

DRAINAGE MEETING
DISTRICT GRANT #5
DECEMBER 9, 2019

The Story County Drainage District Trustees met in the Public Meeting Room at the Story County Administration Building in Nevada, IA to consider next steps for recommended repairs, improvements, and annexation in Drainage District Grant #5. Members present were Linda Murken, chair, Lauris Olson, and Lisa Heddens. Also present were County Engineer Darren Moon, Drainage Clerk Scott Wall, and 2 district landowners.

Murken called the meeting to order at 10:33 a.m.

Wall talked about where the situation in Grant #5 stands today. At the last public hearing on October 29, 2019 the trustees took no action on a proposed annexation and west tile improvement project, effectively killing said west annexation and improvement. In addition to the west tile annexation and improvement the Amended Engineer's Report dated March 2018 includes recommendations to annex lands to the north of the existing district and along the east and west (excepting the west tile area), repairing the existing open ditch, extending the existing open ditch north under the Union Pacific Railroad tracks to 220th Street, extending and enlarging the main district tile north of 220th Street, adding branch tiles if desired by affected landowners, and reclassifying the district.

Of the report's recommendations the open ditch repair is required by code as the trustees shall maintain drainage districts to their original capacity. While the report found that there are lands that surface drain into the district and should be annexed, annexation under the Code is a "may" not a "shall" and the trustees have some discretion as to whether to annex and how much to annex. Annexation requires reclassification.

Wall said the county's bookkeeping department has been asking about levying Grant #5. The district is currently over \$200,000 in the red and interest on that debt is accumulating at 6%. One of the considerations before the trustees is whether to annex additional lands into Grant #5 before levying the district. Annexing prior to levying would spread the cost over a larger area and, if the trustees believe the additional lands should be annexed, they should be sharing in the costs accrued thus far. Drainage Engineer Kent Rode recommends annexing the areas shown in the report prior to levying for current debt and prior to repairing the existing ditch.

If the trustees annex additional lands some of the same people that objected to the west tile improvement are in the north annexation area – Dennis Smith, Roger Engstrom, and Martha Clifford in particular. There could still be objections to annexation from them but when Martha's attorney, Eric Eide, met with the trustees he said if land needs to be annexed then annex it. His primary objection to the west annexation area was that the Code states land can be annexed if it can be shown to materially benefit from the existing district facilities which the west area did not.

Olson asked where Rode was today.

Wall responded that it was felt that Rode's presence was not needed at this point, at least not enough to justify more costs to the district. Rode was aware that the trustees are meeting today and he offered to be available by phone if needed.

Olson asked about ditch cleaning by county personnel.

Wall said the county's IRVM crew has been removing trees and brush from the lower half of the open ditch for the last three to four years. That is a huge job for two people and they are not doing anything about meanders or siltation.

Moon added that there were maintenance issues at the far south end of the ditch with tile washouts and erosion that need to be addressed. He thinks the maintenance needs to move forward regardless of what the trustees want to do about the other recommendations in the Engineer's Report.

Wall said the Amended Engineer's Report is dated March of 2018 and it is valid for ten years. The trustees are not under pressure to enact the repairs and improvements in the report immediately but they should be considered in the near future as the problems in Grant #5 are not going away.

Murken asked what the estimated cost was for cleaning out the open ditch.

Wall said it was originally \$530,000. Of that \$300,000 was for construction costs and the rest was engineering, some of which has already been done. In the November addendum to the report the estimate had risen to \$544,000.

Murken said the question now is whether the northern annexation should come before the open ditch repair.

Wall said that was correct. He'd notified Rode that the trustees were meeting today and asked if Rode could separate out the engineering costs that were specific to the west annexation area and improvement. Rode had replied that he could not as the engineering fees apply across the entire district but he did recommend that any annexation take place prior to work being done on the open ditch.

Olson said she felt that Rode's response about separating costs was more of a policy decision and that should be the trustee's call.

Wall said if the west tile improvement had gone forward Rode would have divided the costs up so that landowners in the original district were not sharing the engineering costs of the west tile improvement so Wall believes it can be done. It's more a question of what Bolton & Menk will charge to do it. While the district will have to pay the full engineering costs Wall anticipates landowners wanting to know what the work on the west area cost and he'd like to have an answer.

Olson concurred and said she thinks we need to pin Kent down as to whether he can't separate the costs or he doesn't want to do it.

Olson talked about Eric Eide's concerns about who benefits from annexation. Does surface water have to permeate the ground to reach district facilities and benefit from those facilities?

Wall said the surface water will eventually find its way to the open ditch be it over the surface or through the ground. Eide's objection to the west annexation was that it has to be shown to benefit from the existing facility and there was no existing facility serving the west area.

Murken said she understands that Rode recommends annexation and reclassification prior to any repairs or improvements in Grant #5. How long does that process take and how much will it delay any repairs to the open ditch.

Wall said we have an annexation report so much of that work has been done. If the west annexation properties are removed from the annexation report the remaining lands will have to have some area

percentages recalculated but that should be relatively simple. Generating the original annexation report involved an approximate 3-month time frame.

Olson asked if the west annexation would have included part of the north annexation.

Wall said the west tile would have served some of the north annexation area in addition to the west annexation by drawing more water to the southwest and away from the original district. That is why we'll be dealing with many of the same people who objected to the west tile improvement.

Olson felt we should consider ourselves to be starting over if the trustees decide to annex the north area. She felt the process followed so far has been messy and difficult for the landowners to follow. We took the required steps but could have been clearer in our communications with landowners. She thought it would be better to have one meeting to discuss annexation then a separate meeting to discuss reclassification.

Murken said there will have to be new notice given because the annexation the trustees will consider is different than the last time. She wasn't sure why we would need more than one public hearing as notice would be sent to everyone in the annexation area explaining what the hearing will be about.

Wall said if the trustees hold a hearing to annex the district it would make sense to direct the engineer to prepare annexation documents and a reclassification concurrently.

Murken said it is better if the trustees can accomplish several things in each meeting as more meetings mean more engineering fees.

Olson asked if the trustees were bound to Bolton & Menk since we have to pay for Rode's travel time from Algona every time we meet with him.

Wall said no. We could select a new drainage engineering firm at any time. Prior to Bolton & Menk and their predecessor, ISG (also with Rode), the trustees used Fox Engineering and Scott Renaud in Ames for drainage work. The trustees decided to go with ISG following a drainage district project in Joint District Boone-Story #3 during which it became increasingly difficult to get Fox to make any progress at all over a period of 8-9 months.

Olson said she just wants the notice of hearing and the agenda to be very clear as to what is being considered.

Wall said the remonstrance process needs to be more clearly presented as well so landowners know what they can control and what the deadlines are.

Heddens said, for her coming onto the trustees in the middle of Grant #5 and trying to come up to speed by reading the minutes, it was confusing at times about what was happening.

Murken asked if Wall or Moon had anything to add.

Wall said the primary concerns today are cleaning out the open ditch, annexing additional land, and reclassifying the district.

Olson said we need to get to the point where we can levy the district so she'd like to move forward with annexation followed by getting started on the open ditch repairs and reclassification can take place concurrently with the first two items.

Murken asked when the ditch could be cleaned.

Wall said not before the fall of 2020 and that was probably too optimistic. Ideally, if we could get bids by May of 2020, a contractor could begin working that fall after crops are out. Failing that we'd be looking at the spring of 2021.

Moon asked if we would have to reclassify the entire district. Isn't there a way to classify new lands without altering the existing classification?

Wall said there is a method to classify annexed lands by comparing them to existing lands within the district but he wasn't sure that was applicable here because of the size of the area to be annexed. Wall said the public hearing must be scheduled not less than 40 days from today but he prefers more time as he likes to get the notification to the landowners 40 days before the hearing date. Forty days from now is late January and the trustees will probably want to avoid conflict with the budgeting process and look at an evening in early February.

Olson asked if all the areas in the original watershed study should be annexed. There is a parcel on the west side of Grant #5 and several parcels on the east, inside Nevada, in addition to the northern area.

Wall said because annexation is a "may" in the Code and not a "shall" he believes the trustees have some options in what they annex. At the far north of the annexation area there is land that is already in other districts and he wonders about how much benefit any land west of Interstate 35 would get from annexation.

Wall said there has been a history of complaints from the east side of Grant #5 where it falls within the Nevada City limits including a call last week. The area suffers partly due to its distance from the Grant #5 ditch and also from changes to the topography when Nevada paved West 18th Street. The Hildebrand's own land at the outlet of the district that is highlighted in the watershed map and Rode had stated that this land could be excluded because of its status as permanently protected prairie.

Murken asked for confirmation that all the owners of land slated for possible annexation would get notice of the hearing.

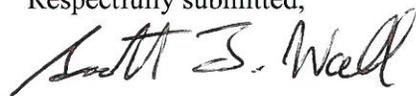
Wall said that they would and that everyone in the existing district will receive notice as well.

Moon wanted to be sure that the repairs to the open ditch will be considered along with annexation and reclassification.

Olson moved, seconded by Heddens, to schedule a public hearing on a date to be determined by staff to consider annexation of lands to the north, west, and east of Grant #5 (exclusive of the west tile improvement area) as identified on the watershed map included on page A.02 in Engineer's Report #15-18255 filed on January 31, 2017 and to consider classification of those lands and to discuss and consider repairs recommended for the existing open drainage ditch. Motion carried unanimously (MCU).

Heddens moved, seconded by Olson, to adjourn. MCU. Meeting adjourned at 11:09 a.m.

Respectfully submitted,



Scott T. Wall