



Memorandum

To: Livingston County Board of Commissioners
From: Brian Jonckheere
Date: 09/07/2023
Re: RESOLUTION PLEDGING THE FULL FAITH AND
CREDIT OF LIVINGSTON COUNTY FOR ORCHARD
PARK DRAIN DISTRICT BONDS

Background

The Orchard Park Drain Project was petitioned in 2016 and 2017 by landowners in the Orchard Park Condominium, near the intersection of Whittaker and Lobdell Roads, in Tyrone Township. The project was petitioned under Chapters 5 and 6 of the Michigan Drain Code, Act 40 of the Public Acts of 1956, as amended. A location map is shown in Figure 1. The project was brought to us resulting from a dispute between one of the condominium owners and the Orchard Park Homeowners Association.

It is interesting to note that this drain serves properties in Fenton Township, Genesee County, (187 parcels) as well as Tyrone Township (67 parcels). It is the first “intercounty drain” petition received by my office since my tenure as Drain Commissioner began in 1996. As such, the project is governed by an “Intercounty Drainage Board”, which consists of a member from each county, with a representative of the Michigan Department of Agriculture sitting as Board Chair. The Project was determined necessary by the Intercounty Drainage Board in accordance with the provisions of MCL 280.122 in April of 2017.

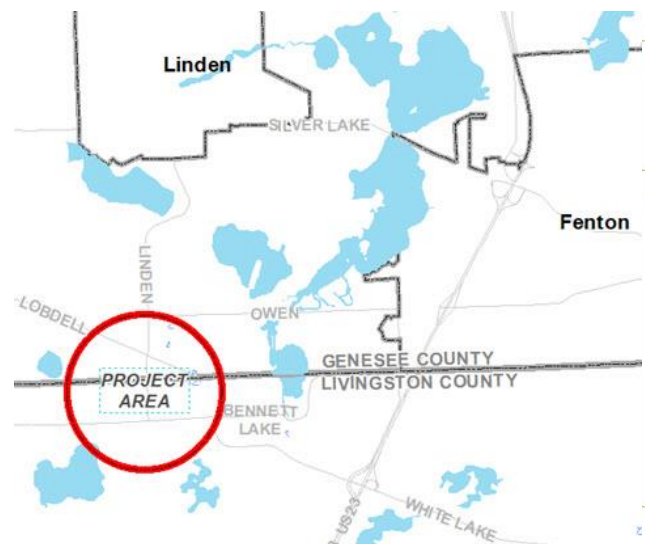


Figure 1

Due to difficulties obtaining easements, and cost concerns associated with the potential of having to condemn several easements for an assessment district less than 400 acres in size, several different routes for the drain were explored between 2015 and 2018. The service area of the proposed drain is shown in Figure 2. The majority of the service area of the district is east of Linden Road and North of Bennett Lake Road.

Status of the Project

The Project consists of constructing piped enclosures, ditching, and road culverts crossing both Linden and Bennett Lake Roads before outletting to an existing pond, which will then discharge to Hoisington Lake. The stormwater system is designed to convey the 4% chance storm event from the Orchard Park retention basin. This will reduce basement flooding within the Orchard Park Site Condominium. The low bidder on the project is Erie Construction, out of Woodhaven, Michigan, who we anticipate beginning construction in mid-January.

The cost for the Project is computed at \$3,200,000, including a ten percent contingency per MCL 280.261. Following proper notice via first class mail to all landowners pursuant to MCL 280.154, the hearing to review apportionments to properties and public corporations on this drain took place at my office on September 6, 2023. A total of four landowners attended the meeting, with none of them reserving their right to protest the special assessment. The period for landowners and public corporations to appeal their apportionments to the Probate Court under MCL 280.155 expired on September 16, 2023. Therefore, the roll is considered confirmed. Tyrone Township has been apportioned \$225,000 for benefits to public health, and has indicated to our office that they intend to prepay their portion of the project.. The county's portion of the project cost is \$315,000 for benefits to public roads. The remaining \$360,000 will be assessed over the 68 parcels in the district over a twenty year period.

Due to the small size of the district, several factors were incorporated into the roll, as a means of assessing according to the principal of "benefit derived" in MCL 280.152. As a result, there are three parcels with assessments exceeding \$15,000. The two largest property assessments on the drain exceed \$24,000 and serve properties with a history of basement flooding.

Financial Status

Hastings City Bank, now known as HighPoint Financial ("HighPoint"), has been a regular purchaser of "Drainage District Notes" over the duration of my tenure as Drain Commissioner. From approximately 2008 through 2022, we were often able to obtain loans for infrastructure projects with a pledge of the full faith and credit of the drainage district. The financial tightening which happened earlier this year resulted in a change of policy in the financial markets. HighPoint and other financial institutions began requiring county pledges of full faith and credit for financing of infrastructure projects under the Drain Code in early 2023. It should be noted that HighPoint informed our office that there has never been a default on a Drainage District bond or note.

Action Requested from the Livingston County Board of Commissioners

We respectfully request passage of the attached resolution.

If you have any questions regarding this matter please contact me.