

February 1, 2022

The Board of Commissioners of Lorain County, Ohio met this day in a regular meeting, in the J. Grant Keys Administration Building, 226 Middle Avenue, Elyria, Ohio, at 9:33 a.m. with the following members present: Commissioner Matt Lundy, President, Commissioner Michelle Hung, Vice-President and Commissioner David J. Moore, Member and Theresa L. Upton, Clerk.

JOURNAL ENTRY

Commissioners said the Pledge of Allegiance.

Commissioner Lundy gave an inspirational word

Clerk Upton called roll; Commissioner Lundy, Commissioner Hung & Commissioner Moore -- All Present

The following business was transacted

PUBLIC HEARING

Clerk Upton stated this is the day of the **Final hearing on Quarry Road Lateral Ditch #1, Pittsfield Township**

August 5, 2021, Petition received to improve drainage system east of Quarry Road by excavating to construct new open ditch that discharges to adequate drainage outlet providing an access lane and easement to facilitate maintenance and abandoning the failed drainage tile

August 11, Res#21-511 fixed the date of view on September 27 and 1st hearing was held on November 16. All letters and publications were sent in accordance with ORC.

October 27, Engineer submitted the estimates of the cost to construct the petitioned ditch at \$144,250 Engineer's opinion of this project is feasible and conducive to the public welfare and its benefits are likely to exceed its estimated cost.

November 16, Res#21-703 fixed the date of the final hearing, which is today.

January 10, 2022, Res#22-24 accepted the Engineer report dated December 7, 2021 stating the final estimate of constructing is \$144,250 and Stormwater District has committed to fund the full amount.

January 11, 2022 certified notices were sent to the owners along with assessments

January 18 & 25 publication was in the Morning Journal

Commissioner Lundy had Assistant County Prosecutor Petticord swear in anyone wishing to give testimony.

Commissioner Lundy asked Peter Zwick, Engineer's Office if he had any comments

Mr. Zwick, Chief Deputy Engineer said he submitted the Engineers report on December 7, 2022 and confirmed the cost, estimate is \$144,250. The County Engineer is of the opinion the benefits will exceed the cost

Commissioner Lundy asked Don Romancak, Stormwater if he had any comments

Mr. Romancak said good morning Commissioners. As was stated, this project, The Quarry Road Lateral was approved as a community grant. Stormwater District has the funds available to fund this project. It was and is the intent of the District Board to provide the funds available to be able to complete the project. There are additional funds available should there be cost overruns, based on some previous cost savings they have. The Board of Commissioners should have some flexibility if unforeseen to be able to ensure that the project meets its original stated goal. When this project was brought for, Stormwater District would be able to pay 100% of this project and the funds are available.

Commissioner Lundy said for clarification on the letters that have to go out to the residents and the way things have to be worded under the law, we have to send the formal letters out stating the assessments. Assistant Prosecutor Petticord said to be clear. The law requires an assessment to be put on to pay for the proposed improvement. Because of the way our system operates and the great job Don does, it is traditional for projects like this that are done in conjunction with the Engineers Office and Stormwater, that Stormwater effectively pays for the assessment through the form of a grant. One of the things we were discussing and why he was late up here this morning, was because they were discussing ways in which this can be made clear to the residents when you get the statutorily required letter, that states the assessment is going to be put on. This has created confusion, certainly here and other circumstances here, when people are told that Stormwater is going to support the program and does, but because the way the statutes are written, you have to get this assessment letter that your property is assessed at x amount. This happens and then Don comes in and says, we are going to grant an amount equaled to x to pay the assessment. It is just a relatively complicated way things have to be done under the Revised Code. His office is going to work with Don Romancak's office and make that communication a little bit clearer in the future, but for purposes of today, what you need to know what is happening here is the Revised Code requires an assessment placed on the properties that will benefit for the assessment and because we have a functioning stormwater district, the stormwater district assumes cost of these assessments. Is that a fair statement? Lundy said yes, in layman terms. He is sorry you got all worked up about the whole thing and this will be addressed on our side of the ledger. Petticord said the difference in our comments is why the law is written, he speaks for 5 minutes and Matt says the same thing in about 10 seconds. Moore said Politicians versus Lawyers.

Commissioner Lundy asked Township if they had any comments

Mark McConnell, Pittsfield Township Trustee said the township is in support and their only issues was clarification of the assessment issue. It is a shock when everyone gets these letters and tried to explain and sometimes don't even have contact with people outside of the watershed. He definitely understands their shock when they get a letter saying they are going to owe thousands of dollars. He would say that you have clarified that for the record and that is the best we can do at the moment.

Commissioner Lundy asked if there were any residents wishing to give comment.

Rick Brill, 47074 Whitney Road. He is a part owner of J. Brill Land Company, where this ditch is going to go across and exists on Mr. Mull. He just wants to reiterate, when he spoke here before that the exist point of the water from thereon and might have to address that in the future. Because it goes through the woods and dumps onto an open field, to the railroad tracks, goes under the railroad tracks and then proceeds to a ditch. He thinks we just have to see how everything goes from there. Also, wondering if there are going to be plans available for them to look at, so they know exactly what is going to happen and how deep it is going to be and the width, things like that. He would like a set of plans in the future and other than that, thinks it is going to be a good project. Lundy said he sees Mr. Zwick has some plans and maybe you guys can huddle up after the meeting to review.

With nothing further, Motion by Lundy, seconded by Moore to close the hearing. Upon roll call the vote taken thereon, resulted as:
Ayes: All Lundy, Moore & Hung / Nays: None

Motion carried.

(discussion was held on the above)

JOURNAL ENTRY

February 1, 2022

Commissioner Lundy asked the Clerk to read what is before the Commissioners next motion.

FINDING FOR THE IMPROVEMENT AND CONFIRMING ASSESSMENTS AND ORDER THE LETTING OF CONTRACTS and

That the construction of the improvement will be conducive to the public welfare, and the Commissioners find:

- That an improvement is necessary and cost outweighs the benefit
 - For disposal or removal of surplus water
 - For controlled drainage of land
 - For irrigation
 - For storage of water to regulate steam flow
 - For prevision of overflow of any land in the county, or
 - For water conservation
- And;
- Stormwater Management District will fund the construction assessments and the maintenance assessments have been suspended

Following resolution was adopted:

RESOLUTION NO. 22-79

FINDING FOR THE IMPROVEMENT AND CONFIRMING ASSESSMENTS AND ORDER THE LETTING OF CONTRACTS
Rev Code. Secs. 6131.12, .21 AND .24

<p>In the Matter of the Single County Ditch No. Quarry Road Lateral Ditch #1, Pittsfield Township</p>	<p>} Office of the Board of County Commissioners } Lorain County, Ohio } February 1, 2022</p>
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The Board of County Commissioners of Lorain County, Ohio met in (regular /~~special~~) session on the 1ST day of February 2022 at the office of the said Board with the following members present:

Commissioner Matt Lundy, President
Commissioner Michelle Hung, Vice President
Commissioner David J. Moore, Member

Commissioner Lundy moved the adoption of the following Resolution No. 22-79

WHEREAS, This being the day fixed by said Board, in its order dated the 16th of November 2021, Resolution No. 21-703 for the final hearing on the Reports and Schedules of the County Engineer, on the estimated assessments, on claims for compensation or damages and on the proceeding for the improvement and an application filed for change of route or change in the nature, kind and extend of work proposed to be done; and

WHEREAS, Said board finds that due and legal notice of this final hearing was given in Morning Journal on January 18 & 25, 2022 as required by law; and

WHEREAS, Said Board has heard all the evidence offered in the proceedings and received and considered all the schedules and reports filed by the County Engineer; therefore, be it

RESOLVED, that said Board review and reconsider its former order made and dated the day 10th of January 2022 by Resolution No. 22-24, in favor of said improvement; and

WHEREAS, this board has considered the cost of location and constructing, the compensation of land taken, the damages to land along or in the vicinity of the route of the improvement, the damages to land below the lower terminus of the improvement which may be caused by constructing the improvement, the sufficiency of the outlet, the benefits to the public welfare, and the special benefits to land needing the improvement, etc., therefore be it resolved,

RESOLVED, that said former order find in favor of said improvement made at the first hearing on the 16th of November 2021, by Resolution No. 21-703 be and hereby affirmed; and

WHEREAS, the Board has determined whether or not the improvement should be granted by considering the following factors under ORC 6131.21:

- (A) The cost of location and construction;
- (B) The compensation for land or other property necessary to be taken;
- (C) The effect on land along or in the vicinity of the route of the improvement;
- (D) The effect on land below the lower terminus of the improvement that may be caused by constructing the improvement;
- (E) The sufficiency or insufficiency of the outlet;
- (F) The benefits to the public welfare;
- (G) The benefits to land, public corporations, and the state needing the improvement;
- (H) Any other proper matter that will assist it in finding for or against the improvement.

WHEREAS, there were no objections to the proposed assessment being filed; and

RESOLVED, that said County Engineer's assessments as so amended and corrected be and the same are hereby approved and confirmed; and be it further; and

WHEREAS, Assistant County Prosecutor Petticord swore in people wishing to give testimony; and

WHEREAS, Commissioner Lundy asked the County Engineers Office if there were any comments.

Peter Zwick, Chief Deputy Engineer said he submitted the Engineers report on December 7, 2022 and confirmed the cost, estimate is \$144,250. The County Engineer is of the opinion the benefits will exceed the cost; and

WHEREAS, Commissioner Lundy asked Don Romancak, Stormwater if he had any comments

Mr. Romancak said good morning Commissioners. As was stated, this project, The Quarry Road Lateral was approved as a community grant. Stormwater District has the funds available to fund this project. It was and is the intent of the District Board to provide the funds available to be able to complete the project. There are additional funds available should there be cost overruns, based on some previous cost savings they have. The Board of Commissioners should have some flexibility if unforeseen to be able to ensure that the project meets its original stated goal. When this project was brought for, Stormwater District would be able to pay 100% of this project and the funds are available.

Commissioner Lundy said for clarification on the letters that have to go out to the residents and the way things have to be worded under the law, we have to send the formal letters out stating the assessments. Assistant Prosecutor Petticord said to be clear. The law requires an assessment to be put on to pay for the proposed improvement. Because of the way our system operates and the great job Don does, it is traditional for projects like this that are done in conjunction with the Engineers Office and Stormwater, that Stormwater effectively pays for the assessment through the form of a grant. One of the things we were discussing and why he was late up here this morning, was because they were discussing ways in which this can be made clear to the residents when you get the statutorily required letter, that states the assessment is going to be put on. This has created confusion, certainly here and other circumstances here, when people are told that Stormwater is going to support the program and does, but because the way the statutes are written, you have to get this assessment letter that your property is assessed at x amount. This happens and then Don comes in and says, we are going to grant an amount equaled to x to pay the assessment. It is just a relatively complicated way things have to be done under the Revised Code. His office is going to work with Don Romancak's office and make that communication a little bit clearer in the future, but for purposes of today, what you need to know what is happening here is the Revised Code requires an assessment placed on the properties that will benefit for the assessment and because we have a functioning stormwater district, the stormwater district assumes cost of these assessments. Is that a fair statement? Lundy said yes, in layman terms. He is sorry you got all worked up about the whole thing and this will be addressed on our side of the ledger. Petticord said the difference in our comments is why the law is written, he speaks for 5 minutes and Matt says the same thing in about 10 seconds. Moore said Politicians versus Lawyers; and

WHEREAS, Commissioner Lundy asked Township if they had any comments.

Mark McConnell, Pittsfield Township Trustee said the township is in support and their only issues was clarification of the assessment issue. It is a shock when everyone gets these letters and tried to explain and sometimes don't even have contact with people outside of the watershed. He definitely understands their shock when they get a letter saying they are going to owe thousands of dollars. He would say that you have clarified that for the record and that is the best we can do at the moment; and

WHEREAS, Commissioner Lundy asked if there were any residents wishing to give comment.

Rick Brill, 47074 Whitney Road. He is a part owner of J. Brill Land Company, where this ditch is going to go across and exists on Mr. Mull. He just wants to reiterate, when he spoke here before that the exist point of the water from thereon and might have to address that in the future. Because it goes through the woods and dumps onto an open field, to the railroad tracks, goes under the railroad tracks and then proceeds to a ditch. He thinks we just have to see how everything goes from there. Also, wondering if there are going to be plans available for them to look at, so they know exactly what is going to happen and how deep it is going to be and the width, things like that. He would like a set of plans in the future and other than that, thinks it is going to be a good project. Lundy said he sees Mr. Zwick has some plans and maybe you guys can huddle up after the meeting to review.

FURTHER BE IT RESOLVED, The Board has heard all evidence offered by any owner of land for or against the granting of the proposed improvement, or for or against the granting of any laterals, branches or spurs, or change of route, course, termini, or manner of construction described in the petition, or in any application; and

WHEREAS, and having hearing all evidence offered for or against the assessment proposed to be levied against any owner or any land, as shown by the schedule of assessments filed by County Engineer and any competent evidence on the question of benefits, and from an actual view of the premises; therefore be it

RESOLVED, That \$144,250.00 total amount of construction assessment be and the same is hereby assessed for benefits to the general public by reason of the improvement being necessary and conducive to the public welfare and cost will be less than the benefits and shall be paid by the landowners and assessed by the County, and \$0.00 found to benefit State or County Roads or Highways be and the same is hereby assessed to the County, and the following sums found to benefit the following political subdivisions of the State be and the same are hereby assessed against such political subdivisions, \$144,250.00 Stormwater Management District funds; and

and be it further

RESOLVED, That interest shall be added to said installments of assessments at the same rate as is drawn by the bonds if issued to pay for said improvement; provided any owner may pay the assessment on his land

RESOLVED, That interest shall be added to said installments of assessments at the same rate as is drawn by the bonds if issued to pay for said improvement; provided any owner may pay the assessment on his land in cash within thirty days after the contracts are approved and such assessments are levied, without paying any interest thereon.

WHEREAS, assessments under \$25.00 the same shall be paid in full, and not in installments shall be placed upon the next tax duplicate and due and payable as with other taxes upon issuance of the next tax bills by the Lorain County Treasurer next issue tax bills; and

WHEREAS, assessments \$500.00 or under shall be placed on the next tax duplicate to be due and payable as with other taxes in two equal installments commencing upon issuance of the next tax bills by the Lorain County Treasurer; and

WHEREAS, assessment in excess of \$500.00 shall be placed upon the next tax duplicate and payable as with other taxes in 5 years, 10 equal installments commencing upon issuance on the next tax bills by the Lorain County Treasurer; and

WHEREAS, annual maintenance assessments shall be placed upon the next tax duplicate and payable semi-annually each year as with other taxes upon issuance of tax bills by the Lorain County Treasurer; and

WHEREAS, The Lorain County Stormwater Management District will and hereby be authorized to pay for the construction of said Quarry Road Lateral Ditch #1, Pittsfield Township in the amount of \$144,250.00 paid by Stormwater District funds and therefore no property owners will be charged said amount and authorize said construction assessment for the ten (10) owners benefiting twenty one (16) parcels be suspended; and

RESOLVED, that the County Engineer be and he is hereby directed to give notice as where quotes will be received for furnishing any material for the improvement and all quotes be received and that the County Engineer be and is hereby directed to let the contracts for the construction of the proposed improvement; and

Resolution No. 22-79 cont.

February 1, 2022

WHEREAS, costs of the improvement will be paid with Stormwater District and the annual maintenance will be paid by Stormwater District funds, subject to further resolution of the District;

THEREFORE BE IT RESOLVED, that the assessments shall not be placed on the tax duplicate as a lien against the properties assessed, and the annual maintenance is hereby suspended until such time as the Board of Commissioners by resolution resume collection, at which time the maintenance shall be certified to the County Auditor to be placed on the tax duplicate as a lien upon the properties for the following landowners and parcels.

WHEREAS, The construction of the improvement is necessary and will be conducive to the public welfare, and will benefit the petitioners and property owners in the watershed; and

WHEREAS, The following is the course and termini of said proposed improvement to wit:
Located in Pittsfield Township Original Lot . 69, Lorain County, Ohio; and Commencing in Quarry road about one-third mile south of Hughes Road; Thence running east about one-third mile along the north lien of said Pittsfield Township Lot No. 69; to an unnamed tributary of the West Branch of the Black River

WHEREAS, The following is the nature of the work petitioned for:
Improvement of the drainage system east of Quarry /road bey excavating to construct a new open ditch that discharges to an adequate drainage outlet, providing an access lane and easement to facilitate maintenance and abandoning the failed drainage tile.

Therefore be it:

RESOLVED, that the construction of the improvement will be conducive to the public welfare, and the Commissioners find:

- That an improvement is necessary and cost outweighs the benefit
 - For disposal or removal of surplus water
 - For controlled drainage of land
 - For irrigation
 - For storage of water to regulate steam flow
 - For prevention of overflow of any land in the county, or
 - For water conservation
 -

BE IT FURTHER RESOLVED, That \$144,250.00 total amount of construction assessment be and the same is hereby assessed for benefits to the general public by reason of the improvement being necessary and conducive to the public welfare as follows:

	Owner's Name	Owner's Address	City, State, Zip	Permanent Parcel No.	Township	Orig. Lot No.	Acres Owned	Description	Acres Benefitted	Damages	Assessment	Annual Maint.
1	(*) Jerry L. & Terrance M. Allread	16357 Quarry Road	Wellington, Ohio 44090	14-00-069-000-016	Pittsfield	O.L. 69	9.53	Inst. #2003-0932050	9.53	\$0.00	\$13,173.95	\$136.99
2	(*) J Brill Land Company LLC	47074 Whitney Road	Wellington, Ohio 44090	14-00-069-000-003	Pittsfield	O.L. 69	35.00	Inst. #2012-0413938	5.62	\$0.00	\$7,768.90	\$80.79
3	(*) Timothy D. Foley & Sonya C. Pitts	16351 Quarry Road	Wellington, Ohio 44090	14-00-052-000-025	Pittsfield	O.L. 52	4.18	Inst. #2003-0914360	3.88	\$0.00	\$5,363.58	\$55.79
4	(*) J Brill Land Company LLC	47074 Whitney Road	Wellington, Ohio 44090	14-00-052-000-026	Pittsfield	O.L. 52	21.43	Inst. #1993-0250194	8.02	\$0.00	\$11,086.58	\$115.28
5	(*) Lloyd A. & Marjorie J. Mull	47217 State Route 303	Wellington, Ohio 44090	14-00-052-000-034	Pittsfield	O.L. 52	30.55	Inst. #1994-0315389	1.38	\$0.00	\$1,907.66	\$19.86
6	(*) J Brill Land Company LLC	47074 Whitney Road	Wellington, Ohio 44090	14-00-052-000-023	Pittsfield	O.L. 52	1.01	Inst. #1993-0250190	0.28	\$0.00	\$387.06	\$4.05
7	Ricky D. Brewer	16250 Quarry Road	Wellington, Ohio 44090	14-00-051-000-002	Pittsfield	O.L. 51	5.02	Inst. #1991-0145079	2.37	\$0.00	\$3,276.20	\$34.09
8	Dovin Land Co. LLC	48090 State Route 303	Wellington, Ohio 44090	14-00-051-000-003	Pittsfield	O.L. 51	114.23	Inst. #2021-0851063	17.06	\$0.00	\$23,583.22	\$245.18
9	Christopher A. Miller	16295 Quarry Road	Wellington, Ohio 44090	14-00-052-000-011	Pittsfield	O.L. 52	4.00	Inst. #2017-0622130	0.35	\$0.00	\$483.82	\$5.06
10	Stanley D. & Carolyn Lindholm	16399 Quarry Road	Wellington, Ohio 44090	14-00-069-000-013	Pittsfield	O.L. 69	8.62	Inst. #2020-0779142	8.62	\$0.00	\$11,916.00	\$123.90
11	Tiffani Amber Ward	16441 Quarry Road	Wellington, Ohio 44090	14-00-069-000-014	Pittsfield	O.L. 69	8.63	Inst. #2021-0810237	7.03	\$0.00	\$9,718.04	\$101.05
12	Jerry & Candace Ward	16601 Quarry Road	Wellington, Ohio 44090	14-00-069-000-009	Pittsfield	O.L. 69	7.80	Inst. #2013-0490940	3.11	\$0.00	\$4,299.16	\$44.72
13	Dovin Land Co. LLC	48090 State Route 303	Wellington, Ohio 44090	14-00-070-000-001	Pittsfield	O.L. 70	31.70	Inst. #2001-0744975	18.78	\$0.00	\$25,960.86	\$269.90
14	Dovin Land Co. LLC	48090 State Route 303	Wellington, Ohio 44090	14-00-070-000-002	Pittsfield	O.L. 70	40.00	Inst. #2021-0851063	10.39	\$0.00	\$14,362.79	\$149.33

15	Dovin Land Co. LLC	48090 State Route 303	Wellington, Ohio 44090	14-00-070-000-003	Pittsfield	O.L. 70	8.80	Inst. #2021-0851063	7.60	\$0.00	\$10,506.00	\$109.24
16	Dovin Land Co. LLC	48090 State Route 303	Wellington, Ohio 44090	14-00-070-000-004	Pittsfield	O.L. 70	40.00	Inst. #2001-0744975	0.33	\$0.00	\$456.18	\$4.77

Seconded by Hung to adopt the Resolution. Upon roll call the vote taken thereon, resulted as: Ayes: All, Lundy, Hung & Moore / Nays: None
 Motion carried.

No.22-79 Lorain, County, Ohio In the matter of the QUARRY ROAD LATERAL DITCH #1, PITTSFIELD TOWNSHIP	PROCEEDINGS TO Improvement of the drainage system east of Quarry /road bey excavating to construct a new open ditch that discharges to an adequate drainage outlet, providing an access lane and easement to facilitate maintenance and abandoning the failed drainage tile.	RESOLUTION-22-79 COMMISSIONERS FINDING AFFIRMING FORMER ORDER, CONFIRMING THE ASSESSMENTS AND ORDERING THE LETTING OF THE CONTRACTS Dated: February 1, 2022 Journal No. 22 Page: 75-79
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(discussion was held on the above)\

B.

OTHER BUSINESS

Commissioner Lundy requested an executive session. Petticord said executive session would be appropriate here to discuss sale/purchase of public property and update on pending litigation. (discussion was held on the above)

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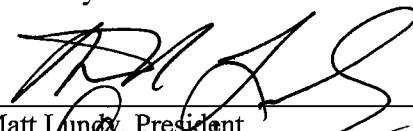
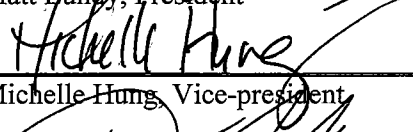
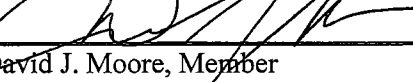
CLERKS REPORT


#1. Wednesday, February 2, 2022 at 9:30 a.m., Commissioners will have a board meeting

JOURNAL ENTRY

Commissioner Lundy, seconded by Hung to go into an executive session at 9:45 a.m. to discuss sale/purchase real estate and current litigation issues. Upon roll call the vote taken thereon, resulted as: Ayes: All Lundy, Hung & Moore / Nays: None
 Motion carried.

Commissioners reconvened from executive session. Lundy said there is no further action this day, therefore this meeting is adjourned at 11:18 a.m.


 _____)Commissioners
 Matt Lundy, President)

 _____)of
 Michelle Hung, Vice-president)

 _____)Lorain County
 David J. Moore, Member)Ohio

Attest: 
 Theresa L. Upton, Clerk

