

DRAINAGE NOTES
MULTIPLE DISTRICTS
TUESDAY, JANUARY 26, 2016

The Story County Drainage District Trustees met in the Public Meeting Room of the Story County Administration Building to hear a proposal on procuring liability insurance for drainage districts. Members present were Paul Toot, chair, and Rick Sanders. Also present were County Engineer Darren Moon, Director of External Operations and County Services Debra Schildroth, Drainage Clerk Scott Wall, and Steve Goodhue and Susan Hoshor from Knapp Tedesco Insurance.

Toot called the meeting to order at 9:05 a.m. and asked Goodhue about drainage district insurance.

Goodhue said the conversation with Story County about drainage district insurance began about 6 months ago. There are 3,200 drainage districts in the State of Iowa. They have tort immunity at the state level but not at the federal level. The recent lawsuit by Des Moines Waterworks against drainage districts in three counties upstream from Des Moines has generated a lot of interest from Iowa counties in protecting themselves against similar legal action.

Drainage districts are currently not eligible for Iowa Communities Assurance Group (ICAP) coverage unless they are wholly within a single county and are governed solely by the Board of Supervisors of that county. Story County has 92 drainage districts that meet this requirement. There is legislation pending to make ICAP insurance more accessible to drainage districts but Goodhue only learned of the legislation yesterday and doesn't know if a bill has even been drafted yet.

The initial premiums for drainage district insurance are expected to be around \$100 per district but Goodhue said there may be a scale to address differently sized districts as well as discounts for counties based on their credit ratings and past insurance needs. Goodhue expects that the actual cost for this insurance will end up being \$50-75 per district.

Goodhue said there has been a lot of interest in this issue across the state but no policies have been issued yet. He recommends that before filling out applications for 92 separate drainage districts Story County should have a meeting with representatives from ICAP to learn more about what the benefits of this insurance would be.

Toot asked if the ICAP insurance was dependent on passage of the pending legislation. Goodhue replied that it was not.

Sanders said if someone were to sue Story County today over a drainage district issue we would argue that the Board of Supervisors do not represent drainage districts and their actions as drainage district trustees are separate from their actions as supervisors. While this may not be a strong defense there was a lawsuit against the County Assessor recently that named Story County and we won the argument that the Assessor was not under the county's authority despite the fact that they are paid by the county and the supervisors sit on their conference board. Sanders believes that if the county approves purchasing of insurance for our drainage districts it would indicate that we believe there is a direct connection between those districts and the county. Furthermore, while Sanders feels it would be appropriate for Story County to take a leadership role here and he thinks insuring our drainage districts is a wise precaution, we shouldn't get so far ahead of the law that our actions are negated by a later action of the state legislature.

Goodhue said at this point there have been no policies written. He agreed that it would be prudent not to move ahead with insuring Story County's drainage districts for at least 60 days. During that time he can

learn about the proposed legislation and there will be time to see what direction the state legislature might be going with it. It also gives the county time to have some conversations with ICAP.

There being no further business to discuss Toot adjourned the meeting at 9:20 a.m.

Respectfully submitted,

Scott T. Wall