

DRAINAGE MINUTES
JOINT DISTRICTS POLK-STORY #1 & 2
SEPTEMBER 12, 2022

The Drainage District Trustees of Polk & Story Counties met via Zoom for a public hearing to present the Engineer's Report (on file in the Polk and Story County Auditor's Offices) on Joint Drainage Districts Polk-Story #1 and 2, Story County controlling, to the landowners in the district. Members present were Latifah Faisal, chair, Lisa Heddens, and Linda Murken from Story County and Steve Van Oort, Robert Brownell, Angela Connolly, and Tom Hockensmith from Polk County. Present in-person were the Story County Trustees, Drainage Clerk Scott Wall, and Tyler Conley from Bolton & Menk, Inc. along with 11 landowners (see attached sign-in sheet) in the drainage districts. Attending virtually were the Polk County Trustees, Story County Engineer Darren Moon, Polk County Board Clerk Rebecca Dewey, Attorney Dominic, and Planning Director Bret Vandelune and 13 others, most of whom were likely district landowners.

Faisal called the meeting to order at 6:30 a.m.

Murken moved, seconded by Van Oort, to approve the agenda. Motion approved unanimously (MCU).

Conley went over the Engineer's Report. Polk-Story #1 was established in 1905 and was last classified in 1918. The Polk-Story #1 Main Tile outlets into the Polk-Story #2 open ditch which is why Polk-Story #2 is involved in this project. The open ditch eventually drains into Four-Mile Creek. The last major work in the district was in 1960 when a 10" relief tile was laid next to the main tile. A petition was filed by three Polk-Story #1 landowners on August 14, 2018 to investigate their concerns that tile under 340th Street along the county line and tree roots in two other locations and might be impeding drainage. No issues with tree roots were found but the tile under 340th Street was significantly mis-aligned so the tile itself was becoming an obstruction.

The report looks at the capacity of the district. The theoretical drainage coefficient (the amount of water the district can drain in a day) varies between 1/4" and 3/8". Due to age and siltation along with the tile mis-alignment the actual coefficient could be as low as 3/10" or 60% of the design capacity. The modern standard is 1/2" per day.

In addition to problems with the tile there is siltation and some tree growth in the Polk-Story #2 open ditch below the Polk-Story #1 outlet. There is an easement along the open ditch for access when it needs repairs, however that easement is not defined. The report recommends that a 100' easement (50' on either side of the ditch centerline) be established along the entirety of the Polk-Story #2 open ditch. The report recommends that the district tiles be improved to meet the 1/2" coefficient of drainage and that the lower half of the open ditch be cleaned out.

Conley noted that improvements are not required but that the trustees are required by the Code to maintain drainage districts to their original design capacity. This means that needed repairs must be done. While 51% of the landowners controlling 70% of the land in a drainage district can block an improvement (remonstrance) they cannot block a repair. Improvements also can run afoul of government programs regarding converted wetlands. This makes improvements costlier and more difficult to complete than repairs.

The report includes estimated costs for both a full repair and a full improvement but the trustees are not constrained to these two options. They can decide to do one or the other or do spot repairs or improvements instead of working on the entire district. What ends up being done will depend heavily on what the landowners want to see done.

Faisal asked if Conley would walk everyone through the report's recommendations.

Conley said what they were specifically asked to investigate was Tile Branch A under 340th Street where they found significant misalignment. No other problems were detected with the Polk-Story #1 tile. The only thing he can state with certainty is that the tile is old. If landowners know of other issues in the district he needs to hear about them tonight. This will help him understand what a reasonable course of action might be. While there are also issues with trees and siltation in the Polk-Story #2 open ditch Conley cannot say with any certainty that those issues are having a negative impact on Polk-Story #1.

Murken asked if the entire tile is mis-aligned?

Conley said they only looked at the area around 340th Street because there was an access point into the tile there. To investigate other parts of the tile it would have to be exposed and often the structural integrity of the soil is all that is holding the tile together.

Faisal asked if just the tile under 340th could be improved.

Conley said any improvement needs to start at the outlet. If you put in a partial improvement it will be limited to the capacity of the downstream tile. Also, larger tile may have to be buried deeper to maintain enough cover over the tile in which case the bottom of the new tile will be lower than the existing tile.

Connolly asked doesn't someone have to propose a motion for a repair or an improvement right now.

Faisal said we need to take comments and objections from the landowners before the trustees take any action.

Brownell said let's do that now.

Diane Lande said her husband, Dean, was the principal signer on the petition. Because he is deceased she was attending on his behalf and was in favor of the proposed improvement. They are at the far end of the tile and have had a lot of water on their land. Dean wanted this done and she wants the improvement done as well.

Arthur Reinertson owns an acreage in Polk-Story #1. Because he is not involved in row crop farming he questioned how he was involved in this proposal. The water on his property runs into the NW 16th St ditch and down the east side of the road.

Conley said everyone within the district watershed receives a benefit from the district. This is based on the classification which looks at factors such as area of the parcel, soil types, proximity to district facilities, proximity to the outlet, and land use. Smaller properties such as acreages will have relatively small benefits compared to larger, agricultural properties but any piece of land within the district boundaries are benefitted to a degree. The district does keep the ag land around Reinertson's acreage drier and better able to absorb water so he doesn't end up with a swamp next door.

Wall said benefits are calculated based on a property's perceived benefit to drainage, regardless of whether that property takes advantage of the district facilities.

Conley confirmed that benefits are calculated assuming each parcel uses 100% of the drainage available to it from the district.

Landowner Denise Hoffman typed, “Are the tile issues responsible for the intermittent flooding over county roads and will the repairs resolve those flooding issues?”

Conley said there are likely several factors that impact road flooding and the impaired tile could be one of those factors. Any water that cannot drain through the tile is going to be draining over the surface or ponding in low areas.

Faisal asked for clarification. If repairs or improvements are done, would they both begin at the outlet and move upstream?

Conley said that was more critical with an improvement. If improvements are done in the middle of the district they are limited by the size of the original tile downstream. Repairs do not increase district capacity and can be done only where necessary. However, a repair will also be limited if downstream tiles are misaligned or partially blocked by silt. He noted that repairs in road rights of way are paid out of Secondary Roads funds and not by the district landowners.

Hockensmith asked what the trustees were supposed to be voting on this evening. He understands what we are listening to but the Polk and Story County Supervisors need to know what they are voting on and get staff recommendations and input on that. He is totally unprepared to listen to landowners and the comments that we are hearing tonight. We can listen to this until 10:00 or 11:00 p.m. and that’s fine but we need to move ahead. We’ve got a recommendation and we need to vote on it.

Faisal said this meeting is a public hearing and we are doing this to get landowner input before we make a decision that impacts those landowners.

Hockensmith said he knows what a public hearing is. He’s been doing this for 20 years.

Brownell said the next item on the agenda after public comments is to vote on a proposal or recommendations. Do we have a proposal or recommendations to vote on? Are we just going to make up proposals to vote on once comments have been taken? He asked Faisal who she was and what is her role.

Faisal identified herself as the Story County Chairperson

Brownell said now we understand what Faisal’s role is and what the trustee’s role is. We need to move through this and what our staff recommendations are.

Faisal stated that Story County is the control county here and we are going to make sure the landowners in attendance understand what their options are and what the costs are before we make any kind of decision.

Brownell said in that case the Polk County Supervisors weren’t needed for anything.

Faisal replied that we do need both groups of supervisors so a decision can be made once the landowners have had their say.

Connolly asked is this the first-time landowners are hearing this? They haven’t heard any of this even when the trustees met 2 months ago?

Faisal replied that it was.

Brownell said if Story County is the control it is our problem. Polk County will have their legal staff look into what the Supervisor's role should be but he is not interested in listening to any more of this. Brownell also typed in the Zoom chat box, "Can we get to the staff recommendations? I don't need this kind of background/in-the-weeds detail."

Nick Helland typed, "I respectfully disagree and find this useful."

Polk County landowner Kenney Lund asked if the engineer investigated the open ditch beyond the district boundaries and farther downstream where it drains into Four-Mile Creek?

Conley said no, as the authority of the drainage district generally does not extend beyond the district's boundaries. There is work that can be performed downstream from the district but it is difficult to get permits for that.

Lund asked what about surface water. There are a lot of bridges that are holding back surface water including the one on County Line Road (340th Street).

Conley said the report had not investigated the bridges.

Lundy asked about NRCS involvement? He added that he favors the improvement but there are more issues than just subsurface drainage.

Conley said he was glad Lund brought up the NRCS. If an improvement is done the NRCS will view any farmed wetlands in the district as being converted and mitigation would be provided. Repairs are grandfathered in and can be done much more easily.

Landowner Curt Lehman is in favor of cleaning the entire Polk-Story #2 open ditch which would be mostly on his ground. He has been told by the DNR that he cannot do any work beyond the district boundary. If we can't clean that out we are only doing half a project because downstream blockages will cause the ditch to silt back in. What does it take to dredge beyond the end of the open ditch?

Conley said to work below the district would require permits from the Army Corps of Engineers and the DNR. The chances of those agencies allowing any straightening of the ditch are slim. They may make allowances to remove some obstructions. Conley says he would not advise neglecting the system that can be maintained just because you can't extend it farther downstream. If nothing is done you will eventually reach a point where it is extremely difficult to restore what can be maintained.

Lehman asked who pays for the ditch cleanout.

Conley said everyone uses the ditch so everyone shares that cost. The tile repairs in Polk-Story #1 would be paid for by just the Polk-Story #1 landowners.

Wall said he had received one emailed objection from landowner Shelley Klingbiel.

Klingbiel was in attendance and said she objected because she lived on an 8-acre acreage and didn't need drainage. She hadn't been aware of the district's existence until now.

Conley went over the 2022 revised cost estimates in the report and showed the area covered by each estimate (Open Ditch, Main Tile, Branches A and B) on a map of the districts. He pointed out that the trustees can order a repair, an improvement, or a combination of the two so the estimates are just a

starting point. They are based on his experience with similar projects and the true cost can only be known when the project is put out for bids.

Polk County asked if the cost estimates were broken up by county.

Conley said they were not, simply because, if an improvement is done, that will change the spread of which each landowner in each county will pay.

Polk County asked if that meant the project would have to be completed before they know anyone's cost.

Conley replied not necessarily. An informal pre-classification could be done prior to project approval with the understanding that it would not be a final re-classification. Actual construction can reveal issues that may alter the final benefits to drainage for each parcel. Conley pointed out that if a repair is done no re-classification would be necessary.

Connolly said pre-classification should be done first. They do not want to be writing what are essentially blank checks without knowing the final cost.

Hoffman typed that she is not in favor of doing anything until she knows what it will cost her.

Murken asked why the branch tiles had estimates separate from the main tile.

Conley said that was done because if an improvement is requested and the district is re-classified it will be split into sub-districts. Once that is done only the people benefitted by work on the branch tiles would pay for that work. Under the existing classification everyone in the district pays for work done anywhere in the district.

Connolly asked if the public hearing could be closed and a motion be made for a pre-classification.

Wall said he wanted to point out that if a repair is done he can tell the landowners what they will pay right now. Not tonight, but he can have those numbers tomorrow for anyone who wants to call him. That would be for Story County only and the Polk County Auditor can provide the same information for their landowners. Only if an improvement is desired do the trustees have to re-classify the district which would change the amount owed by each parcel. If a pre-classification is done that is an additional expense for the district. That money does not come from Polk or Story Counties, it comes from the landowners and the trustees need to be mindful of that.

A landowner asked when the money needs to be paid.

Wall said drainage assessments are due with the first half of regular taxes so if we did the project right now the earliest that money would be due is September 30, 2023.

Conley added that payments can be spread over 10-20 years. The repayment period and interest rate are set by the trustees.

Faisal said both the proposed repair and improvement involve digging up the tile and replacing it – correct?

Conley said yes, at least as far as from the outlet to the mis-alignment under 340th Street. The cost difference between the two options comes from the larger tiles needed by an improvement and the need to bury those tiles deeper to maintain adequate cover above them.

Faisal asked about annexation.

Conley said the engineer's report found little evidence that there were lands that should be annexed by the district. An improvement might end up benefitting additional lands outside the district which could be annexed if it were deemed necessary.

Brownell said it didn't sound like they had any further role to play and he was not interested in listening to this for another half hour.

Connolly asked if any Polk County Staff were attending the meeting.

Bret Vandelune said he had been listening along with Dominic from the County Attorney's Office.

Connolly would have liked to have more information on this before the meeting and a recommendation from Vandelune. She would like to close the hearing and move to direct the engineer to proceed with a pre-classification.

Van Oort said he would second that motion.

Vandelune said he was hearing that a pre-classification would not be necessary if there is no improvement. He believes the hearing should be closed and, since they are the control, Story County should make a recommendation.

Van Oort said his inclination is that a repair makes more sense but it doesn't make sense to sit here for another half hour and not make any decisions.

Faisal said before Connolly's motion could be addressed she needed to be sure there are no more landowners who want to comment.

Hoffman typed that she does not want anything approved until she knows what her share will be and asked where the money was coming from besides Secondary Roads.

Landowners Ray and Phyllis typed that landowners will pay the private party costs in the estimate. Is that correct?

Conley said that was correct. Any drainage tile issues within road rights of way are paid for by the secondary roads departments and all other costs are assessed to the district landowners. He noted that the estimates include the costs for road crossings and are higher than the cost that landowners would eventually pay.

Connolly rescinded her motion on a pre-classification and Van Oort rescinded his second since Vandelune had indicated that a repair would not require re-classifying the district. She said if there is not going to be a vote on anything then Polk County is out.

Faisal said we are getting to a decision and, there being no more public comments, closed the public hearing.

Heddens moved, seconded by Brownell, to direct the engineer to move forward with an improvement of Joint Drainage District Polk-Story #1 including the cleanout of the open ditch in Polk-Story #2.

Connolly said that is without knowing what it will cost.

Brownell agreed but said Story County is the control and if they want to do it then God Bless them.

Murken said the repair has to go forward correct?

Conley said yes, the repair of known problems is mandatory. If an improvement is done that will take care of the repair as well since the mis-aligned tile would be part of any improvement.

Wall said if an improvement is desired the pre-classification should come first since there was a desire to know the individual costs ahead of time.

Conley said if the trustees want to go down the pre-classification route it would be better to direct for that and not proceed with anything else until the pre-classification can be made available to the trustees and landowners. That would necessitate sending a new notice to landowners once the pre-classification is completed.

Heddens withdrew her motion and Brownell withdrew his second.

Murken asked about the cost of a pre-classification.

Conley said around \$7,500.

Murken moved, seconded by Connolly, to direct the engineer to perform a pre-classification of Polk-Story #1 to determine probable costs to landowners. Faisal, Heddens, Murken, Connolly, Hockensmith, and Brownell voted aye with Van Oort dissenting.

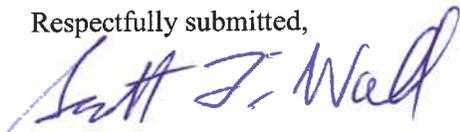
Landowner Bill Krause asked how much had been spent on this project so far? Now we are adding another \$7,500. He is concerned about how much is being spent just to decide what to do.

Wall guessed over \$50,000 while Conley didn't think it was that much. Wall said he could have the amount spent so far tomorrow morning if anyone wants to call and ask. Wall said if an improvement is desired we can't know what each landowner will pay without a reclassification. However, if a repair is done he can have the breakdown of costs for every landowner in Story County tomorrow based on the estimated project cost and the Polk County Auditor's Office should be able to do the same for their landowners.

Murken stated for the record that the Boards of Supervisors are acting as trustees because it falls to them under the Code of Iowa unless the district elects its own trustees. The steps the trustees are taking here are those defined by the Code of Iowa. The district belongs to the landowners which is why the trustees are trying to get a sense of what the landowners want. It is the landowners who will pay for any action the trustees take.

Heddens moved, Hockensmith seconded, to adjourn. MCU. Meeting adjourned at 7:50 p.m.

Respectfully submitted,



Scott T. Wall

