

DRAINAGE MEETING  
JOINT DISTRICT MARSHALL-STORY#1  
JUNE 24, 2014

The Story and Marshall County Drainage District Trustees met at the West Marshall High School Auditorium in State Center, IA to present the Preliminary Engineering Report to and receive input from land owners in Joint Drainage District Marshall-Story #1, Story County controlling. Members present were Paul Toot, chair, Rick Sanders, and Wayne Clinton of Story County and Dave Thompson of Marshall County. Also present were Story County Assistant Attorney Jessica Reynolds, Story and Marshall County Engineers Darren Moon and Paul Geilenfeldt, Story and Marshall County Drainage Clerks Scott Wall and Whitney Hunt, ISG Engineers Kent Rode and Ivan Droessler, and 42 land owners and members of the public (see attached sign in sheet).

Toot called the meeting to order at 6:30 p.m. and turned it over to Rode and Dressler of ISG, the engineering firm that had prepared the engineering report (on file in the Story and Marshall County Auditor's Offices).

Rode went over the report page by page beginning with a brief history of the district which shows that it has provided inadequate drainage almost from the time it was established. The district currently has a drainage coefficient of 1/8" meaning it can drain 1/8" of water off the entire area of the district in 24 hours. Current design standards would recommend a drainage coefficient of 3/8". The 30" main tile has collapsed in places leaving holes large enough to hold a semi-trailer truck which was the impetus for the district to request that ISG prepare the report.

The report contains a map of the district with a heavy, black line around the perimeter of the parcels that currently benefit from the district. The red line is based on LIDAR (elevation) data and shows 225 acres of additional lands that ISG believes also benefit from and should be annexed by the district. Aerial photography shows the open ditch was straightened beyond the east end of the district in the late 1950's and early 60's and ISG believes this was done by the district. It is the area along this part of the open ditch that ISG is recommending for annexation.

The original proposal for the district was for an open ditch where the 30" main is today but there were objections to this from many of the land owners. When a new plan was proposed that included the 30" main in place of the ditch most of the objections were dropped.

Preliminary survey work was done in January and February of 2014. Because some of the main tile is exposed ISG was able to get slopes and elevations on the tile itself as well as the surrounding ground. ISG is not aware of any wetlands around the main tile but if wetlands determinations need to be made the land owners must request them. Due to restrictions in the privacy act neither the district nor ISG can request wetlands determinations for privately held land. This will only apply if the district is improved beyond its design capacity.

There are two options for addressing the problems with the main tile in the report. The first is a repair option which entails cleaning the ditch from the headwall to the intersection of Binford and 220<sup>th</sup> and replacing the 30" main with new 30" re-enforced concrete tile. Excess dirt and silt would be used to construct a berm along both sides of the ditch so surface water cannot erode the banks and carry silt into the ditch. Corrugated metal pipe would be placed at intervals along the ditch to carry surface drainage under the banks and into the ditch. Option two is essentially the same except the new tile would be 42" in diameter, improving the district's capacity to a 3/8" coefficient of drainage. Any improvement would require that the district be reclassified.

ISG is recommending the second option, annexation of the additional lands found to benefit from the district facilities, and reclassification of the entire district. There is currently one classification schedule for the district which means that everyone pays a portion of all repairs to any part of the district. If the district is reclassified ISG will prepare separate schedules for all the branch tiles. This means downstream properties would not be assessed for repairs to upstream facilities but everyone would be assessed for work on the main tile and open ditch. Land owners on Branch C for instance, would not have to pay for work done on Branch D. If the improvement option is selected, Iowa Code requires a reclassification. ISG recommends reclassification if the trustees choose Option 1 but it would not be required.

Rode said if payments were spread over 10 years and the additional lands are annexed the average cost per acre would be \$19/year for option 2 versus \$15/year for option 1. Sanders pointed out that benefits to drainage are NOT assessed on a per acre basis and individual properties could pay a little less or significantly more than that amount. Rode agreed that most properties would not pay \$19/acre and that figure is simply an average. The report uses per acre costs as a way to compare the overall costs of the two options to each other.

A landowner questioned how they benefit if they don't have any tile? Droessler said if any of the water on your land runs through a tile, through the ground, or over the ground to the district facility then you benefit from that facility.

Several landowners questioned how the open ditch outside the district was straightened. Did the landowners pay to straighten the ditch or did the district pay. Sanders emphasized that the landowners are the district. Any time the district pays for anything those costs are assessed back to the landowners in the district.

Sanders asked Rode to explain the annexation and reclassification process. Rode said reclassification involves a professional engineer and two landowners who do not own land within the district evaluating each parcel of land within the district and assigning a benefit to drainage to each parcel based on its proximity to district facilities, soil types, and topography. Reclassification would take place in conjunction with annexation so the annexed lands would be included in the reclassification.

Droessler responded to a question about the land owners' control over what the trustees can do. Through the process of remonstrance 50% or more of the land owners controlling at least 70% of the lands in a district can block an improvement. This is not applicable to repairs or annexations.

Sanders asked how and when annexation occurs. Droessler said if the trustees accept the engineer's findings that lands outside the district are benefitting from district facilities they need to pass a resolution to annex those lands. There will then have to be a meeting with just the land owners to be annexed so they can argue for or against it prior to the annexation taking place.

Sanders said there were some large tracts on the edge of the proposed annexation that had a small part of their area inside the red boundary on the map. Those owners will argue that their land drains away from the district. How does ISG respond to that? Droessler replied that if those owners can prove their water is not draining into the district they can get a reduction in their benefit to drainage. Because at least some of the water inside the red boundary will always make its way to a district facility those properties cannot escape getting some benefit to drainage.

Thompson asked how the vote is structured among the trustees. Most of Marshall-Story #1 is in Story County. Is the vote weighted towards Story County or do all the trustees have an equal say? Sanders said the supervisors are acting as trustees of the district, not as county supervisors, here and it does not matter where they are from. Each trustee has an equal vote.

Droessler said the advantage of being in a drainage district was having the right to protest when things need to be done. If you are in the district you can ask that trees be removed from the open ditch and that tiles be repaired. The land owners in the area of the proposed annexation are draining into the ditch but they have no rights to go to the trustees and request that the district do anything with that ditch until they are brought into the district.

William Papenburg said the open ditch is properly named Linn Creek and it was there long before the district existed and can't be a district facility. He believes the land owners along the creek outside the district paid to straighten the creek and the district had nothing to do with it. He wants to see proof the district was involved in the straightening. Rode said the district records he had looked at indicated the district had been involved but he did not have enough documentation to prove it.

Dwayne Papenburg questioned why the tile had been put in place at all. It should have remained an open ditch when the district was established. He has an open ditch on his property and he can't fill it in. Droessler said if the property is in the district Papenburg can request that his ditch be tiled and there would be a meeting like this one to consider the request.

After much heated discussion about a tile vs. a ditch Sanders, Rode, and Droessler all pointed out that nothing had been decided. The reason for this meeting was to present options to the land owners and to discuss those options. If none of the current options are satisfactory the trustees can direct the engineer to revise the report and offer more alternatives.

Several landowners asked if an open ditch would be cheaper than the tile. Once the old main tile is dug out why not leave the resulting ditch and not install new tile. Rode and Droessler said whether a ditch or a tile is cheaper depends on the circumstances. If the tile is replaced by a ditch that land is taken out of production and the owners must be compensated at fair value. Karen Lively said they would not sell their land along the main tile.

ISG assumes an 80' easement along the open ditch, 40' from the centerline on either side. They are proposing a formal easement of 100' as part of the proposed project. If the tile is replaced by an open ditch that will mean a strip of land 5,200' long and 100' wide will no longer be farmed. In addition, an open ditch will split the land and if the owners do not have access to their land across the ditch the district will have to pay to provide access.

Many of those present did not understand why the district would have to buy the land for a ditch when there was an open stream there before the district was established. Rode and Droessler said that when the district was established land owners were compensated for damages and land taken during the construction process. That was a one-time compensation to the land owners at that time and has no effect on today's owners. The lands through which the tile runs have been cropped since the tile was put in and the current owners must be compensated for losses incurred if those lands are taken out of production.

Sanders said he is not opposed to giving the land owners more options but there are easy ways and hard ways to address the problems in the district. The trustees are tasked under the Code of Iowa with maintaining the district to its original design capacity. The easy solution is to replace the existing tile with a new 30" tile, levy the district under the original classification, and we're done. If the land owners want to do more than this there needs to be significant "buy-in" because the other options are more expensive and more drawn out. In the case of replacing tile with an open ditch and landowners not wanting to sell their land the district would get involved with condemnation and lawsuits and the process will get really unpleasant and take a really long time. Another option that hasn't been mentioned is dissolving the district in which case maintenance the tile becomes the responsibility of each landowner. Sanders does not believe anyone here wants to take that route.

A land owner said since these problems had been going on for a long time why hadn't the old trustees, who were residents of the district, done something about it. They directed their comments at Jim Lively, a former trustee, who responded that problems were taken care of as they appeared in a series of smaller repairs. The questioner asked why that sort of repair couldn't continue. Lively said the tile is too far gone to be repaired piecemeal. The discussion became heated and Toot advised those present that we weren't here to discuss what was done in the past and that comments should be addressed to the trustees and the engineers.

A land owner asked if the proposed improvement took future increases in tiling into account. When the district was established no one foresaw the extensive tiling taking place today which is overloading the old tiles. Will we be back here in 20 years because the 42" tile is undersized? Rode and Droessler said the 42" tile is designed to handle all the water in the district with all branch tiles working at a 3/8" drainage coefficient which they are not doing now. Many landowners debated what would happen if extensive pattern tiling continues and the district's branch tiles are all upsized. Won't the main tile eventually be overloaded? Rode and Droessler repeated that the 42" improvement would be adequate for future drainage needs. The landowners were still not satisfied with the engineers' response. Sanders said if the district facilities were designed to a 3/8" coefficient it wouldn't make any difference how much tile private owners put in the ground. The district could drain 3/8" of water every 24 hours and the rest would run across the surface. Rode and Droessler said that was correct.

A landowner asked if the district should require grass waterways over the top of the tile instead of farming over it to prevent erosion from excess rainfall. Rode and Droessler said everyone should be practicing conservation practices in their farming operations but at the same time the district cannot tell landowners what to do on their own land. The district is responsible for maintaining district facilities only and has no authority beyond that.

A land owner asked about the life expectancy of the original tile and what is the design life of the replacement tile? Droessler said the existing main tile is concrete and has a design life of 100 years which is where we are at now. The new tile will also last 100 years and is reinforced which the original is not.

William Papenberg asked about the effect of running 40-ton, single-axle grain carts over the tile? Such a load would be illegal on county roads but farmers use it in their fields. Rode said at the depth of the main tile heavy agricultural equipment will not pose a threat.

A landowner asked if an open ditch would represent a repair or an improvement. Rode said an open ditch will have more carrying capacity than a tile so replacing the 30" tile with a ditch would be an improvement.

Toot asked for a show of hands from those who would like to see the report amended to include estimates for the cost of replacing the tile with an open ditch. The landowners wanted to know how much ISG would charge to amend the report. Droessler thought it would take 30 days and cost about \$2,500. The land owners thought that was a small enough cost compared to the project estimates that it would be worth pursuing. Sixteen landowners raised their hands in support of adding an option for an open ditch to the report. Toot asked for the same sign from anyone opposed to an open ditch and 8 people raised their hands.

Droessler said if the trustees wished to amend the engineering report they should recess the meeting rather than adjourning. That would allow them not to have to send notice and they could reconvene in less than 40 days. The trustees determined that they could reconvene here on July 29.

Sanders said because no new notice would be sent if the meeting is recessed everyone present should get a hold of their neighbors who weren't here tonight and encourage them to attend on July 29.

Thompson moved, seconded by Sanders, to remand the engineering report to ISG for them to add an option to replace the 30" main tile with an open ditch and provide cost estimates for same. He further moved that the meeting be recessed until Tuesday, July 29 and reconvene here on that date at 6:30 p.m. Motion carried unanimously. Meeting recessed at 8:30 p.m.

Respectfully submitted,

Scott T. Wall