The cost of this project to him is more than the land can produce in 4 or 5 years.

Murken said if Johnson is not annexed the trustees cannot help him with his drainage.

Johnson said the district can do a project upstream from his land in the northern annexation area. The west tile would run along the road on the east side of his property and he has multiple utility and gas lines on his land there already. The installation of those lines left the land so compacted it rejected his plow. He doesn't see how a tile can fit into what is already buried there and he doesn't want the land disturbed again. He doesn't want to be part of any project outside of improving the existing 18" tile.

Olson asked what was happening to the water Johnson was getting from lands upstream from him.

Johnson said it continues south under 13th Street and outlets near the Union Pacific Railroad. Johnson said the private tile on his land needs to be larger. The existing outlet sprays water like a fire hose.

Merlin Pfannkuch lives in Ames but is curious about this project, particularly how it relates to the recent industrial annexation by the City of Ames. He wanted to know where Grant #5 is and if it crosses Lincoln Way.

Rode showed Pfannkuch a map of the district showing what is existing and what is proposed for annexation.

Michael Meetz has 40 acres of restored prairie in the west annexation area. He will not benefit from this project as his land is not cropped. In fact, he believes his prairie provides benefits to the surrounding lands by retaining water, sequestering carbon, and improving water quality. He has an educational easement with Story County Conservation for youth summer camps and is considering applying for a conservation easement. He is opposed to the project.

Cynthia Hildebrand owns 72 acres at the south end of Grant #5 and 4.55 acres is slated for annexation. Their land is all prairie and is not used for agriculture. It is under a permanent conservation easement. If they are annexed how can there be any drainage work done on their land? How would that impact the conservation easement?

Rode said drainage law assumes landowners will use a district facility to the fullest extent. Land in prairie today can be sold and cropped in the future. Because this property has a permanent easement it could be excluded from the annexation.

Roger Engstrom has a 2.5 acre tract in Grant #5 and a larger parcel north of the district. He is here representing his son and Dennis Smith who both own farmland in the annexation area. They acknowledge that better drainage is needed for this area but want to take care of it themselves through either creating a new district or a joint private effort. They are opposed to the annexation. They also take issue with the west tile as designed. It will outlet into a gully where the existing 18" tile has washed out for 2-300 feet. They believe the new tile should be extended all the way to the railroad and given a proper outlet.

Heddens and Murken both asked why Engstrom and Smith opposed the west tile at the same time that they wanted better drainage. How do they propose to improve their drainage?

Engstrom said they need a larger tile but believe the project as it is now is too expensive. They thought annexation would help but the costs of the project that has been proposed outweigh any benefits the project could provide in the near future.

Olson noted that Engstrom and Smith originally supported the west tile project and were part of the reason the trustees chose to amend the Engineer's Report to include the west annexation area. Has he and/or Mr. Smith discussed this further or had discussions with other landowners? Do they believe there is enough interest to improve the 18" tile privately?

Engstrom said he'd spoken with another landowner this morning and they also felt that the annexation is not necessarily a bad thing but the proposed tile is too expensive.

Lowell Kingsbury owns 200 acres in the existing district. He wanted to know if a cleanout of the existing ditch was a part of this project.

Murken said the ditch cleanout is not a part of the west tile project but it is included in the Engineer's Report for the entire district.

Olson said the ditch cleanout is what Eide had referred to earlier. It is a repair, not an improvement, and must be addressed by the trustees at some time as the trustees are required to maintain existing facilities.

Johnson said the improvements recommended for Grant #5 as it exists today will benefit him by moving water in the north to the southeast, away from his land.

Rode concurred that the east tile improvements will reduce the amount of water that could otherwise flow to the southwest.

Eide said the USDA is probably the single largest landowner in the west annexation area. They are exempt from paying drainage assessments so the costs that would have been assessed to their land will have to be borne by the other landowners in that area. He filed remonstrances today and wants to know if Rode and Conley have tallied those documents with regards to percentage of landowners and acres owned.

Conley said he tallied the objections that have been received and has 1,434.97 acres.

Eide said he thought there were 1,900 acres objecting. He would like to go through the objections with Conley to square that discrepancy.

Conley said that was something he could do quickly. He has the objections in alphabetical order and he and Eide just need to go through them and make sure nothing was missed.

Murken called a 5-minute recess while Eide and Conley went over the objections that had been received.

Murken reconvened the meeting at 7:10 p.m. We are at the point of considering approval of the annexation of additional land into Grant #5. The trustees have received several objections to the annexation along with remonstrance's against the west tile improvement. She asked the trustees how they wish to proceed.

Olson said she had no motion to make on this particular issue. She is trying to look at this as if she were in Grant #5 and if she was getting water across her property she would be unhappy but she would also be unhappy about the cost and at not having inadequate time to review the annexation report. Things have changed in Grant #5 since she joined the board two years ago. While she respects the previous trustees and their actions we need to look at how the situation stands today. She believes it is more important now to revisit the existing open ditch which the trustees must maintain by Code.

Heddens said, as the newest member of the trustees, this is all new to her and she's been researching the last four years of minutes on this project to bring herself up to speed. People who initially supported the west annexation and improvement are now opposed to it and she is not clear on just how that change happened. She noted that if the trustees do not act tonight and the people in the west annexation area again decide they support this project the costs will likely be higher. She believes it is important to consider what the landowners want now, regardless of what deadlines may have been imposed by the Code. Heddens also had no motion to make.

Murken said the trustees need to follow what the landowners want as it is the landowner's money being spent. So far that is what has happened. The trustees investigated the west annexation and improvement because the landowners requested it. Now the landowners oppose pursuing the west annexation. Of the 50 landowners in the area 29 have filed objections. She is hearing from the engineer that 58% of the landowners controlling 74% of the land are now opposed. If this were still a remonstrance situation that would be sufficient to kill the west tile improvement. When the trustees are talking about a 1.5 million dollar project that most of the landowners now oppose the trustees have to consider that, regardless of when the remonstrance was due. If the trustees do not have a motion there will be no annexation. If there is no annexation there will be no west tile improvement.

Rode said December 11, 2018 was the deadline for remonstrance. Since then there has been a significant amount of time and money spent to prepare detailed plans and specifications. Now the landowners have changed their minds. How far into a project can you still kill that project?

Olson said the trustees must do what they believe is in the best interests of the district. The landowners wanted to investigate the west tile improvement and now they don't feel it is the best option. They will have to pay for the fees already billed which are \$192,000 to date.

Rode said the annexation areas won't have to pay those bills if they are not annexed.

Murken said the west annexation is only part of a larger project encompassing all of Grant #5. If the west annexation is shelved there are still pressing needs in the existing district. The total bill is not only for the west annexation.

Rode said it was a shame to waste all the work that has gone into this project.

Murken said the trustees are not discounting the efforts of Bolton & Menk. The trustees have also put a lot of time into this. That's just part of the job. The landowners want to go a different direction and the trustees need to take that into account.

Rode said the district incurred significant costs and now the landowners don't want to pay for it.

Murken said she is hearing that some people think they can improve their drainage for less money, some do not think their lands will benefit and may even be harmed (prairie land), and everything she is hearing this evening is pointing away from the west annexation. She understands that the people in the existing district will have to pay for the work done on the west tile proposal.

Murken said there are more items on the agenda but she is not sure they are still pertinent to this project. Awarding a bid is also no longer necessary. She asked a final time if there was a motion on the annexation. There was none.

Anderson concurred that there was no need to deal with the remainder of the agenda. The trustees do need to direct the engineer to deal with the bid letting.

Rode will notify the low bidder that the project is ended. The Engineer's Report is valid for ten years and can still be used for the rest of the Grant #5 repairs and improvements.

Olson said the trustees' next step will be to hold a meeting to decide what to do with the rest of the district and the Engineering Report's recommendations for repairs and improvements there.

Pfannkuch said he just wanted to comment that he has been unhappy with trying to get information from the City of Ames about what is happening in their east industrial annexation area.

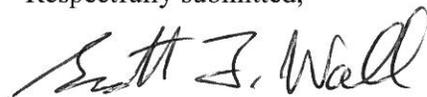
Olson said the annexation of land in Grant #5 by the City of Ames brings that area under the city's storm water ordinances. The city is aware of the Grant #5 project and plans and they will have to take that into account in their plans. There will be ample discussion of this going forward. There are 5 parts to the Grant #5 project and the west tile is the only piece that the trustees have fully addressed. There is still the open ditch that must be repaired and improvements north of that ditch that must be considered.

Anderson said, in talking with Moon, the trustees should formally reject all the bids for the West Tile Improvement.

Olson moved, seconded by Heddens, to reject all of the bids received for the West Tile Improvement to Grant #5 because the project is not moving forward. Motion carried unanimously (MCU).

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

Respectfully submitted,

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

Scott T. Wall

