

STATE OF MICHIGAN
OFFICE OF THE MUSKEGON COUNTY DRAIN COMMISSIONER

IN THE MATTER OF:

Erickson Drain

Board of Determination for
Erickson Drain

November 28, 2018
6:35 P.M.

Reeths-Puffer Middle School
1500 North Getty Street
North Muskegon, Michigan

Board of Determination:
Mr. David Split (chairman)
Dr. Tom Tissue (secretary)
Mr. Ken Erdman
Ms. Sharon Ackerman (alternate)

Engineer:
Dan Fredricks

RECORDED BY: Michelle M. McKee, CSR 3841
Certified Shorthand Reporter

1 MS. BRENDA MOORE: Good evening. We're
2 going to call the meeting to order here -- hearing or
3 whatever. I'm Brenda Moore. I'm the County Drain
4 Commissioner. Where's Stephanie?

5 MR. COLE HEDRICK: She ran out front to
6 make sure that --

7 MS. BRENDA MOORE: Stephanie Barrett, when
8 she comes in, she's got shoulder-length hair, she's
9 our deputy -- deputy drain commissioner.

10 Tonight, we're going to have a Board of
11 Determination for the Erickson Drain. And I'm here
12 and Stephanie is here to answer questions.
13 Basically, the process is taken care of by our Board
14 of Determination and these are citizens that I
15 appoint that cannot live in the district and cannot
16 live in the communities that the Erickson Drain is
17 in.

18 So we've also got Dan Fredricks is the
19 project engineer, so he'll be giving a presentation
20 after we hear from the public. Stacy Hissong is the
21 attorney for the drain district. Cole Hedrick is
22 back there. He works with Stacy.

23 We've got our Board of Determination
24 members: Ken Erdman, Dr. Tom Tissue-

25 UNIDENTIFIED SPEAKER: Can't hear you.

1 MS. BRENDA MOORE: I'm sorry.

2 (Whereupon, unintelligible conversation.)

3 MS. BRENDA MOORE: Stephanie Barrett. So
4 we've got Ken Erdman --

5 MS. STEPHANIE BARRETT: Microphone.

6 MS. BRENDA MOORE: Thank you. Shall I
7 start over? You know I'm Brenda Moore, Drain
8 Commissioner. Stephanie Barrett, Deputy Drain
9 Commissioner. I thought I had a good loud voice.
10 Dan Fredricks, project engineer. Stacy Hissong,
11 district attorney, with Cole Hedrick, who is helping
12 her. They're from the same firm. We've got Ken
13 Erdman, Dr. Tom Tissue, David Split, Sharon Ackerman
14 is our alternate. Michelle McKee actually is a court
15 reporter. She's taking everything down verbatim.
16 We'll have the transcript available usually in about
17 a week.

18 And so what I'm going to do now is
19 administer the oath for the Board of Determination
20 and then I'll turn it over to Stacy Hissong and
21 she'll talk about kind of the process. Okay?

22 Would you all raise your right hand,
23 please? You too, Ms. Ackerman. Thank you. Do you
24 each solemnly swear that you will faithfully perform
25 and discharge the duties imposed upon you as required

1 by law as members of the Board of Determination
2 appointed by the Muskegon County Drain Commissioner
3 to determine the necessity for maintenance and
4 improvement of the Erickson Drain located in Dalton
5 Township in said county? Do each of you affirm that
6 you are land owners and residents of Muskegon County
7 but do not own lands or reside in Dalton Township?

8 MR. KEN ERDMAN: I do.

9 DR. TOM TISUE: I do.

10 MR. DAVID SPLIT: I do.

11 MS. SHARON ACKERMAN: I do.

12 MS. BRENDA MOORE: Thank you. If I could
13 have you just pass this down and sign the statement,
14 that would be great. And then we can have Stacy take
15 over.

16 MS. STACY HISSONG: I think the next item
17 before going through the role and function of the
18 Board is actually the election of a secretary and a
19 chairperson. So my experience has been someone needs
20 to make a motion for someone being chairperson.

21 DR. TOM TISUE: Nominate Mr. Split.

22 MR. KEN ERDMAN: I support.

23 MR. DAVID SPLIT: I accept.

24 MS. STACY HISSONG: Then there would be a
25 nomination for secretary.

1 MR. KEN ERDMAN: I'll nominate Tom.

2 MR. DAVID SPLIT: Second that.

3 MS. STACY HISSONG: See how that works?
4 The first person to make the motions doesn't have to
5 do --

6 MR. COLE HEDRICK: Stacy, is it okay for
7 the alternate to make the motion?

8 MS. STACY HISSONG: So actually, it is --
9 Ms. Ackerman is the alternate.

10 MR. COLE HEDRICK: Okay.

11 MS. STACY HISSONG: Yep.

12 MR. KEN ERDMAN: Typo.

13 MS. STACY HISSONG: So the next item,
14 Mr. Chair, if it's okay, is to go through the role
15 and function of the Board.

16 MR. DAVID SPLIT: Yes.

17 MR. TONY BARNES: Would it not be to do
18 roll call on those last two motions?

19 MS. STACY HISSONG: So a roll call vote
20 isn't required for everything.

21 MR. TONY BARNES: Vote on the motion?

22 MS. STACY HISSONG: I think it was
23 accepted. So, Mr. Chair, there's been a question
24 about actual formal voting on the chair and
25 secretary. You can make that decision whether you

1 should move forward to do that. I would recommend
2 that you do.

3 MR. DAVID SPLIT: Sure. Yes.

4 MS. STACY HISSONG: So you want to call
5 each question separately.

6 MR. DAVID SPLIT: Okay. We'd like to vote
7 on the chairperson. David Split has been nominated.

8 MR. KEN ERDMAN: All in favor.

9 MR. DAVID SPLIT: All in favor?

10 MR. KEN ERDMAN: Aye.

11 DR. TOM TISUE: Aye.

12 MR. DAVID SPLIT: It's agreed upon.

13 MS. STACY HISSONG: And the secretary, as
14 well.

15 MR. DAVID SPLIT: And the secretary to be
16 voted on, Tom Tissue?

17 MR. KEN ERDMAN: Aye.

18 DR. TOM TISUE: Aye.

19 MR. DAVID SPLIT: Aye. Secretary is
20 confirmed, it's Tom Tissue.

21 MS. STACY HISSONG: The next item on the
22 agenda is rules of --

23 MS. BRENDA MOORE: Question, please? I'm
24 sorry. I just want Dr. Tissue to know he doesn't have
25 to take notes. Stephanie is taking minutes. She'll

1 review them. I saw him reaching for stuff and Ms.
2 McKee is our transcriptionist, so you need to just
3 review and sign.

4 DR. TOM TISUE: I understand perfectly
5 well, but I'm --

6 MS. BRENDA MOORE: Okay. All right.

7 DR. TOM TISUE: -- take a few anyway for
8 my own purpose in the hopes of staying --

9 MS. BRENDA MOORE: Yes, sir. Yes, sir.

10 MS. STACY HISSONG: Mr. Chair, the next
11 item on the agenda is the rules of public comment.
12 If anyone wishes to make motions with regard to that,
13 you may. You're not required to.

14 MR. DAVID SPLIT: We would like to accept
15 a three-minute ruling on the time limit for people to
16 speak and make comment.

17 MS. STACY HISSONG: Is that a motion?

18 MS. TAMMY BARNARD: We request five
19 minutes.

20 MS. STACY HISSONG: So that's a motion,
21 Mr. Chair, that you're making or you're asking for a
22 motion?

23 MR. DAVID SPLIT: We can make that a
24 motion.

25 DR. TOM TISUE: I certainly second.

1 MS. STACY HISSONG: And then a vote on
2 that.

3 MR. DAVID SPLIT: Vote on the three-minute
4 public comment?

5 MR. KEN ERDMAN: Aye.

6 DR. TOM TISUE: Aye.

7 MR. DAVID SPLIT: Aye.

8 MS. STACY HISSONG: So if you'd like, I
9 can move to the role and function of the Board of
10 Determination.

11 MR. DAVID SPLIT: Yes.

12 MS. STACY HISSONG: Thank you. My name is
13 Stacy Hissong. I'm an attorney for the drainage
14 district and I'm going to talk a little bit about
15 what tonight's Board of Determination is about.

16 A petition was filed a little over a year
17 ago with the Muskegon County Drain Commissioner for
18 the maintenance and improvement of the Erickson
19 Drain. So the Erickson Drain is already an
20 established county drain. It has been for decades
21 and decades and there's already a drainage district
22 or a special assessment district that is set up for
23 the Erickson Drain.

24 So a drainage district is the same as a
25 special assessment district and it's basically

1 synonymous with a watershed. So if your water -- If
2 your property contributes water to the Erickson
3 Drain, then you're part of the watershed, you're part
4 of the drainage district, you're part of the special
5 assessment district. So if your property was found
6 to be part of this special assessment district, you
7 should have received a notice in the mail for today's
8 hearing.

9 So after a petition is received, the drain
10 code requires that the drain commissioner hold a
11 Board of Determination, basically appoint board of
12 determination members to hear whether the petition is
13 necessary or not. So that's the purpose of today's
14 hearing.

15 The Board of Determination will hear
16 testimony from anyone who wants to present testimony
17 as to whether maintenance and improvement of the
18 drain should take place or not. After that
19 testimony, the engineer will provide a short Power
20 Point presentation on the condition of the drain --
21 not necessarily what a project would be, but what the
22 drain looks like today or, you know, currently.

23 And then the Board of Determination will
24 make a decision whether a petition is necessary or
25 conducive to the public health, convenience or

1 welfare. So those are the words that they're going
2 to hear in the motion, whether it's necessary or not
3 necessary, because those are the words that are used
4 in the drain code. So is the petition or is
5 maintenance and improvement of the drain necessary or
6 not necessary for the public health, convenience or
7 welfare.

8 So, they make that decision. And if they
9 decide it is necessary, then they move to a second
10 question, and that is whether the municipalities
11 within the drainage district receive a benefit to
12 public health in general such that they should --
13 that municipality should receive an at-large
14 assessment as part of the drain assessments.

15 So I think it's important to understand
16 that's what the meeting is about, but also is equally
17 important to understand what we are not deciding
18 today. So the Board's sole decision is should
19 something happen, should work take place, based on
20 the petition or not. The Board of Determination does
21 not decide the scope of that project. They don't
22 decide we should only do work on Mr. Jones' property
23 but not on Mr. Smith's, we should only replace this
24 culvert and not that culvert. They don't make any of
25 those decisions. They decide, yes, something needs

1 to be done or, no, something does not need to be
2 done. They don't decide what the something is.

3 If it's found necessary, then the drain
4 commissioner will work with an engineer to come up
5 with a scope of a project and that's how the scope of
6 the project is determined. It is not determined by
7 the Board of Determination.

8 The Board also doesn't decide how much the
9 project will be or who is going to pay for it. Once
10 again, the Board only decides, yes, it's necessary;
11 and if it's necessary, should the municipalities or
12 the township, as an example, participate in helping
13 pay for that because of a benefit to public health or
14 not. The decisions as to what the scope of the
15 project is, the total cost of the project and then
16 what the special assessment rule would look like,
17 which property owners are paying what, are later
18 decided by the drain commissioner. And there will be
19 a separate day where the apportionment of benefits or
20 that special assessment rule is looked at if there
21 is, indeed, a project.

22 If it is voted by this Board -- and it
23 does not have to be unanimous, it can be by majority
24 vote -- that it is not necessary, then this process
25 ends here and no petition can be filed again for at

1 least one year. So that is what the testimony should
2 basically be about is assisting the Board of
3 Determination in making a decision should something
4 be done on the Erickson Drain or not.

5 And so in terms of the next step, it would
6 be on the agenda, public testimony. So comment cards
7 have been given out. And I'm not sure if they have
8 been collected, but we can do this by two ways,
9 Board, is either by comment cards that were submitted
10 or by the raising of the hand, whatever you deem
11 appropriate. We did ask people if they wished to
12 speak to fill out a comment card and here are the
13 comment cards available to you (indicating).

14 MR. COLE HEDRICK: If anybody else wants
15 to hand one in, just raise your hand and I'll get one
16 to you.

17 MR. DAVID SPLIT: Has everyone had a
18 chance to put in a comment card?

19 MS. STEPHANIE BARRETT: Yeah, but --

20 MS. TAMMY BARNHARD: Can we not see the
21 presentation first in order that we can ask educated
22 questions?

23 UNIDENTIFIED SPEAKER: (Unintelligible)
24 what the presentation is.

25 MS. STACY HISSONG: So hold on a second.

1 There's a court reporter here. And I appreciate that
2 everyone is going to get an opportunity to speak
3 according to the agenda, but we do have a court
4 reporter here taking a transcript of everything that
5 is said and it's very difficult for her to do that
6 and list who is speaking if more than one person is
7 speaking at the same time and that person isn't
8 recognized by this Board to speak. So we ask that
9 you refrain from making comments so that the court
10 reporter can very accurately take a transcript of
11 what's being said.

12 Okay. Board?

13 UNIDENTIFIED SPEAKER: I'd like to make a
14 question. I'd like to make a comment.

15 MS. STACY HISSONG: Hold on a second. The
16 Board hasn't moved forward yet. So Board, we have
17 two microphones, because I think you're going to want
18 to have a microphone for the property owners to speak
19 to and we have a lapel one, so you might want to use
20 the lapel microphone --

21 MR. DAVID SPLIT: Sure.

22 MS. STACY HISSONG: So that people can
23 also hear you. Hello, hello. There you go.

24 MR. DAVID SPLIT: We'd like to start off
25 possibly show of hands of people that live in the

1 district here.

2 (Whereupon, hands raised.)

3 MR. DAVID SPLIT: Thank you. We'd like to
4 open up the meeting with some public comment.

5 MS. STACY HISSONG: You have the cards
6 right here.

7 MR. DAVID SPLIT: Yeah. Let's go by the
8 cards we have here. Please stand, give us your name
9 and address, starting with Mark Mann.

10 MR. MARK MANN: Hi. My name is Mark Mann.
11 I live at 1240 East Riley-Thompson. And before I
12 make any comments, I'd like to know what the petition
13 is. I'd like to know why it was put in. We can't
14 make any educated comments without knowing what the
15 petition is. So this is just -- You know, if you're
16 going to open it up for a bitch session without
17 knowing what the petition is, it's just, you know, a
18 can of worms that's going to be a mess.

19 MS. STACY HISSONG: So Board, you have a
20 copy of the petition. If the Board wishes to read it
21 to the audience, you may do so. Also, the Board may
22 choose to hear from the petitioners first to answer
23 some of those questions, if you'd like.

24 DR. TOM TISUE: You want me to read it?
25 Copy of the petition that I have reads: To the

1 Muskegon County Drain Commissioner. The signers of
2 this petition request the maintenance and improvement
3 of the Erickson Drain as provided in Chapter 8 of
4 Public Act 40 of 1956 as amended to alleviate
5 drainage issues in the drainage district.

6 Paragraph two, the Erickson Drain is
7 located in Dalton Township, Muskegon County,
8 Michigan.

9 Paragraph three, this petition is signed
10 by at least five freeholders with lands liable for
11 assessment in the Erickson Drain Drainage District.
12 The signers acknowledge and understand that this
13 petition may be circulated and signed in
14 counterparts, and that all such counterparts together
15 constitute a single petition.

16 UNIDENTIFIED SPEAKER: Does that answer
17 your question?

18 UNIDENTIFIED SPEAKER: So they're just
19 asking for improvements?

20 MR. DAVID SPLIT: I believe it would be
21 favorable to see a drawing on this drain. Can we
22 have engineering present a --

23 MR. DAN FREDRICKS: You want the drainage
24 district? I can put up --

25 MR. DAVID SPLIT: Yeah. If you could

1 please --

2 MR. DAN FREDRICKS: -- a slide where the
3 drainage district, showing --

4 MR. DAVID SPLINT: Yeah, that would be
5 good. A lot of us are wondering what this all
6 composes.

7 MS. STEPHANIE BARRETT: There's a map on
8 the back.

9 MR. DAN FREDRICKS: There is a map on
10 everybody's -- the back of it, too.

11 MS. STEPHANIE BARRETT: On the back.

12 MS. BRENDA MOORE: Mr. Chair?

13 MR. DAVID SPLIT: Yes?

14 MS. BRENDA MOORE: Since I had some
15 conversation with the petitioners, would you like me
16 to speak to that?

17 MR. DAVID SPLIT: Yeah. That would be
18 very helpful. Brenda Moore, Muskegon County Drain
19 Commissioner will speak here.

20 MS. BRENDA MOORE: Basically, we heard
21 from a couple blueberry farmers. And this is real
22 generic, because I can't speak for the other signers.
23 But kind of what started this is there's -- and I
24 think it's True Blue had problems in their blueberry
25 field and they asked about extending the drain to

1 help them. There's another farmer -- blueberry
2 farmer that's had flooding problems.

3 So as I understand it, and if they're here
4 they can expound upon it, but it started primarily
5 with a couple blueberry farmers saying we're getting
6 flooded, we're going to lose our crop, we may need
7 some help. And so especially when extending the
8 drain, like putting another branch on to help a
9 property owner can't be done without a petition, so
10 that's where the process usually starts.

11 MR. MARK MANN: So are these new blueberry
12 fields or are they existing blueberry fields or did
13 someone put in a blueberry field in an area that's
14 prone to flooding?

15 MS. BRENDA MOORE: Existing.

16 MS. STEPHANIE BARRETT: The question was
17 are these new blueberry fields and the Drain
18 Commissioner said they were existing.

19 MR. TONY BARNES: Point of order, still.

20 MR. DAVID SPLIT: Well, let's continue
21 with the public questioning. Dawn Krager, speak,
22 please.

23 MS. DAWN KRAGER: Yes. I think we've paid
24 for this the last two years and we haven't seen
25 anything. They were supposed to come out and explain

1 to me how water can flow uphill. To me, it can't be
2 done.

3 And our drain is broke. The road
4 commission has come out and filled our road because
5 of a big hole and even that only levels it out
6 between one side of the road and the other.

7 We have a flooded field. We have a
8 flooded basement and nothing they said can be done.
9 We just have to pay because we're on the corner.

10 MS. STEPHANIE BARRETT: What's your
11 address?

12 MS. DAWN KRAGER: 1844 Michillinda.

13 MS. STEPHANIE BARRETT: 1844 Michillinda.
14 They're taking notes for that, too, the engineer is,
15 and then we will for our own --

16 MR. TONY BARNES: A point of order. How
17 can we have public comment? We don't see the
18 presentation. That's been asked several times. We'd
19 like to see the presentation so we can accurately
20 see, discuss this. You didn't approve the agenda.
21 Why would there be public comment before engineering
22 -- or not have public comment after the engineering
23 presentation?

24 MR. DAVID SPLIT: We can do that. Fair
25 question. Could we have engineering explain this

1 easement?

2 MS. STEPHANIE BARRETT: Do you want just
3 the easement or do you want their actual
4 presentation?

5 MR. TONY BARNES: See the presentation.

6 MR. DAVID SPLIT: Yeah. Let's see the
7 actual presentation.

8 MS. STACY HISSONG: So the Board can --
9 The agenda is the Board's to decide, and so you can
10 do that. The presentation is to assist you in making
11 decisions, so you can hear that -- have that at the
12 end or at the beginning. It does not matter. So --

13 MS. TAMMY BARNARD: Matters to us to ask
14 logical questions.

15 MS. STACY HISSONG: So public comment is
16 for the purpose of providing testimony and public
17 comment can take place anytime in a meeting and this
18 Board's time to decide how they want to hold the
19 meeting, so feel free to do so.

20 MS. BRENDA MOORE: Ms. Hissong? Ms.
21 Hissong?

22 DR. TOM TISUE: Presentation now.

23 MR. DAVID SPLIT: Let's all vote on the
24 presentation at the beginning of the meeting here.

25 All in favor?

1 MR. KEN ERDMAN: Aye.

2 DR. TOM TISUE: Aye.

3 MR. DAVID SPLIT: Aye.

4 MS. TAMMY BARNHARD: Thank you.

5 MS. BRENDA MOORE: For the audience, while
6 he's getting ready, this will be posted in our
7 website probably next week.

8 MR. DAN FREDRICKS: All right. I
9 apologize for the technical difficulties. My name is
10 Dan Fredricks and I'm with Land & Resource
11 Engineering. And what I'm going to give you today is
12 basically just some of our observations that we seen
13 along the drain and some of the complaints that have
14 been received from the Drain Commissioner and some
15 historical survey work that was done within the last
16 five years or so. I'm not out here to pitch a
17 project or to say what's going -- what's going to be
18 done out here. All I'm doing is just giving
19 testimony to what we've seen out in the field and the
20 questions that have been brought and the concerns
21 that have been brought before the Drain Commissioner.

22 Excuse me. So overview of the
23 presentation, I'm going to give you a brief overview
24 of the drain itself, a little bit of the history,
25 some of the drainage issues that have been reported

1 to Brenda, including what spurred on this current
2 petition, and then we'll talk about the next steps in
3 a little more detail.

4 So on the back of your agendas that you
5 have here, you have a map of the drainage district.
6 The drainage district, as Stacy described, is
7 basically the watershed, so any drop of water that
8 falls within this black dotted line ultimately is
9 going to get to the Erickson Drain.

10 There's about 1200 acres within the
11 Erickson Drain Drainage District. The drain itself
12 is about 2.4 miles long. It starts along Putnam
13 Road. This would be the upstream headwaters, flows
14 south on Putnam to the north side of Riley-Thompson
15 Road where it heads east towards the Pere Marquette
16 Railroad, goes northeast and then under the Pere
17 Marquette Railroad and then flows back south to where
18 it crosses Riley-Thompson Road. There's also a
19 branch that's just north of the confluence there with
20 the Pere Marquette Railroad.

21 The drain itself is a tributary to Bear
22 Creek and Bear Lake. And there is an existing
23 50-foot easement along the drain, 25 feet either side
24 of the centerline. So those are a little bit of the
25 facts.

1 From a history standpoint, the drain was
2 established over a hundred years ago. The branch up
3 here (indicating) was added in 1944. The previous
4 drain commissioner did some preliminary study work,
5 including a topographic survey, of the drain back in
6 2012 and '13. And then in 2015, this drainage
7 district, the watershed, that line was updated.
8 There was a day of review held at the Drain
9 Commissioner's office. And then in 2017, there was
10 some maintenance emergency repair work done along
11 Putnam Road just north of Riley-Thompson Road to
12 replace a failed driveway culvert that was backing up
13 water and causing flooding on Mr. Strait's property
14 in the west side of the drainage district.

15 Some of the drainage issues that we've
16 seen, and I'll kind of go over here. Impaired
17 culverts, I'll go into that in a little more detail.
18 Sediment deposition within the drain, flooding in
19 different areas of the district and then, again, a
20 lack of a drainage outlet. So the request of the
21 petitioner is actually just south of Riley-Thompson
22 Road here (indicating) near Putnam Road. It's the
23 Grow Blue, LLC, blueberry farm, and I'll hit that in
24 a little more detail here at the end of the
25 presentation.

1 Some of issues that we're looking at as
2 far as public health, convenience or welfare is
3 flooding. Flooding is due to hydraulic restrictions,
4 whether that's sediment crushed culverts, improperly
5 set culverts. When we talk about crushed culverts
6 and damming up the water, we get talk about flooding
7 over driveways, which can make emergency access
8 difficult. Poor drainage, obviously, is going to
9 elevate groundwater levels. Poor drainage within a
10 roadbed is going to create -- could potentially
11 damage the road during freeze-thaw cycles. And then
12 stagnant water does become a breeding ground,
13 potentially for mosquitoes. And another issue out
14 here is crop damage.

15 Impaired culverts is the first thing I'm
16 going to go over a little bit on here. Apologize.
17 It's a little blurry here, but this is Putnam Road
18 (indicating). This is kind of more a little bit on
19 the northern end of where the drain is. So the water
20 would be flowing from right to left is where the
21 drain should go. This little dashed line here that
22 I'm kind of going over, that's the profile. That's
23 the grade of the drain as it is right now. As you
24 can see, it's basically the bottom there, because of
25 the sediment, is going up and down.

1 In addition, a lot of these culverts, like
2 this one (indicating), that gray shaded, within that
3 culvert that's sediment that's built up in that
4 culvert. So these culverts, some set low, some are
5 set higher, some are filled with sediment, some of
6 them have crushed end sections which further reduces
7 the hydraulic capacity. And but all of these can
8 create flooding issues and just stagnant water that
9 you see out there a lot.

10 These are just some examples. This is,
11 again, along Putnam Road. You see the stagnant
12 water. If you can barely see right there is the top
13 of the culvert. Again, and I have a profile of the
14 drain that I'll show you in a little bit better
15 detail, but basically it's not flowing in the
16 direction it should be going. The bottom is going up
17 and down. The culverts are set at all different
18 elevations and it creates this inefficient flow that
19 we see out there and the ponding.

20 Sediment deposition, we kind of alluded to
21 that already. Basically all along the drain, there's
22 sediment buildup. There isn't a consistent gradient
23 for flow. Again, when sediment builds up in the
24 drain, that reduces the capacity of the drain.
25 That's going to cause potential flooding.

1 This is along -- This is a part of the
2 survey along Riley-Thompson Road just west of
3 Anderson Road. You can see here that the --
4 sometimes, again, the flow should be going from right
5 to left. You've got culverts that are lowered by six
6 inches to a foot on their upstream end, and then
7 their downstream end, so they're pitched the wrong
8 way. They're set at different elevations, some high,
9 some low.

10 And then these are some views looking down
11 Riley-Thompson Road. This would be looking east near
12 Putnam Road (indicating). This is looking near
13 Anderson Road and Riley-Thompson Road. You'll see
14 that when you start getting sediment in the drain and
15 inefficient flow, you get a lot of vegetation that's
16 going to grow up on it. It looks more like a pond,
17 really, than an actual efficient drainage way with
18 water just sitting there. When you get that sediment
19 in there, too, and that aquatic vegetation, that
20 vegetation chokes and slows down the flow, as well,
21 which can create additional flooding issues.

22 This is looking up Putnam Road
23 (indicating). This is a little bit closer to
24 Riley-Thompson Road and this is a little bit further
25 upstream. Again, you see the same thing, a lot of

1 aquatic vegetation, just stagnant water, again
2 indicative of improperly set culverts and poor
3 gradient throughout the system.

4 Flooding within the district, these are
5 some photographs that Ben Mitchell sent over to us.
6 This is, I think, Grow Blue property. See, they're
7 seeking an establishment of a branch, which can only
8 be done as part of a petition. Basically, from our
9 understanding, they're losing a lot of their crop
10 every year because there is no way for them to outlet
11 any of the water that's flowing on from their -- or
12 on their property.

13 Another issue we had, this was
14 Mr. Strait's property (indicating), another blueberry
15 farmer. He's north of Riley-Thompson off of Putnam
16 Road. This was back in 2017. This is where the
17 drain is right here, but it's so filled with sediment
18 and it was -- there's some failed culverts further
19 downstream here that it was basically backing up
20 water into fields.

21 And in this case here, it was at 4763,
22 that culvert was crushed. That culvert was replaced.
23 You can actually see the water was going up to the
24 gentleman's -- the driveway area through here and
25 backing water up. That was replaced as part of a

1 maintenance emergency to help to reduce some of that
2 flooding on Mr. Strait's property.

3 So this is kind of a schematic profile of
4 the drain (indicating). So if you were looking down
5 that centerline of the drain, this is down at the
6 downstream end at Riley-Thompson Road. Here is where
7 it crosses the Marquette Railroad grade. Here is
8 Staple Road, Anderson Road, Putnam Road.

9 And what you'll kind of -- What you can
10 kind of notice here, especially as you go more
11 towards these circled areas as you move further
12 upstream along Riley-Thompson Road and then along
13 Putnam Road, is that all these I guess rectangles,
14 for lack of a better word, those are different
15 culverts, whether they're private driveway culverts
16 or public road culverts. And you'll see the bottoms
17 of these are set basically at all sorts of different
18 grades. It looks like an EKG or something like that
19 versus what should be a nice smooth line going down.

20 So just to put things in perspective here,
21 if you looked at this red line (indicating) and say,
22 okay, here would be your optimum gradient for this to
23 go down here, in some of these areas you've got 2-1/2
24 feet or more of basically sediment or lack of
25 potential drainage you're getting. And when you get

1 into these Putnam Road areas, you can see that the
2 gradient is -- really looks like that I guess EKG,
3 for lack of a better term, where some culverts are
4 set too high and actually damming up water onto
5 upstream properties creating inefficient flow.

6 So then again going back to the request of
7 the Mitchells and the Grow Blue, LLC, of creating a
8 branch for their property, this is another photograph
9 that they sent us of the stagnant water just staying
10 on their field with no outlet, nowhere to go
11 (indicating). So this is a little bit -- This is a
12 blowup, kind of, of the property. So here is Putnam
13 Road and Riley-Thompson Road, so just south of that.
14 And if we were to create a branch to bring them into
15 the drain, it could go along Putnum Road or it could
16 potentially go through some private easements in this
17 area.

18 But looking at the elevation of the
19 property, it's right around 674 feet, plus or minus,
20 and the outlets to the drain if we went up based on
21 the elevation that the drain is at right now, which
22 could actually be lowered, is around 671 feet at
23 Riley-Thompson Road and Putnam Road. And then a
24 little bit further downstream, it's at 670, so
25 there's probably at least 3 or 4 feet of potential

1 grade to actually provided a drainage outlet, a
2 branch for this particular location.

3 With that, that's basically the extent of
4 what we have here to present. As Stacy kind of
5 alluded to earlier, there's two options here that the
6 Board, if they determine that the petition is
7 necessary, then we'd move forward with a project to
8 determine the scope at that point. If it's not
9 determined necessary then no work can be done, no
10 action, no new petition can be received until another
11 year from now. Thank you.

12 MR. DAVID SPLIT: Thanks, Dan. Like to
13 open up the public testimony again with some of these
14 cards. Please stand and give your address. Jeff
15 Peterman, please.

16 MR. JEFF PETERMAN: 5101 Putnam. I'm at
17 5101 Putnam. Born and raised in Dalton Township and
18 paid taxes there my whole entire life. I bought my
19 property in 19 -- in 1997. There was no blueberries,
20 there was no nothing there. These people got this
21 property at a cheap price when it went for sale
22 because it was flooded at that time and nobody wanted
23 it. Sat for sale forever. I really have a hard time
24 with this. Now it's our problem because they put
25 their blueberries in there and everything and now

1 it's an issue.

2 Also, this groundwater and everything
3 they're showing you, right behind all this we have a
4 264-acre lake going in there right now. Groundwater
5 is going to be changing with the size of this lake
6 and the flow of it and everything else. So I just --
7 It's really irritating to see people come in our
8 district, buy the stuff dirt cheap and want
9 everything fixed. These blueberries have not been in
10 there over five years or whatever it's been. It's
11 just it's really discouraging.

12 Pay taxes. I own a quarter-mile road
13 frontage on there. I don't have a problem with it.
14 I know the way the property was when I bought it,
15 just like everyone else in the area. This is nothing
16 new.

17 MR. DAVID SPLIT: Thank you. Also have a
18 card from Jeremy Hooker.

19 MR. JEREMY HOOKER: Yes. I'm from
20 Fruitport. My address is 3110 Pinewood Lane. My
21 name is Jeremy Hooker. I just wanted you guys to
22 understand, the property owners -- I'm not sure,
23 sir, how long you've lived in your house and how long
24 you've had flooding in your basement, but this
25 meeting here, you're giving the Drain Commissioner a

1 blank check. And I just want you guys to realize the
2 weight of that.

3 This blueberry field doesn't really
4 matter. Your assessment will be given from the Drain
5 Commissioner. And I don't think our project was done
6 fairly. We had a really massive project in
7 Fruitport. She said to us personally: If you don't
8 have a problem, you won't pay. That wasn't true at
9 all. I had surveys done. I'm high enough. I'm high
10 enough. I'm higher than the master deed and I still
11 am paying \$12,000 for a plastic pipe that runs in
12 front of my house.

13 Anyways, I just want you guys to
14 understand if you don't get up and tell this Board if
15 you have problems or not -- You know, I feel for the
16 guys that do. If you have a problem, get up and say
17 you have a problem, but just understand the weight of
18 this meeting. Thank you.

19 MR. DAVID SPLIT: Thank you. Dale Russ.

20 MR. DALE RUSS: I just happen to live next
21 to the Kragers, but I bought my property in '83. I
22 put in a doublewide in '90, 1990. At that time, I
23 was made to put my drain field above the -- you know,
24 the ground level as it existed because of the
25 potential of high water. That was a concern right

1 there that even, at that time, I told them that --
2 and it didn't work out that way, but if I was to
3 build a home, I would probably not likely to be able
4 to put in a basement. It would have to go above --
5 you know, if you wanted a basement-type feature, you
6 would have to -- the floor of your basement would
7 have to be at least ground level or a little bit
8 above.

9 Right in the front of me on the east side
10 of the road, a family, I don't know, about 10 years
11 ago did do that and it looks -- it looks very high.
12 What I'm saying is is the basement level is above the
13 ground, then the floor level and then they have a --
14 you know, another upstairs rooms after that. So it
15 looks quite high, but that was what the rules were at
16 the time that I put in my doublewide in 1990.

17 When I first moved there, yes, there was a
18 high water table. Now, after a period of time, we
19 went from a high water table to a low water table,
20 which lasted about 20 years, maybe, and there was a
21 cycle. And I knew it was a cycle. Now the high
22 water right now is back somewhat. So we went through
23 a high water, kind of a draught -- I don't know if
24 that's the right way to explain it. -- and then a
25 high water again.

1 So I'm agreeing with this gentleman here,
2 if it's -- Muskegon County at that time, the -- I
3 forget the fellow's name. But like I said, he came
4 out and made sure that my drain field was above the
5 ground.

6 MS. BRENDA MOORE: Can we get his address?

7 MR. DAVID SPLIT: Let's check here. Dale,
8 is your address 2114 East Michillinda Road?

9 MR. DALE RUSS: Yes.

10 MR. DAVID SPLIT: Yes.

11 MR. DALE RUSS: I'm also in both
12 districts, this Ribe project and also this project
13 now, so I'm affected both ways from whatever --
14 whatever takes place.

15 MR. DALE SPLIT: Thank you, Dan.

16 MS. STEPHANIE BARRETT: Are there any
17 other cards out here that I can bring up real quick?
18 Just want to make sure.

19 UNIDENTIFIED SPEAKER: I may have a card.

20 MS. STEPHANIE BARRETT: You don't need a
21 question, just your name. I just don't want them to
22 get through all the cards and close the session
23 without everyone having an opportunity to say.

24 MR. DAVID SPLIT: Okay. We'd like to hear
25 from Charles Buzzell.

1 MR. CHARLES BUZZELL: Hi. Chuck Buzzell,
2 29 -- Chuck Buzzell, 2985 Fifth Street. I do not
3 live in this drain district, but I would ask that any
4 notices that go out -- This notice come out of the
5 White Lake Beacon. There was no identification of
6 what drain was going to be discussed today and it was
7 completely blank. I'm in the Ribe Drain District, so
8 I was concerned so I'm here.

9 MR. TONY BARNES: That's the post he's
10 talking about (indicating).

11 MR. CHARLES BUZZELL: But specific name of
12 the drain on the notice, I'm sure a lot of people
13 were confused. Thank you.

14 MR. DAVID SPLIT: Thank you. Yeah. We
15 have a copy of the notice here. We'll pass it down
16 to Board members here (indicating).

17 Next we have Terry Strait.

18 MR. TERRY STRAIT: Good evening. To some
19 of my neighbors, I lived there for 17 years. I did
20 buy the property cheap. This all started two or
21 three years ago now where my neighbor's culvert
22 collapsed and I was simply trying to get the ditch
23 cleaned out. So I'm not trying to cause any hardship
24 here, I just I know there's water that's going to sit
25 but it should have -- if there's a ditch there, the

1 ditch should let the water move out.

2 I also have -- My property also is in the
3 middle of the other August-Anderson Drain where
4 there's 20-inch trees growing out of it. So I'm
5 right in the middle of these two drains and the water
6 is just sitting there.

7 Now, there was emergency action done, the
8 culvert that was collapsed before me, and we get two
9 or three inches of rain and everything is cleaned
10 out, it moves. The blueberries doesn't suffer when
11 the water moves. If it's there for a day or so, it's
12 no big deal. If it's there for a month, the
13 blueberries are going to die, and that's my biggest
14 concern. It's not that -- I know it's low.
15 Blueberries like wet rain -- or, you know, some
16 water. They can't survive 8 or 10 inches because the
17 water doesn't move.

18 All is I'm asking for is the sediment to
19 be removed. Now, last year, the road commission did
20 the east side of the road, dug the ditches out. My
21 buddy came over, we put a stake in. The water level
22 on the other side of the ditch is nine inches lower
23 than my side of the ditch. The water is moving
24 freely. Not on my side. All is I'm asking for is
25 that the ditch get cleaned out.

1 The road commission, I asked -- I went to
2 them, asked if they would clean out our side. They
3 said they would give Brenda a price. And when I had
4 talked to Brenda two or three years ago, she said
5 she's allotted so much money to clean out the ditches
6 and that she was going to do a two-year thing where
7 if she waited until September, the ditch could get
8 cleaned out and she would take care of it. That
9 never happened.

10 So my name is on the petition because Ben
11 and Tom wanted to -- they got the same kind of issue,
12 they just simply wanted to attach their land to the
13 ditch -- to the -- to the drain. We're not looking
14 for a multi-million dollar project. You know, we're
15 looking for something simple to get the water moving.
16 That's all.

17 MR. DAVID SPLIT: Thank you, Terry. Your
18 address is 4763 Putnam?

19 MR. TERRY STRAIT: Yes.

20 MR. DAVID SPLIT: Is that correct? Thank
21 you. Linda Barnhard, would you please stand and give
22 your address for us.

23 MS. LINDA BARNHARD: I live at 3561
24 Kersting Drive in Fruitport. And we went through
25 this same doggone thing with Brenda Moore. She told

1 -- told us what she wanted to tell us, which was not
2 the truth. It ended up costing people a lot of
3 money. All they wanted was maintenance done. They
4 didn't want all these two million dollar projects,
5 but that's what she ran it into.

6 So all I can say is you people watch out
7 what you sign for petitions, because you're going to
8 get what you don't want. And I pray for every darn
9 one of ya's.

10 MR. DAVID SPLIT: Thank you. We have a
11 card Tammy B. Would you please stand and give your
12 address for us.

13 MS. TAMMY BARNHARD: Yes. 3561 Kersting
14 Drive in Muskegon. And first I'd like to thank you
15 for the Board members for allowing the individuals to
16 see the presentation first. Without seeing the
17 presentation, I don't think we could come up with
18 what's really going on.

19 And I'd really like to ask you, based on
20 the presentation, do you at this time see anything
21 that would indicate a public health, welfare or
22 convenience problem based on the presentation so far?

23 MR. DAVID SPLIT: We'll be answering that
24 question at the end of the meeting.

25 MS. TAMMY BARNHARD: So you won't answer

1 that now based on what you've seen so far?

2 DR. TOM TISUE: We haven't heard all the
3 evidence.

4 MS. TAMMY BARNHARD: I'm just -- Just so
5 far I just want to know. So far based on the
6 presentation and what you've heard so far, have you
7 heard anything that would indicate there's a public
8 health problem?

9 MR. KEN ERDMAN: I'll answer that.

10 MR. DAVID SPLIT: We're --

11 MR. KEN ERDMAN: I'll answer that.

12 MR. DAVID SPLIT: Okay. We have someone
13 to address it.

14 MR. KEN ERDMAN: Now, I understand --

15 MS. STACY HISSONG: You should get the
16 microphone.

17 MR. KEN ERDMAN: I can talk loud. I
18 understand everybody's concern here.

19 MR. TONY BARNES: Can't hear you.

20 MR. KEN ERDMAN: Oh, come on. There's a
21 thing out there called the Zika virus. Now, they're
22 keeping it quiet, but it's out there, so standing
23 water is a bad thing and it's going to hit us hard.
24 Now, so the public health issue might be just
25 standing water. I mean, that's what I observed.

1 That was your question, so I observed that, standing
2 water.

3 MS. TAMMY BARNHARD: Thank you for
4 answering my question.

5 MR. KEN ERDMAN: You're welcome.

6 MS. TAMMY BARNHARD: Next gentleman,
7 please?

8 DR. TOM TISUE: I don't have an opinion on
9 it at this point.

10 MS. TAMMY BARNHARD: Thank you.

11 MR. DAVID SPLIT: I'll save my opinion for
12 final vote here.

13 MS. TAMMY BARNHARD: Okay. Thank you. I
14 have a question for Brenda Moore, please. In the
15 report there, they indicated that there was a
16 preliminary study done in 2012-2013. What did that
17 say and where can we review that, please?

18 MS. BRENDA MOORE: Would you like me to
19 answer that?

20 MR. DAVID SPLIT: If you'd like to answer.

21 MS. TAMMY BARNHARD: Anybody?

22 MS. BRENDA MOORE: It was done in
23 Mr. Fisher's tenure because he recognized -- I
24 believe. He's gone, so I can't ask him. He
25 recognized that there was a problem. And what drain

1 commissioners can do is an engineering study without
2 any particular permission, and that's kind of what he
3 started. And unfortunately, you pay for that and
4 there hasn't been a lot of action. But I think that
5 the gist of that study, and it wasn't Land &
6 Resources that did it -- Do you remember who did it?

7 MR. DAN FREDRICKS: No. Actually, it was.

8 MS. BRENDA MOORE: It was you guys?

9 MR. DAN FREDRICKS: It was before my time.

10 MS. BRENDA MOORE: Okay. It was before
11 your time. I mean, it parallels what we heard
12 tonight in terms of where culverts are set, that
13 there's sediment. Kind of the game changer was the
14 petition to ask for a branch, and that's why the
15 maintenance was stopped because if we get to go
16 through with the branch, we do the whole thing
17 together because there's an economy of scale of doing
18 the whole thing, it's more cost effective.

19 Am I answering your question?

20 MS. TAMMY BARNHARD: You did. Thank you.
21 I have another question for you, please. If somebody
22 --

23 MS. BRENDA MOORE: Through the Chair.

24 MS. TAMMY BARNHARD: -- just wanted
25 maintenance --

1 MS. BRENDA MOORE: Through the Chair.

2 MS. TAMMY BARNHARD: I'm sorry. I have a
3 question for the Drain Commissioner, please. My
4 question is, if the people just wanted maintenance
5 done, would they sign the same petition that you have
6 offered them that indicates all these other things
7 that they don't want, is that a standard thing? Can
8 they -- Do you have a petition for just maintenance?

9 MS. BRENDA MOORE: Would you like me to
10 answer that?

11 MR. DAVID SPLIT: Yeah, Brenda, please.

12 MS. BRENDA MOORE: Good questions. Our
13 petition language is from --

14 DR. TOM TISUE: Brenda, I'm sorry. Could
15 you use the mic?

16 MR. TONY BARNES: Use the microphone.

17 MS. STEPHANIE BARRETT: I'll bring it
18 over. Thank you.

19 MS. BRENDA MOORE: We need to get more
20 microphones. I apologize.

21 I'll ask Ms. Hissong to verify. My
22 understanding is the language for the petition comes
23 right out of the drain code and it's generic in that
24 it says deepen, widen, add a branch. It's
25 purposefully broad so when we're in the district and

1 looking at issues, it doesn't tie our hands. And
2 granted, it makes some people nervous, but I think
3 it's pretty standard there in terms of the language
4 in a petition.

5 Can't toss.

6 MR. DAVID SPLIT: Drop the mic.

7 MS. STACY HISSONG: So does the Board want
8 to hear more about this or move forward, whatever --
9 I'd be pleased to speak with anybody about questions
10 about petitions later or we can do this right now,
11 whatever the Board chooses.

12 MS. TAMMY BARNHARD: My question is if the
13 public just wants -- wants maintenance done, can they
14 request that a formal way or do they have to like
15 petition, which opens it up for everything, or can
16 they do it some other official way just to have
17 maintenance done?

18 MR. DAVID SPLIT: Would you please speak
19 to that regard?

20 MS. STACY HISSONG: Sure. So regular
21 maintenance up to \$5,000 a mile per year does not
22 require a petition.

23 MS. TAMMY BARNHARD: Thank you. Can I
24 have my other questions now, please?

25 MR. DAVID SPLIT: Go ahead.

1 MS. TAMMY BARNHARD: I think I can be loud
2 enough for now. My other question would be directed
3 to Brenda Moore.

4 DR. TOM TISUE: She's gone way more than
5 three minutes.

6 MS. TAMMY BARNHARD: Since the drain
7 commissioner office was aware of there was a problem
8 based on that study in 2013, I believe that's about
9 the time that you took office there, what maintenance
10 have you done to that in the past five years and --
11 if any? Have you done any to that drain?

12 MR. DAVID SPLIT: Brenda, would you like
13 to answer that question?

14 MS. BRENDA MOORE: Would you like me to
15 answer that question?

16 MR. DAVID SPLIT: Yes, Brenda.

17 MS. BRENDA MOORE: I took office in 2014.
18 The maintenance --

19 MS. STEPHANIE BARRETT: They can't hear
20 back there.

21 MS. BRENDA MOORE: Really?

22 MS. STEPHANIE BARRETT: No.

23 MS. BRENDA MOORE: Okay. I'm sorry. I
24 took office in 2014 after the study. Maintenance, we
25 didn't pick up. Frankly, I had a lot of other fires

1 burning and the maintenance was emergency
2 maintenance. And like I said, in the meantime, we
3 got the petition which kind of would take you in a
4 whole different direction, so it was basically an
5 emergency culvert and the engineering.

6 MR. DAVID SPLIT: Tammy, thank you for
7 your questions.

8 MS. TAMMY BARNHARD: I have some more
9 questions, please.

10 MR. DAVID SPLIT: Your time limit is up.

11 MS. TAMMY BARNHARD: My questions didn't
12 take three minutes, it was all the other people
13 answering that took the three minutes. You would
14 agree with that. Correct?

15 MR. DAVID SPLIT: Well, I believe your
16 time has expired.

17 MS. TAMMY BARNHARD: Because the person I
18 asked the question to took up all my three minutes?
19 That doesn't seem fair, sir. I just want my time to
20 ask a question. And if somebody answering it takes
21 20 minutes, then my one -- I only had one question,
22 that doesn't seem fair.

23 MR. DAVID SPLIT: Let's go through the
24 rest of the cards. If there's time left, we'll let
25 you speak again. Thank you.

1 Mr. Tim Krager, 1844 Michillinda Road.

2 MR. TIM KRAGER: Hi. My name is Tim
3 Krager. I live at 1844 East Michillinda. And to
4 begin with, I'm aware of where this blueberry field
5 is. And the gentleman said that the August-Anderson
6 Drain has got trees growing out of it. Well, that
7 runs pretty much the full length of his property on
8 the back side. Well, it just stands to reason to me
9 that if they would clean those trees out of there on
10 the August-Anderson Drain that that might be a little
11 bit better solution to his drainage problem than
12 crossing Riley-Thompson and dumping his water into
13 the Erickson Drain.

14 UNIDENTIFIED SPEAKER: Two different
15 farmers, sir.

16 MR. TIM KRAGER: And another, where I
17 live, as far as having water in the ditches that
18 don't move, we've had that problem for over 40 years.
19 We have mosquitoes so terrible in the summertime,
20 when it gets wet, water stands in the ditches, it
21 don't move. It just sets there. We can't even go
22 outside to do anything.

23 And the problem is we are at a low point.
24 Water runs from Mich -- from East Michillinda down
25 towards us, the corner of Michillinda and Staple, and

1 it can't go any other place. It comes down -- Water
2 cannot go down Staple because that goes uphill. Same
3 way with down Michillinda towards the east, that
4 gradually works uphill. So we got deep ditches by
5 our place. The farther east you go, the shallower the
6 ditches to almost nothing when you get down to Cady.

7 So I don't see the Erickson Drain hasn't
8 done anything for us for over 40 years and I don't
9 see where cleaning out the Erickson Drain along
10 Putnam Road and Riley-Thompson Road -- Granted, that
11 is low area. I do see that they have a problem, but
12 is that going to help us? No. The only thing that
13 would help us is for somebody to put a sump pump down
14 on our corner, pump the water out. As far as any
15 drainage, it's not going to help. Thank you.

16 MR. DAVID SPLIT: Thank you, Mr. Krager.
17 We have a card from Ben Mitchell. Please give your
18 address for us, Ben.

19 MR. BEN MITCHELL: Yes. Ben Mitchell.
20 I'm the farmer at Grow Blue Farms, the farm which you
21 saw in the presentation. We're requesting the
22 addition of the branch onto the Erickson Drain, as
23 well as maintenance done to the Erickson Drain. As
24 you can clearly see in the pictures, there's standing
25 water. We planted what's called a raised bed so the

1 ground is actually mounded 12 inches above in
2 planting beds to eliminate this kind of issue.

3 Yes, blueberries do like to grow in a
4 moister, wetter soil, but they can not grow where it
5 is flooded. This area is 400 some feet above sea
6 level. There's no reason for it to be flooded, other
7 than lack of drainage and lack of movement for the
8 water to go.

9 During collecting the signatures for this
10 petition, I went to various members along the drain
11 and requested signatures. One of the gentleman said
12 no, he would not sign. I asked: Do you mind me
13 asking why? He said: Sure. I like my privacy. So
14 this drain has gone without maintenance for so long
15 that it now serves as a privacy fence for people
16 along the drain. There's saplings and trees growing
17 to serve as a wind row and a privacy fence for them,
18 not what the drain was intended to do.

19 Also, piggy backing on the public health
20 issue, with floods like this, we are unable to keep
21 up on a proper spray rotation, which compromises the
22 fruit quality and our field becomes a host for
23 squadrons of fruit flies, which then can
24 cross-contaminate other growers and, frankly, other
25 people who have fruit trees in their yards just

1 because we're not able to keep up with a proper spray
2 regiment due to the flooding of the field.

3 The question here today is not whether
4 people want to have the drain cleaned out, it's that
5 this issue needs to be taken care of. And the
6 engineering has proven that there is a significant
7 issue that needs to be addressed. Thank you.

8 MR. DAVID SPLIT: Thank you. Tony Barnes,
9 5920 --

10 MS. STEPHANIE BARRETT: Barnes.

11 MR. TONY BARNES: I'd like to go last, if
12 I could.

13 MR. DAVID SPLIT: Barnes?

14 MS. STEPHANIE BARRETT: Is that the last
15 card?

16 MR. DAVID SPLIT: Yes.

17 MS. TAMMY BARNHARD: Do I have time to
18 speak again, please, with my other questions?

19 MS. STEPHANIE BARRETT: No. He -- They
20 said they'd go through to the cards first, Tammy.
21 Just let him speak and then --

22 (Whereupon, unintelligible comment.)

23 MS. STEPHANIE BARRETT: But for the cards,
24 he's last, so --

25 MR. MARK MANN: And I also would like to

1 have another question. I was cut off with the
2 presentation.

3 MR. DAVID SPLIT: Okay. I believe there
4 will be time for additional comment. Tony, please?

5 MR. TONY BARNES: If that's the case, then
6 I would like to yield and -- I'm the Dalton Township
7 supervisor. I'd like to hear what our residents say
8 before I comment, please.

9 MR. DAVID SPLIT: Okay. Tammy, would you
10 speak again, please?

11 MS. TAMMY BARNHARD: Yes. Thank you.

12 MR. DAVID SPLIT: Give your address,
13 please.

14 MS. TAMMY BARNHARD: Yes. Thank you.
15 Have -- have -- What qualifications do the Board
16 members have to determine whether it's a public
17 health, welfare, convenience? What would be your
18 qualifications to make that any benefit of mine?

19 MR. KEN ERDMAN: Well, I can see that the
20 standing water is --

21 MS. STEPHANIE BARRETT: You need the mic.

22 MR. KEN ERDMAN: I can see that the
23 standing water is going to contribute to mosquito
24 infestation and it's really going to be a big
25 problem. People like to stick their head in the sand

1 and say it's going to go away, but it's not. The
2 Zika virus is coming. And I understand everybody's
3 -- everybody's concerned about this whole project,
4 but there are issues that need to be dealt with.

5 MS. TAMMY BARNHARD: And how many
6 properties does this involve? And would the drain
7 actually have standing water in it, too?

8 And then my other question would be if
9 these people wanted maintenance only, I would ask
10 that you would please deny this Board of
11 Determination and then the people can have the drain
12 cleaned by maintenance only. The Drain Commissioner
13 can do 5 -- can assess \$5,000 per mile per -- per
14 year and she can use all that money to do the
15 maintenance on that and that way this won't open it
16 up for a can of worms, is what everybody else is
17 worried about.

18 I mean, our project -- our drain was 3.3
19 miles and people just wanted it cleaned and it turned
20 into a 2-1/2 million dollar project. For my tax
21 assessment where I have property that's less than an
22 acre where my house is I pay 12-plus thousand dollars
23 for my tax assessment on something I didn't want,
24 don't need, never had -- never, ever had a problem
25 with because it just got expanded and all the people

1 wanted was maintenance.

2 So I would ask that you please deny this
3 and have the Drain Commissioner do the work by the
4 \$5,000 assessment she doesn't need to do anything
5 for, she just needs to do the work, and just do the
6 maintenance and get it done.

7 Thank you very much on whatever you
8 decide. Thank you.

9 MR. DAVID SPLIT: Thank you. The other
10 gentleman, front row?

11 MR. MARK MANN: Yeah. Hi. Mark Mann
12 again, 1240 East Riley-Thompson. The gentleman with
13 the blueberry field off Putnam, he isn't even in the
14 Erickson Drain. He initiated this petition. He
15 wants to join our drain and have us pay for it.

16 MS. TAMMY BARNHARD: Is that true?

17 MR. MARK MANN: Isn't that true? We'd be
18 assessed for his extension joining our drain.

19 MS. TAMMY BARNHARD: Oh, my goodness.

20 MR. MARK MANN: This is -- this is not
21 right. If he needs a drain fixed, he is currently in
22 the August-Anderson Drain. Have them fix the
23 August-Anderson Drain, not join ours.

24 (Whereupon, applause.)

25 MS. STEPHANIE BARRETT: He's not in the

1 August-Anderson Drainage District. He's not in a
2 drainage district.

3 UNIDENTIFIED SPEAKER: Correct.

4 MR. MARK MANN: What does the map show?
5 August-Anderson Drain.

6 MS. STEPHANIE BARRETT: That's the
7 physical drain line there, but his property is not in
8 the district right now. We checked.

9 MR. MARK MANN: He's not in a drain
10 district?

11 MR. TONY BARNES: Who's answering the
12 question, the Board or the Deputy Drain Commissioner?

13 MS. STEPHANIE BARRETT: I answered that
14 one because I knew the answer.

15 MR. TONY BARNES: So we're not going by
16 the agenda anymore?

17 MR. DAVID SPLIT: Well, we can have a
18 clarification. Dan, would you mind addressing that
19 question about the drainage district?

20 MS. STEPHANIE BARRETT: I got it.

21 MS. STACY HISSONG: Before Dan does that,
22 if I can explain the signature question, because it
23 looks like some people have some questions about
24 that.

25 So Ben Mitchell did not sign the petition.

1 He circulated the petition. Any person over the age
2 of 18 years of age can circulate a petition within
3 the State of Michigan. If he's not a property owner
4 within the drainage district, he can not sign it. He
5 did not sign it. He circulated it. So that, I
6 think, clears up that issue and for the Board.

7 Do you have any other questions about --
8 or any questions about that and then I'll hand it to
9 Dan as to the drainage district boundaries.

10 MR. DAVID SPLIT: Yeah, that answers the
11 question there. Maybe Dan can explain the boundaries
12 for us.

13 MR. DAN FREDRICKS: Yeah. So Ben's
14 property is in neither district. It's not in the
15 Erickson, it's not in the August-Anderson. When this
16 issue came up, one thing we looked at is where would
17 the water naturally flow to or which has the best
18 outlet for it, and it was the Erickson Drain. The
19 August-Anderson Drain was like a foot or two higher
20 and more difficult to get to, so the natural flow
21 drainage would be to the Erickson Drain.

22 MR. DAVID SPLIT: Thank you.

23 MS. TAMMY BARNHARD: I'm confused. I have
24 another question. Would that be allowed, based on
25 the new information?

1 MR. DAVID SPLIT: No. Time limit has
2 expired. We have one more card from Anton, 4912
3 Russell Road.

4 MR. ANTON COLON: Evening. I have a
5 couple of questions. So for the engineer, is the
6 three or four feet enough capacity to drain an
7 elevation that you had shown in your presentation, do
8 you know?

9 MR. DAVID SPLIT: Sure, we can have Dan
10 answer that question.

11 MR. DAN FREDRICKS: Again, we haven't done
12 any actual design particulars on this case, but in
13 general I would say yes, there's enough gradient
14 there.

15 MR. ANTON COLON: Okay. And then excuse
16 my ignorance here, but I guess I don't understand the
17 funding of the drain district and the maintenance.
18 So there's not a maintenance funding portion for the
19 drainage district or is there? I mean, is that part
20 of a special assessment?

21 MS. STACY HISSONG: So every dollar spent
22 on behalf of the drainage district, whether it's
23 maintenance or petition or here tonight, is paid for
24 by the special assessment district. Whether
25 improvements or expenditures for maintenance above

1 and beyond \$5,000 to take place requires a petition.
2 So if maintenance was performed every year for
3 however many years for the things that are
4 maintenance and not improvements, it would still
5 require the levying of a special assessment.

6 MR. ANTON COLON: So is there a long-term
7 strategic plan or a long-term plan on maintenance?
8 Because it didn't sound like there was not much of a
9 plan because of this petition came up.

10 MS. BRENDA MOORE: May I speak to that,
11 please?

12 MS. STACY HISSONG: You want Dan to start?

13 MS. BRENDA MOORE: Well, if there's
14 engineering stuff, yeah, if the Board wants. Are you
15 okay with --

16 MR. DAVID SPLIT: Yeah.

17 MS. BRENDA MOORE: -- kind of the generic?
18 Okay. So under maintenance, I can assess up to 5,000
19 per year per mile. That doesn't get you much. And
20 in fact, when the road commission gave me a quote to
21 work along Putnam, it would have been three years'
22 worth of assessments, so I would have had to -- And
23 this gets goofy and Stephanie might have to help me
24 here or Stacy, but I can't -- I can only assess that
25 much per year. So when you're trying to pay a

1 contractor or the road commission or whomever to do
2 it --

3 UNIDENTIFIED SPEAKER: What was that
4 dollar amount?

5 MS. BRENDA MOORE: You have to -- I don't
6 -- I don't remember. I can figure it out. But my
7 point is is that money has to be assessed. The
8 district -- Most of the districts when I took office
9 were at zero or negative. And I think the impression
10 is there's a pot of money and why don't you just use
11 it, but that's not the case. I'm not sure -- I'm
12 anticipating, you know, why didn't you do something.

13 So when you get a quote for a small
14 portion of the drain and you've got three-year's
15 worth of money, there's a limited amount you can do.
16 And again, I knew that the petition might be brewing,
17 so I thought, well, if that comes, that changes
18 things, then it uncaps and I can do extensions, which
19 I can't do under maintenance. So the whole point of
20 this petition is for an extension, has to be a
21 petition.

22 Am I answering your question, sir?

23 MR. ANTON COLON: Appreciate it. The last
24 question is if this is approved, does the public
25 tonight, if the Board approves this tonight, do we

1 have the ability to decline this assessment again?

2 MS. TAMMY BARNHARD: It's going to cost
3 you 10 grand.

4 MS. STACY HISSONG: So there's -- that's a
5 great question. So there's an opportunity to appeal
6 the decision one way or the other tonight in terms of
7 necessity or no necessity. And then if it is
8 determined necessary and there's a project that's
9 performed, you're going to get a notice of a day of
10 review of apportionments where you can protest the
11 apportionment and there is an opportunity for an
12 appeal to that apportionment, as well.

13 MR. ANTON COLON: So there's no additional
14 public hearing after this? After the engineering
15 firm does an official report, recommendation, there's
16 no -- not another public hearing?

17 MS. STACY HISSONG: There's no statutory
18 requirement for a public hearing about the scope of
19 the project. I don't know if the public hearing will
20 be held with regard to that. There will be a public
21 hearing, an all-day day of review of apportionments
22 specifically with regard to the apportionment -- the
23 assessment, the assessments for the project, and that
24 will be later after bids are taken.

25 MR. ANTON COLON: So the day of review, we

1 have the ability to go in and -- individually go and
2 then is that a majority?

3 MS. STACY HISSONG: No. So that doesn't
4 -- So great questions again, because I want to make
5 sure you understand it. So after today, there is no
6 opportunity to dispute the project -- if there's not
7 an appeal, there's not a formal method to dispute the
8 project in general, say this is not necessary. The
9 day of review is not a majority. It's you
10 individually saying that your property doesn't
11 benefit or does benefit to the percentage that's been
12 allocated to you for purposes of paying for the
13 project.

14 MR. ANTON COLON: Right. So I go in, I
15 don't -- say I disapprove, five other people
16 disapprove, a majority of the home owners disapprove,
17 it doesn't matter? There's no --

18 MS. STACY HISSONG: The drain code --

19 MR. ANTON COLON: -- ability to --

20 MS. STACY HISSONG: There's no statutory
21 --

22 MR. ANTON COLON: -- stop the project?

23 MS. STACY HISSONG: -- ability to do that.
24 That is correct.

25 MR. ANTON COLON: So this is the time to

1 stop the project --

2 MS. STACY HISSONG: Yes. I mean, there --
3 you could -- There's --

4 MR. ANTON COLON: -- legally?

5 MS. STACY HISSONG: You could go see an
6 attorney to ask them questions about that. For
7 purposes of today's hearing --

8 MR. ANTON COLON: Right.

9 MS. STACY HISSONG: -- this is the time
10 when that decision is made.

11 MR. ANTON COLON: Thank you.

12 MR. DAVID SPLIT: We have one more card.
13 Kathy Zahl, 2155 Michillinda Road. Would you like to
14 speak?

15 MS. KATHY ZAHL: We're the ones that built
16 the house above ground. We're neighbors. And we put
17 our basement above ground and backfilled it and we
18 have not had a problem with our water. But if the
19 drain commission and the county road commission has
20 maintenance set up that they're supposed to be
21 maintaining these ditches, we've lived there 24
22 years. 1 year did they come out and dig the ditches
23 in 24 years, so there's not been a lot of maintenance
24 on this drainage system all along and maybe that's
25 really what it needs.

1 MR. DAVID SPLIT: Thank you. The township
2 supervisor would like to speak.

3 MR. TONY BARNES: As soon as all the
4 residents' questions are done, I would like to then.

5 MR. DAVID SPLIT: Go ahead.

6 MR. TIM KRAGER: I'm Tim Krager. I live
7 on the corner of Michillinda and Staple. And
8 according to what your engineer said that he said
9 that pretty much every drop of water that landed in
10 this drain district would eventually make its way
11 down to the Erickson Drain. Is that true?

12 MR. DAN FREDRICKS: That would be correct.

13 MR. TIM KRAGER: Okay. Then I've got a
14 lot of drops of water that's been setting in our
15 ditches for -- well, since the first part of August,
16 since we've started getting the heavy rains. It
17 doesn't go anyplace. It just sits there. And it
18 does this every year, we get a lot of wet weather, it
19 don't drain anyplace, so perhaps maybe you could tell
20 me why? If we're hooked up to the Erickson Drain,
21 why isn't it draining into the drain?

22 MR. DAN FREDRICKS: So you're hooked up to
23 a county road ditch that would go into the Erickson
24 Drain and we -- I don't -- personally haven't
25 surveyed any of that ditch to see where potential

1 obstructions could be but, I mean --

2 MR. TIM KRAGER: How could we -- How
3 could we be in the drainage district, then, if you
4 haven't surveyed any of that area to know the lay of
5 the land?

6 MR. DAN FREDRICKS: We've looked at it
7 from a broad perspective of the -- based on the
8 topography on --

9 MR. TIM KRAGER: Aerial view?

10 MR. DAN FREDRICKS: It would be -- I
11 mean, it's one foot -- one-foot contours that we're
12 looking at, so it's pretty, pretty precise and I
13 don't have -- I know you're right at the boundary of
14 the drainage district and it looks to me from the map
15 that not all of your property actually is in the
16 drainage district.

17 MR. TIM KRAGER: No, it is. We're on the
18 northeast corner of Michillinda and Staple. I own
19 that big square.

20 MR. DAN FREDRICKS: It looks like, yeah,
21 most of your property, I guess, is in the district,
22 but --

23 MR. TIM KRAGER: All it gets taxed.

24 MR. DAN FREDRICKS: Yeah. As far as your
25 specific drainage problem, we'd have to go out there

1 and do some additional survey to see what could be
2 done.

3 MR. TIM KRAGER: The Drain Commissioner
4 was supposed to come out there three years ago and
5 they never showed up.

6 MR. DAN FREDRICKS: The road commission?

7 MR. TIM KRAGER: The drain commission,
8 because I gave them my phone number. I told them to
9 call me before you come out and they never did.

10 MR. DAN FREDRICKS: It's definitely
11 something that we'll follow up on.

12 MR. TIM KRAGER: Do you want my phone
13 number so I can be there?

14 MR. DAN FREDRICKS: Yeah. You can even
15 give it to me now or after the meeting.

16 MR. TIM KRAGER: I'll give it to you right
17 now, if you want.

18 MR. DAN FREDRICKS: Okay.

19 MR. TIM KRAGER: 231-828-4103.

20 MR. DAN FREDRICKS: Say that last part
21 again.

22 MR. TIM KRAGER: 4103.

23 MR. DAN FREDRICKS: 4103. Okay. Thank
24 you.

25 MR. TIM KRAGER: Thank you.

1 MR. DAVID SPLIT: Okay. Was there an
2 additional comment? Gentleman in front here.

3 MR. MARK MANN: Yes. I'm at 1240 East
4 Riley-Thompson again. I don't know if you guys know
5 this area. Do you personally know this area we're
6 talking about?

7 MR. DAVID SPLIT: I travel Riley-Thompson
8 several times a month.

9 MR. MARK MANN: So you know how low it is.
10 It's low ground. Behind my house, there's six miles,
11 which is basically swamp. I've got a 2-1/2 acre
12 groundwater pond. There's ponds all around the area.
13 They're all groundwater ponds. It rise and lowers
14 with the water table.

15 The issue isn't the drain. The drain
16 might be a little issue, but it's the topography.
17 There's not enough drop for the water to go anywhere.
18 There's too much water and basic maintenance on the
19 culverts is not going to do it. We're in a swamp.
20 That's why nobody has basements. That's why
21 everybody has ponds so they can dig out and raise up
22 their drain fields.

23 So I -- I don't see how -- especially
24 adding another addition onto our drain and charging
25 us for it is going to work.

1 MR. DAVID SPLIT: Thank you. Any other
2 additional comments?

3 (Whereupon, no response.)

4 MR. DAVID SPLIT: Okay.

5 MR. TONY BARNES: Mr. Chairman, before I
6 get started, I have a couple of I guess I could call
7 them evidence for you to take a look at, if I can
8 present them to you. I'm not going to be able to
9 state my case in three minutes. I would request a
10 little bit more time, if I may, due to the facts that
11 I have in front of me.

12 MR. DAVID SPLIT: Okay. We'd like to see
13 your evidence.

14 MR. TONY BARNES: Okay. Thank you. The
15 first one I'm giving you is the map to the Ribe
16 Drain. And if you -- I know they're not to scale,
17 but if you could please take the map of this Erickson
18 Drain and see to it that it does, in fact, overlap
19 the Ribe Drain, so we have residents that are going
20 to be paying two assessments. We don't know how much
21 the Ribe Drain is going to cost just yet. We have no
22 idea. We've been given seven different prices from
23 the engineers and the attorneys and the Drain
24 Commissioner. We don't know what that number is
25 going to be so I can't discuss those numbers, but

1 they can be very costly.

2 So if we have an overlapping area, we have
3 -- We have literally 11 drains in Dalton Township.
4 This can keep happening over and over and over. We
5 already have a huge one that's 5.19 miles long, which
6 is the Ribe Drain. You have it in front of you right
7 now. Like I said, it's not -- not to scale, but look
8 at your map and see that it does overlap.

9 MR. DAVID SPLIT: We're having a hard time
10 finding where this overlaps. I see Riley-Thompson,
11 but I don't see the railroad grade on this. Give us
12 any reference.

13 MR. TONY BARNES: Yes. So you have your
14 map. Right?

15 MR. DAVID SPLIT: Yep.

16 MR. TONY BARNES: This is the railroad
17 (indicating). The township hall, you can see it
18 right here, Riley-Thompson.

19 MR. DAVID SPLIT: Riley-Thompson here.

20 MR. TONY BARNES: Staple right there
21 (indicating). That's our fire department and our
22 township. This is -- So it's overlaying all the way
23 down Cady Road. Where is Cady on this one? It goes
24 up Cady and stops just before. So this diagonal --

25 MS. STACY HISSONG: Can you use the

1 microphone so everyone can hear?

2 MR. TONY BARNES: Yes. I had my hands
3 full, so thank you for that. So the question is is
4 -- They're asking where this overlaps at, because
5 it's not to scale. It is a little bit difficult to
6 see. I'm pointing out right where your fingers are
7 is this line right here (indicating), so that's where
8 it comes down, goes to the same properties again,
9 cuts over right by the railroad tracks here, goes
10 under Cady and we've got some residents that are
11 going to be paying on this side and this side in both
12 different districts, so that does happen. It's not
13 uncommon. All right. It's not uncommon for that to
14 happen.

15 We have people that live in three
16 different drainage districts and that's not uncommon,
17 either. And I think the Drain Commissioner will tell
18 you that. I know I've attended classes by the
19 attorney, Stacy Hissong, and she said the same thing.
20 Some people live in 10 different districts on the
21 other side of the state. So we're only talking about
22 two, but they're really high dollar.

23 The other thing I wanted to point out to
24 you is that, you know, we talked about the Putnam
25 Road project where the culvert had failed and

1 Mr. Strait was under water and we ended up talking
2 with the Drain Commissioner. Obviously, that was the
3 first place to call because a culvert had collapsed.
4 She actually met us out there. The homeowner, and we
5 have pictures of this, it caved in. They filled it
6 in with gravel and put an orange cone there so their
7 friends wouldn't break a tire driving in. So
8 obviously it was dammed up and it was flooding
9 Mr. Strait's property. The homeowner put a four-inch
10 conduit in there to relieve the pressure a little bit
11 and it did -- it did drain Mr. Strait's property a
12 little.

13 The Drain Commissioner then gave this --
14 It was interesting when we knocked on his door, I
15 will say that, but we were -- gave him a culvert and
16 put the culvert in I believe is what happened, maybe
17 a 12 inch, 16. I'm not sure. I didn't get a chance
18 to measure it. But I was down that road every single
19 day and it drained within three days and it was high
20 and dry down there.

21 Currently, that culvert, I don't know if
22 it's at the correct elevation. It was a Band-Aid
23 fix. It's not the right size. We all know that.
24 But that's what really needs to happen here.

25 So on that road with Putnam, what we're

1 told by the Drain Commissioner, and I'm not going to
2 speak for Mr. Strait, but he was standing there with
3 me, what ended up happening -- I apologize. I have
4 a cold. I'm really sick, so I apologize. Bear with
5 me, please.

6 The Drain Commissioner did, in fact, tell
7 us that the maintenance crew, which is White Lake
8 Excavating, was going to do half the job at the fall
9 of 2017 and then do the other \$5,000 worth in the
10 Spring of 2018. That didn't happen. And when the
11 road commission came out there and they did the east
12 side of the road, the full length of the Putnam Road,
13 it cost \$5,047. Here it is right from the road
14 commission. It literally cost 5,047 bucks.

15 DR. TOM TISUE: Sir -- sir --

16 MR. TONY BARNES: Yes.

17 DR. TOM TISUE: -- your clock must be
18 running a lot slower than mine. We had agreed to a
19 three-minute limit.

20 MR. TONY BARNES: I asked for more time
21 and it was granted.

22 DR. TOM TISUE: I'm not saying you don't
23 have stuff to say, but we did agree on a three-minute
24 rule.

25 MR. DAVID SPLIT: Okay. We understand

1 your evidence here and sum up your comments for us.

2 MR. TONY BARNES: Yes, I will. Thank you
3 for allowing me to at least have the opportunity to
4 sum up my evidence, I guess.

5 So what didn't happen is the maintenance,
6 even though we were told it was going to happen.
7 They said that -- She had actually told us that they
8 were going to do it in one year because it was
9 \$11,000 estimate and they were going to eat \$1,000
10 because it would cost them that much to remobilize,
11 so they were going to do the whole Putnam Road in one
12 year and bill over two fiscal years. Well, this
13 drain is 2.41 miles long, so she can spend over
14 \$11,000 to get that Putnam Road fixed.

15 This extension for the other blueberry
16 field, that doesn't -- that needs to go to the county
17 road commission because you're going -- there's a
18 ditch right there. Not the drain, there's a ditch,
19 so that can be done by the road commission a whole
20 lot cheaper than what this engineer right here can
21 develop for us, because there's going to be ripple
22 zones, there's going to be all kinds of stuff that
23 we're not going to -- we don't need so these can have
24 dry berry fields. We just need to get the ditch
25 cleaned out and the road commission, as you can see,

1 is a whole lot cheaper in the particular area.

2 Now, what I'm hearing is that you guys'
3 minds were made up before you already got here and
4 I'm hoping, because you haven't heard any testimony
5 -- Nobody is getting sick from West Nile. Not
6 saying we couldn't, but nobody is getting sick from
7 it, nobody's -- nobody's yard's flooding, backing up
8 and causing anybody to get any illness here tonight.
9 So I am imploring you to vote no on this so that we
10 can have the proper agency do this, which is, in
11 fact, the road commission, because they need an
12 extension to the ditch, not the drain. Thank you.

13 (Whereupon, applause.)

14 MR. DAVID SPLIT: Thank you. We'd like to
15 close the public comment period here. The Board
16 members would like to ask questions ourselves here.

17 DR. TOM TISUE: Yeah. I have a couple. I
18 was also going to ask about the relative roles and
19 responsibilities of the road commission and the Drain
20 Commissioner. Is there any brief way you can sort
21 that out for me?

22 MS. STACY HISSONG: Sure. So the question
23 was about the different roles and responsibilities of
24 the road commission and the drain office. So the
25 drainage -- The drain commissioner can only perform

1 work on what's established as a county drain. And so
2 if there's a roadside -- some roadside ditches along
3 county roads are established as county drains and
4 some of them are not. And so unless and until
5 they're established as county drains, those are under
6 the road commission's jurisdiction and not under the
7 drain commission's jurisdiction.

8 If there is a roadside ditch that is
9 established as a county drain then it is the drain
10 commissioner's jurisdiction, not the road
11 commission's jurisdiction, to perform work on that --
12 on that drainage ditch.

13 DR. TOM TISUE: Well, I guess --

14 MS. STACY HISSONG: Does that answer your
15 question?

16 DR. TOM TISUE: -- my follow-up question
17 would be since a good bit of this drain does follow
18 along what looks like a road ditch along Erickson,
19 Riley-Thompson Road, is that portion so designated at
20 this point?

21 MS. STACY HISSONG: I don't --

22 MR. DAN FREDRICKS: The portion of the
23 water course along Riley-Thompson Road is an
24 established county drain. And on the west side of
25 Putnam Road, it's an established county drain. The

1 east side of Putnam Road, that road ditch is a --
2 it's not a -- it's under the jurisdiction of the road
3 commission.

4 DR. TOM TISUE: Thanks. If I could ask
5 one more question, please. No. It's actually two
6 questions. Is there currently any impact on the
7 drain of -- water quality of the drain from under
8 performing inground waste treatment system?

9 MR. DAN FREDRICKS: I don't -- I don't
10 know, Brenda. I don't have any information to speak
11 to that, any data or anything like that.

12 DR. TOM TISUE: Last question, I promise.
13 Are there any officially designated wetlands within
14 the drainage district?

15 MR. DAN FREDRICKS: I'm pretty -- Yes,
16 there are.

17 DR. TOM TISUE: So some of those plans we
18 heard about might actually be designated wetlands,
19 you're saying?

20 MR. DAN FREDRICKS: Probably.

21 MS. BRENDA MOORE: May I make a comment?
22 If we do any work, we have to get a permit from the
23 Department of Environmental Quality. And I know
24 given your background, the concern is probably
25 environmental impact. I have no intention of

1 draining wetlands and we wouldn't be allowed to,
2 anyway.

3 As far as the water quality impacts, until
4 I know this is a go, I don't want to spend any more
5 on engineering or water quality testing. I tend to
6 make it part of the petition projects. I can make it
7 part of maintenance, as well, I have the authority to
8 do that. But again, when you're limited to \$5,000
9 per mile, you're involved in construction and all
10 that doesn't do much for you, let alone getting water
11 quality testing.

12 DR. TOM TISUE: Thanks. I understand.

13 MR. MEL BLACK: Can I speak on behalf of
14 the road commission?

15 MS. BRENDA MOORE: He's the chair of the
16 road commission.

17 MR. DAVID SPLIT: Yes. We'd like to hear
18 your comments, please.

19 MR. MEL BLACK: I don't have -- I don't
20 have the mic, but I will -- I think I can speak loud
21 enough, but I am here as a party to listen in. I'm
22 chairman of the county road commission. I'm not an
23 active employee of the road commission, other than as
24 chair of the board.

25 But I do know this much, we cannot use

1 taxpayer dollars to drain fields or anything like
2 that. Our job is to protect our roads and to make
3 sure that we drain the water away from our roads.
4 And we will not, as road commissioners, undertake
5 draining of the water away from a blueberry field.
6 We will clean ditches as they need it, but as you all
7 know, right now the condition of our roads, our
8 primary focus is to take care of our roads and not to
9 dig ditches that don't need it. Yes, we do clean the
10 ditches along the roads as needed, but no, we do not
11 drain blueberry fields. That is not our intent, nor
12 will it be.

13 MS. STEPHANIE BARRETT: Mel Black. He's
14 chair of the county road commission.

15 MR. DAVID SPLIT: I have a question for
16 Brenda Moore. The extension of this drain seems to
17 be in question. Is that part of the petition?

18 MS. BRENDA MOORE: That is the essence of
19 the petition is to extend the drain. We had surveyed
20 the area some time ago and this property was actually
21 in the district. But when we looked at topography,
22 it came out. But if we put the ditch in and it goes
23 to the Erickson, it will become part of the district.

24 MR. DAN FREDRICKS: That's actually a good
25 point.

1 MS. BRENDA MOORE: Yeah. Did that answer
2 your question?

3 MR. DAVID SPLIT: Yeah, that answers the
4 question.

5 MS. BRENDA MOORE: Okay.

6 MR. DAVID SPLIT: Now the extent of the
7 work done, what is the distance on that to be
8 extended? What is the topography as far as the drop?
9 How extensive is this?

10 MR. DAN FREDRICKS: So Brenda did make a
11 good point that the historic district, which I think
12 was probably back from 1944 when the last petition
13 project was done, that did have that area where the
14 Grow Blue, where Mr. Mitchell's property is there,
15 that all was in the district. We took it out of the
16 district because that area is really flat and
17 obviously like right now the water has not drained.
18 There's no -- You know, if historically there was
19 anything there draining that area, it's not now, so
20 that was taken out of the district. It's relatively
21 flat in that area.

22 But like I said, it's about three to four
23 feet above the drain and you could put some form of
24 drainage ditch or pipe to provide an outlet.

25 MR. DAVID SPLIT: How many acres would

1 that service, that farm?

2 MR. DAN FREDRICKS: I don't know the exact
3 -- the exact -- All of this is like speculative now
4 because we don't know where the alignment would be,
5 so it's all dependent on that.

6 MR. DAVID SPLIT: Approximately, the
7 extension?

8 MR. DAN FREDRICKS: Approximate length of
9 extension would be probably a quarter mile or less,
10 depending on if we do -- maybe a little more if we
11 make some additional extension along -- through their
12 property.

13 MR. DAVID SPLIT: Okay. Thank you.

14 MR. MARK MANN: So we got to pay for --

15 MR. DAVID SPLIT: Any other questions from
16 any of the Board members?

17 (Whereupon, no response.)

18 MR. DAVID SPLIT: Close the comment period
19 of this meeting. Any Board members like to make a
20 motion?

21 DR. TOM TISUE: I have a question about
22 the wording in the decision, one is to necessity.

23 MS. STACY HISSONG: Uh-huh.

24 DR. TOM TISUE: I can't quite make this
25 part out, says --

1 UNIDENTIFIED SPEAKER: We can't hear him.

2 DR. TOM TISUE: -- the improvement is or
3 is not -- the improvement is or is not necessary and
4 conducive to the public health, et cetera. How are
5 you supposed to read that?

6 MS. STACY HISSONG: That's the language.
7 So the language is from the statute. So the statute
8 says that the Board of Determination --

9 DR. TOM TISUE: I think that may be the
10 problem.

11 MS. STACY HISSONG: -- is to determine
12 whether maintenance or improvement is or is not
13 necessary and conducive to the --

14 DR. TOM TISUE: I'm not --

15 MS. STACY HISSONG: -- public health --

16 DR. TOM TISUE: -- questioning any of
17 that. I'm questioning how, in your opinion, one
18 should read somewhat ineloquently and perhaps not
19 grammatically formulated sentence because it says if
20 we say is not necessary, for example, then what does
21 the and mean?

22 MS. STACY HISSONG: So --

23 DR. TOM TISUE: What are all these --

24 MS. STACY HISSONG: -- you are welcome to
25 make the motion -- So it is -- the motions could be

1 is necessary and conducive to the public health,
2 convenience or welfare or is not necessary and
3 conducive to the public health, convenience or
4 welfare.

5 DR. TOM TISUE: I guess it said that, but
6 I guess it would be the common interpretation. I
7 would argue it doesn't actually say anything like
8 that.

9 MR. KEN ERDMAN: You can rephrase it.

10 MS. STACY HISSONG: So you can make your
11 motion how you wish, but you term -- the phrase that
12 the drain code uses is whether basically necessary
13 and conducive to the health -- public health,
14 convenience or welfare or not necessary to the --

15 DR. TOM TISUE: That's how it's supposed
16 to be read.

17 MS. STACY HISSONG: Yes.

18 DR. TOM TISUE: Is not necessary and
19 conducive. Thank you. That's what my question was.

20 MS. STACY HISSONG: So we don't get to
21 leave until someone makes a motion one way or the
22 other, folks.

23 MR. DAVID SPLIT: I'd like to make a
24 motion. I'd like to make a motion that the proposed
25 maintenance and improvement of the drain -- the

1 Erickson Drain is not necessary and conducive to
2 public health, convenience or welfare.

3 MR. KEN ERDMAN: Support.

4 MR. DAVID SPLIT: The motion is supported.

5 (Whereupon, applause.)

6 MR. DAVID SPLIT: All members in favor of
7 the motion?

8 MR. KEN ERDMAN: Aye.

9 DR. TOM TISUE: Aye.

10 MR. DAVID SPLIT: Aye.

11 MS. TAMMY BARNHARD: Thank you. Thank
12 you.

13 MR. DAVID SPLIT: Number two, there is
14 decision as to at large assessments for the
15 municipalities.

16 MS. STACY HISSONG: So if the vote is not
17 necessary, then that vote -- that decision number two
18 is --

19 MR. DAVID SPLIT: It's not necessary?

20 MS. STACY HISSONG: No. It's not
21 applicable.

22 MS. BRENDA MOORE: We don't want another
23 Ribe. Please ask them to vote.

24 MR. DAVID SPLIT: Meeting is adjourned.

25 MS. SHARON ACKERMAN: Can I just make one

1 comment, please?

2 MS. STACY HISSONG: So there is an
3 opportunity --

4 MS. SHARON ACKERMAN: I just wanted to
5 make one comment. I wasn't going to say anything
6 because I'm an alternate here and I have no part in
7 the decision making, but I kind of did not like the
8 -- if I understood the statement that you made during
9 your comments that the Board had pretty much made up
10 their mind before they got here. If I understood you
11 to say that, I really resent that because myself, and
12 I'm sure I speak for the other members, too, this is
13 not an easy job. It's not something that you go out
14 and apply for or look for. You try to listen. You
15 try to take everything into account. And I have
16 never, ever had a decision made before I've ever set
17 on one, and I think I speak for the rest of the
18 members. So I really resent the fact that you said
19 that.

20 MR. TONY BARNES: And I'll apologize if it
21 was taken that way.

22 MS. SHARON ACKERMAN: Thank you.

23 MR. TONY BARNES: But I don't think I'm
24 the only one that heard it, so --

25 MS. SHARON ACKERMAN: Okay. Thank you.

1 MS. STACY HISSONG: Mr. Chair, before the
2 meeting is adjourned, okay, I was going to go through
3 the appeal process.

4 MS. TAMMY BARNHARD: Can I see the packets
5 that you were given --

6 MR. DAVID SPLIT: We'll leave this open
7 for one more comment here.

8 MS. STACY HISSONG: So I would recommend
9 that I go through the appeal process and then you
10 have a formal motion to adjourn and you vote on that
11 motion.

12 MR. DAVID SPLIT: Yeah. We'd like to hear
13 that.

14 MS. STACY HISSONG: Okay. So the appeal
15 process for today's decision is with the Muskegon
16 County Circuit Court within 10 days. And you have
17 the opportunity to do that, if you so wish.

18 Now you can entertain a motion to adjourn.

19 MR. DAVID SPLIT: Okay. We have a motion
20 to adjourn. All in favor?

21 MR. KEN ERDMAN: Aye.

22 DR. TOM TISUE: Aye.

23 MR. DAVID SPLIT: Aye. Thank you,
24 everybody.

25 (Whereupon, meeting concluded)

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at 8:10:37 P.M..)

--ooOoo--

STATE OF MICHIGAN)
) ss.
COUNTY OF MUSKEGON)

I, Michelle M. McKee, Certified Shorthand Reporter (CSR-3841), and Notary Public in and for the County of Muskegon and State of Michigan, do hereby certify that the foregoing meeting was taken before me at the time and place herein before set forth.

I further certify that said meeting was recorded by me stenographically, and subsequently transcribed under my directions and supervision; and that the foregoing is a full, true, and correct transcript of my original shorthand notes.

I further certify that I am not counsel for or related to any of the parties to the foregoing cause, or employed by them or their attorneys, and am not interested in the subject matter or outcome thereof.

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter.

Dated at Muskegon, Michigan, this 4th day of December, 2018.

Michelle M. McKee, CSR-3841
Notary Public, Muskegon County, Michigan
My commission expires June 7, 2021

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