

July 7 2020

The Board of Commissioners of Lorain County, Ohio met this day in a regular meeting at 9:31 a.m. by doing a Zoom Platform with Live Streaming with Commissioner Lori Kokoski, President being at home, Commissioner Sharon Sweda, Vice-President being at home, Commissioner Matt Lundy, Member being at home, County Administrator James R. Cordes being at home and Theresa L. Upton, Clerk and Prosecutor Gerald A. Innes being in their county offices.

NOTICE: COMMISSIONERS MEETINGS ARE CLOSED TO THE PUBLIC DUE TO THE COVID-19 PANDEMIC.  
THE COMMISSIONERS WILL BE DOING A ZOOM PLATFORM WITH LIVE STREAMING THE BOARD MEETING AT [LorainCounty.us/watch](http://LorainCounty.us/watch) AND <https://www.facebook.com/LCGov>

JOURNAL ENTRY

Commissioners said the Pledge of Allegiance.

Commissioner Lundy gave an inspirational word

The following business was transacted \_\_\_\_\_

**A.**

**HEARING**

9:30 a.m. – Brown Lateral Ditch – Pittsfield Township

Clerk Upton stated in accordance with Section 6131.07 of the Ohio Revised Code, notice was given of a petition filed with the Board of Commissioners on February 11, 2020 from Pittsfield Township to clean Brown Lateral from Quarry Road East to RR tracks.

Engineer total project cost \$57,800 with 143.28 acres total watershed & annual maintenance fee \$1,000

The construction of the improvement is necessary and will be conducive to the public welfare.

The following is the course and termini of said proposed improvement to wit: Commencing at ¼ mile north of SR20 east side of Quarry Road the east approx. 1500 ft to the Lakeshore RR; and

The following is the nature of the work petitioned for: clean the Brown Lateral from Quarry Road to the RR tracks to the east

Stormwater District approved a community grant in 2018 SWD18-1 in amount of \$57,800 for said ditch

February 19, 2002 – Res#20-130 accepted said petition schedule the view to be held April 6 and hearing on April 21

March 16, 2020 25 certified letters were mailed to landowners affected by petition within watershed

March 16, 2020 – sent publication to Chronicle for view and hearing to be published on March 23 & 30

March 23 & June 5, 2020 – Lakeshore Railway Association mailing was returned unable to forward, but correct mailing address

March 25, 2020 – Res#20-223 postponed the view and hearing due to the Order of the State of Ohio Governor due to the Coronavirus

March 30, 2020 – sent publication to Chronicle to change March 30 notice to state postpone the view on April 6 and hearing on April 21

March 30, 2020 – Postcards were sent to all 25 landowners stating the view and hearing were postponed

April 6 – Patrick Z & Catherine Hozalski, Trustees, 48827 SR511 and Terrance L. Jackson, 14871 Quarry Rd., mailing was returned unable to forward, but correct mailing address

May 13, 2020 – Res#20-312 rescheduled the view to June 22 and hearing on July 7

June 1, 2020 – sent publication to Chronicle for view and hearing to be published on June 9 & 16

June 2, 2020 – 25 certified letters were mailed to landowners affected by petition within watershed

June 4, 2020 – a public records requested received on May 26 was filled for Patrick Tavenner II on all information on the ditch by email

Commissioner Kokoski had Assistant Prosecutor Innes swear in anyone that wished to give testimony. Clerk stated public hearing room would need to raise their hands and asked for the camera to be moved to show the people present, as well as anyone that is on zoom. Assistant Prosecutor Innes swore people in.

Commissioner Kokoski asked if any Township Trustees had any comments.

Mark McConnell, Pittsfield Township Trustee said the Township supports this project.

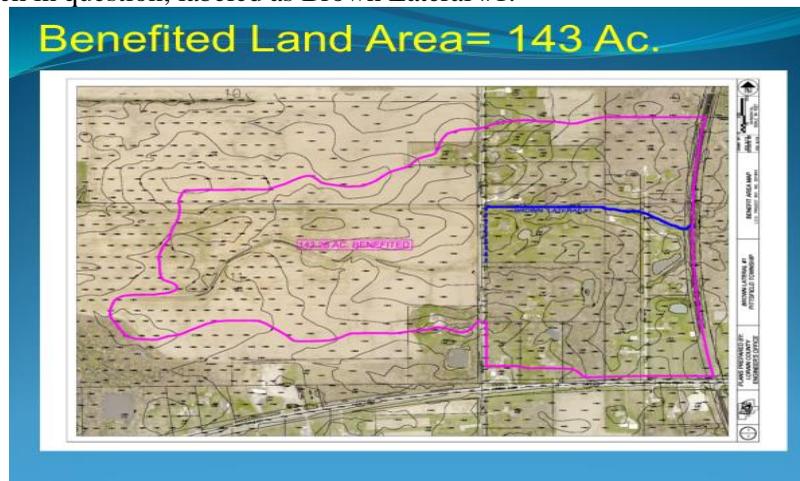
Commissioner Kokoski asked the Engineers Office if they had any comments.

Peter Zwick, Deputy Engineer said the preliminary report was issued on July 1, 2020 for the Brown Lateral Ditch. The petition is to clean and shape ditch, remove sediment, replace failed culverts and restore historical drainage capacity and restore neighborhood drainage for 143 acres of homes and farms and permanent county maintenance in easement in amount of \$57,800.

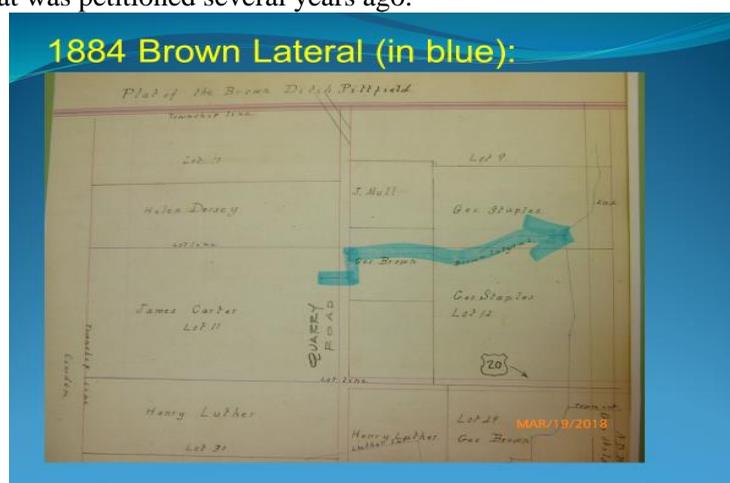
Brown Lateral Ditch hearing cont.

July 7, 2020

Mr. Zwick said this map shows the 143 acres that are impacted with about 25 houses on Quarry Rd and US Rt20. The area outlined in purple/magenta is the drainage of Brown Lateral Ditch and it is referred to as a lateral because it runs laterally off the main brown ditch, which is also called Plum Creek in Oberlin. It is about 3/4 on the left side of farm land, right side magenta line ends at the abandon Lakeshore railway. The blue line shows the location of the ditch in question, labeled as Brown Lateral #1.



Mr. Zwick said this is the old map and in 1884, George Brown who owned land in the middle had petitioned the county for the ditch across his land and the neighbors. This old plat map shows in blue the brown ditch lateral exactly where it lies today. Quarry Road which runs vertically in center of pictures and USRt 20 at the lower right and at that time that road did not extend further west from Quarry Road. AT the bottom of the map was Luther Lateral that was petitioned several years ago.



Mr. Zwick said these are pictures of the viewing that was held on June 22 and you will see that Commissioner is standing in the middle of the brush in middle of the shallow ditch and no water in the ditch this day. He stated the townships petition sites exactly in this petition, the ditch is full of trees and very shallow.



Mr. Zwick said the petition also sites the need to put improved road drainage. You can see after this rain, both the properties on west side of Quarry Road and Quarry Road side ditch suffers from poor drainage. The reason he included these photos was because as he mentioned during the viewing it was beginning of the recent drought but this shows how it is on a rainy day.



Brown Lateral Ditch hearing cont.

July 7, 2020

Mr. Zwick said you will see from these pictures of the flow of the water from Quarry Road and looking east and turns 90 degrees Quarry Road and goes east

At Quarry Road:



Ditch turns east off road:



Mr. Zwick said further down east is the sediment and vegetation that clearly clogs the ditch and you can see the remnants of the ditch are visible in the lower right hand corner. He said there are a lot of trees in the ditch, very shallow as it mentions in the petition as was dry this day and the last picture is further down the stream showing more trees and vegetation closer to the east end of the project.

Sediment, vegetation, etc.



Trees in shallow ditch



More trees & vegetation:



Mr. Zwick said as part of the project the engineer will require 3 pipe culverts will need to be replaced because of their deteriorating conditions.

Replace 3 culverts:



Brown Lateral Ditch hearing cont.

July 7, 2020

Mr. Zwick said on this petition but not exactly part of the formal petition. Once the petition project is complete, the county engineer will finally be able to restore the eastern road side ditch of Quarry Road at no additional cost to the petition project. This is important because it connects so much of the western land drainage system. In the photo at the lower left the county engineer 40 year old Quarry Road culvert will be replaced because it is submerged because it not only is the ditch in the private property full of sediment but the ditch along Quarry Road which is an important link in the drainage system that is also all sediment. The county engineer would separately improve this portion of the road side ditch



Mr. Zwick said the County Engineers office preliminary estimates the cost of the petition project at \$57,800 and expect drainage benefits to exceed estimate costs and report no damage costs. The County Engineer estimates that as a result of this improvement and subsequently thereof the benefits of this project including the positive effect on the value of land in the vicinity a potential increase in productivity of parcels of land, the quantity of drainage within the location of parcels and the flow of drainage through parcels the value of the project to the watershed drainage conversation and control and management of water to the flood reduction improves public health, safety and welfare and other benefits fully offset all potential damages. He stated that this petition will be fully funded by \$57,800 from the SWAC community grant that was already approved by the Stormwater Board. He said the county engineers additional work on Quarry Road although valued at \$17,500 does not figure into the cost of said petition. Mr. Zwick said today, the Commissioners may to vote to proceed, when to fix time of final hearing and when this is done, the county engineer will be directed by the board to prepare surveys, plans, and specifications.

Commissioner Kokoski thanked Mr. Zwick and said they have been on many ditch viewing and this is the first time they have been able to see the ditch from the beginning to the end, the entire project and thanked him for his report.

Commissioner Kokoski asked if there were any residents which to make comments.

Attorney Matt Rolf, (via zoom) representing Mr. Tavenner and will have a statement to make later, but had a question for Mr. Zwick on the 3 culvert pipes and asked where the location of the other 2 culvert pipes other than the one that is under the private driveway. Mr. Zwick said on Quarry Road. Mr. Rolf thanked him.

Commissioner Kokoski asked if there were any other residents that would like to make a comment.

Judy Waltz, (she is in meeting room b)14794 Quarry Road and have been on the property since 1974 and build a house and have been there 46 years and always had a problem with water. The north and south side culverts have always given problems, the drainage, there is no capacity to hold all the water and comes over onto their property and over the years it has gotten worse and is desperately needed. During Mr. Zwick's presentation that the ditch would be cleaned and shaped and this concerns them and shaping would mean moving or distorting what is there. Mr. Zwick said shaping the ditch, the problem is that there is almost 2 feet of sediment that has accumulated in the ditch and a couple of places the ditch disappears because of this and including in front of her property and Quarry Road and has the ditch turns further east. One needs to excavate or dig down a foot or two to remove this sediment and of course you would not want to leave vertical walls in the ditch because they would just slough in again and what he means by shaping the ditch is to construct safe and erosion resistant sloped banks and this is one of the things engineers do when they improve waterways.

Mrs. Waltz asked if this would be on both sides of the ditch. Mr. Zwick said yes

Mrs. Waltz said a slope on both sides and the main ditch will be in the middle, Mr. Zwick said yes it will have what they call a trapezoidal cross section. Mrs. Waltz thanked him and for the commissioners consideration.

Clerk asked Jessica Hozalski that is in meeting room b if anyone else was coming up to speak. Mrs. Hozalski said no.

Patrick Tavenner, (via zoom), 14771 Quarry Road wanted to give a brief history lesson. He stated his grandfather bought the property at 14731 Quarry Road, to the north of him at 14771. In 1962, his grandfather lived on this property until they could no longer care for it and he grew up on this property as a young child and know the ins and outs of this property. His grandfather in the 60's dug out a low spot on the south side of his property to allow irrigation to his crops as well as a heard of cows and hogs to drink from this manmade line. The property dispute with Mr. Waltz with considerably trespassing and breaking ...with his grandfather and to this day there is a barb wire that runs the length of the south side boarder of the property as well as continued legal actions against Mr. Waltz for the continuing the disruption of the property. In 1985, the neighbors on Quarry Road decided to cover their ditches and install tile that was paid out of pocket by the land..... and the county finished the remaining part of this tile project with the road. Again the Waltz family did not participate in this project to assist with the water flow. The tile on the ground stops and connects with this irrigation line that his grandfather had dug. His parents acquired 2 acres in the mid 80's from his grandfather which is where is property sits today and they have redug this line to better serve their interest of their family. This line always has run from the 60's to today along south border of the property and has always drained east to the railroad tracks. In the late 80's the private drive was constructed and homes were built back in the woods, there are about 8 homes on this private drive and not once have discussed flooding with him, his parents or grandparents . For the past 20 years his parents have tried to say cordial with the Waltz family until they made as move again, 10 years ago on the irrigation line when Judy Waltz starting planting exotic farm plants and putting shrines up on this property. They were removed, cut down and returned to the Waltz's family and again they tried to put solar lights in, planting more shrubs on the irrigation line and again these were removed. He has personally called the Sheriff on Mr. Waltz 3 times in the past 2 years because again he continues to trespass with his lawn cutting. The property line is clearly marked on 2 occasions by surveyors and pins are in the ground, but he continues to not respect the property line. He stated the history of the project, in 2018 he called Pittsfield Township to get a build permit for his family home and during this request is when he learned that property was going to be used for some sort of project. He then contacted Mr. McConnell and clearly advised him of January 2018 and was strongly against any project that was on his property and following this conversation included an additional conversation with Mr. Zwick who also advocated with the project and again he indicated project is not being done on his private property. He advised him that he would take this into consideration of his personal property. He stated at a town hall meeting in 2018 he spoke his wishes of his personal property and lack of wishes for a project he does not want and following this meeting he followed up with Mr. Carney, Mr. Zwick, himself and his mother and during this conversation he expressed that he would oppose project if it was not on his private property as

Brown Lateral Ditch hearing cont.

July 7, 2020

well as his opposition to assist in paying for this project through his taxes. He also expressed his observation of the last 2 years on this property and the property throughout the duration of his life which includes the lack of flooding. He said in discussing Mr. Carney proposed his idea to Mr. Zwick about putting a 1 foot swale on the Waltz property on south side and both advised that his modification would meet project rules and 2 swales were better than one. He said the county came out and marked with wood stakes with pink flags of were the additional swale would go on south side of Waltz property. He said on January 30, 2020, the funding for this project expired for Brown Lateral because the Memorandum of Understanding stated that this project must be completed within 2 years of the funding needs available and it was not since this funding was available January 30, 2018 to January 2020 and additional procedural errors in this project including the scoring that was completed to allow for government funding further advised project evaluation. The project must score 80 to in order to receive funding and this score that was completed for this project was only 68. In May 2020, he reached out to Township Zoning Inspector Dan Shinsky to inquire and sought for approval for a new building, 3 car detached garage on the south side of his property. He was granted this permit in May of 2020, prior to construction he said Mr. Shinsky did return to his property while it was being plotted and continued to provide approval for continuing the building. Additional after speaking with his builder the ground around the new building can not be distributed since it was built to code and concreted in with footers and anything within 10 feet of disturbing the anchor system or causing erosion or sloping or moving ground by his 2 by 12 by his freshly brand new concrete garage over. The project in question with the parameters identify have been fulfilled on his property and includes the irrigation line being taken down 1 foot as Mr. Zwick has stated. He has done this all independently without county assistance or taxpayer dollars and believe it is his duty as a member of this township to maintain his own property to retain its value and the upkeep of the county. There is no public need or benefit from any project, the Luther Lateral, a somewhat area project has no drain, is flat and retains water and his property has a flow as shown and captured on May 15, 2020 when all of Lorain County was flooding or bombarded by water and during that storm and days after his embankments never crested and continued to flow with no issues. For as long as he can remember there has never been any issues there regarding flooding. The issue is the neighbor failing to maintain and continue to keep up with his ditch parallel to the road, he has grass growing taller than he is at multiple times during the spring, summer and fall as well as trash and debris from littering. Every since the 80's the county has never maintained or cleaned out the culvert that crosses under the road as well as maintain the other that sits on the south side of Waltz property. He said 2 years ago a culvert was replaced by a subcontractor that already began to cave on that portion of the road. On 6/22/2020 during the project viewing, Mr. Zwick addressed the problem that the ditch and culvert down go to the south and according to Lorain County soil & Water conservation District on June 2020 any drain in a swale should be at least a minim 10 feet from a house or structure and sloped to take accumulated water away to proper outlet. He said with his recently new approved new structure on his south property he has 20 feet until he property line per code and all documents from the Lorain Soil & Water conservation district, stormwater management district and Lorain stormwater advisory committee all state that you must have agreement from a private property owners to access or fix something on private property and as he has previously stated he has made his firm stance as to the opposition of this project on his property that has become a weary project. He said ..... across property lines however this solely rest on his property not on his south side enablers whatsoever. He said the Lorain County Soil & Water Conservation District recommendations article 1, joint properties work together to resolve a common issue and never have they approached him regarding any flooding or other issues and case law states that no government agency that is designated to issue ...or otherwise resolve conflicts of water rights and drainage problems between landowners. Such conflicts are reserved be resolved through the court. The documents from the drainage impact and rural residential housing in Lorain County Ohio and drainage 101 from Soil & Water Conservation District maintenance of drainage system are responsibility of landowner and any change to the flow of water will cause damage to upstream or downstream of landowners that would result in legal liability of said damages. He said the legality arises in the case of feuding neighbors and all water should enter and leave your property as the same point and at the same rate as it did prior to any construction or land disturbance and it should do so in a manner that does not cause damage to neighboring properties. Landowners are entitled to a reasonable use of the water that flows across their land as long as this water returns to the natural watercourse and this would include making drainage improvements to protect your house and other structures. Often times, drainage outlets are not available onsite and in this case it may be necessary to enter a neighbor property and to do this permission is required. Depending on relation between neighbors this may or may not be granted and these ditch project also require participation cooperation of multiple landowners. He has gone door to door speaking to his neighbors in the watershed without any neighbor identifying flooding issues or concerns on their property and had others that opposed any tax increase whatsoever for this property. In closing his main argument remains the same; this project is projected to be on his own private property in which he does not support nor would for a variety of reasons. He was opposed and was approved for 2 specific permits for his property to build and expand through this township and one of which is directly next to this projected project and the effect of this project would have on his building structure to have the potential cause harm not only to his property value but the actually livability of his home and including many systems on his property. All studies have pertinent information regards to this project where done prior to him becoming the property owners and as well before any of these additional structures were on this property. He said himself as a current landowner and his parents, previous landowners were given no notices or information or request to access this property. All studies for this project were completed prior to these structures and as well as page 7 as Mr. Zwick posted there is a picture of what it looked like and what it looked like today and his attorney Matt Rolf has pictures of this and thank the board for the time and consideration regarding this matter and definitely regarding his property.

Commissioner Kokoski asked Mr. Zwick to address what Mr. Tavenner brought up; 1 being the swale or 2 swale issue that Mr. Carneys suggested and the other being the scoring that this project did not score high enough.

Mr. Zwick said he does not recall that Mr. Carney suggested 2 swales and does recall meeting with Mr. Tavenner 2 years ago he believes or 3. He said as Mr. Tavenner mentioned and quoted soil service they said it very simply the drainage enters and leaves the property in the same place it does now and that is exactly as the pray of the petition request and that would be his recommendation at that time. He asked what the second questions was; Commissioner Kokoski said the scoring. Mr. Zwick said he does not recall what the score was or exactly which year it was approved in but it was approved and if someone suggested a certain number of points is necessary he does not believe that is a hard and fast rule and sure it is not in use with this recent rounds of evaluation.

Commissioner Sweda asked Mr. Tavenner, the day they were out there to view the ditch was there any reason why you did not have them come over to your side to see some of what you are discussing now because it is difficult to make an application decision based upon the fact that we were not on that side of the bank to view any of this and if she recalls that was a pretty loud warning to them that they were not allowed to go view it from his side. Mr. Tavenner said again, he does not have any water issue, his thing flows properly and him and Mr. Rolf have discussed it and there is actually no need to see it because it flows properly and have evidence of this flowing properly throughout the property.

Commissioner Sweda said you are also claiming there could be potential damages or infringement to the use of property and again we only have the word on that and we were not able to view anything. Mr. Tavenner said again, he has a freshly permitted new 3 car detached garage as you can see from the roadway and again, this sits on where you are planning to dig. Commissioner Sweda said actually she could not tell that from where they were, but it might have been helpful if they could have viewed the property.

Commissioner Lundy asked Assistant prosecutor Innes stating that Mr. Tavenner brings some question about the timeline for action to be taken, is there question about the timeline. Assistant Prosecutor Innes said this is just an internal policy of the commissioners that is regards to the funding process and has nothing to do with whether or not the project goes through and it is always with the Commissioners discretion to modify your own funding process.

Commissioner Lundy said if he understands correctly it was recently that the scoring was changed did not thing it went to far back and at that time it was applicable based upon the recommendation of the stormwater advisory committee to commissioners to score highly, correct Peter. Mr. Zwick said correct.

Brown Lateral Ditch hearing cont.

July 7, 2020

Attorney Rolf said in the documents that were included and submitted to Ms. Upton the meeting minutes of SWAC that was January 2017 that was the initial proposal for the Brown Lateral project and that time had a list of several project and at that time it was not recommended to be persuade. The following year in January 2018, the meeting minutes that included score of the project and was in the 60's low/high and have included those documents and to the extend that we know about it is there and also included regarding the 2 years there is a memorandum of understanding between SWMD and the township in terms of when the project was to be completed and that might not be something that could be addressed or fixed by the commissioners

Ms. Waltz said she would like to speak to Mr. Tavenner statement. She stated that her husband and her chose not to go through the dirty laundry and thought it was unprofessional and really did not have anything to do with the Brown Lateral as we are talking now. She would like to rebuttal and stated he was less than honest with her husband responsive and have to let the story be straight. This is not fair and she will not put up with that kind of dishonesty about her husband and her household and just would like to express her feelings on that and she is sorry that she has to because they did choose not to do that at the beginning.

Commissioenr Kokoski asked if there was anyone else that would like to make a comment.

Commissioner Sweda asked a question to either Counsel or Mr. Tavenner. Has there been any research on providing an alternative method in correcting this flooding issue because although it may not go onto Mr. Tavenner's property we know there is a flooding issue down there and your suggestion or oppose of doing the project, have you got any studies or alternatives solutions you are proposing.

Attorney Matt Rolf said he will not repeat everything Mr. Tavenner said flush out what he said and answer the commissioners questions. He said it is their contention the project is not well conceived and this petition should be dismissed, at least it should be redesigned. The project is going to cause damage to Plum Creek, it will cause damage to the property owners that are going to have this 40 foot wide easement on their lands and it is, ultimately Mr. Tavenner's position and don't think anyone is objecting to the improvement that would happen in the right of way and all agree these improvements are necessary, but the project for the lateral from right of way going east is not going to fundamentally work to address those issues. The one thing he wanted to point out on the project petition there is no property owner and for a project that has 1500 feet of easement on private land it is usually for a petition to not have a property owner sign onto it and so typically townships are reluctant to proceed in situations like this and for a township to implement a project from the perspective of Mr. Tavenner would intervene on behalf of neighbor essentially in a private dispute and that is not a perfect place for the township to be in. Although this project may not require a erosion and sediment control plan or stormwater management plan it appears to flought many of the intentions of these regulations basically this is a mass excavation of a tributary of Plum Creek which is going to increase erosion on the properties and likely increase the silt going into plumcreek and could increase phosphorous load into plum creek. With regard to the alternate project throughout that is on the southern edge of the property to the south near the southern culvert pipe on Quarry Road. He will show a picture of that when he is done with his remarks. This route is likely cheaper because it would integrate into a swale that is already there and it would be significant less tree damage if the alternate route was explored and used. Next this project will cause damage to property owners, the proposed lateral goes along property lines and there is current trees that screen between the various properties and many of these would be excavated resulting in a loss of privacy and likely resulting in loss of potential of thousand of dollars in damages to the property owners that will lose these trees. So he thinks it is incumbent upon the commissioners before they move forward not just to accept the number that there would be zero dollars of damage to private parties and to professional access what the impact would be onto those property owners if they were to lose those tree screens between them and their neighbors. He said the Commissioners also need to take into account the ecological impact of this problem and in the big picture the Brown Lateral feeds into Plum Creek watershed which feeds into the Black River and as many of you know the Black River is still an area of concern according to the EPA which is not meeting certain water or animal or habitat quality standards. He said the US EPA, OH EPA, Lake Erie Commission, Black River AOC Advisory committee and other groups have plans and guidelines for the Black River eventually achieving attainment water quality standards. He stated in 2016 the OHEPA published water quality study of the Black River watershed and have included this in the documents that were submitted. The closest water quality sampling point in Plum Creek to where we are discussing this ditch petition is in Morgan Street, Oberlin just after Plum Creek exist the golf course. The overall picture and he will be brief is that the water quality at Plum Creek has improving but upstream water quality of that location is only fair and still vulnerable to agriculture run off of sediment, erosion and phosphorus and he is sure that you all know that phosphors is important because it contributes to algae blooms in Lake Erie and reduces oxygen in the waterway and erosion and silt can result in the water being muddy and having less oxygen reducing the quality of a habitat as well as recreation possibilities. Attorney Rolf said the OHEPA has a benchmark score called QHEI, which is a benchmark of water quality habitat and at Morgan Street sampling area did register as fair in the last study and that also reflects studies going back to the 90's. He said the creek is obviously a special concern to Oberlin with both in terms of water quality recreation potential and their comprehensive plans to water quality the City is recommending the establishment of right parien buffers along the both sides of Plum Creek and both its tributaries, which brings us to the Brown Lateral. So right now, the right parian buffer for those that don't know, right parian means water which is just trees, shrubs, grass running along the water way, and can absorb phosphor and other agriculture nutrient run off before it can get to the Black River and prevent erosion siltation and cornerstone of watershed health and increasing waterway buffers is one of the co-recommendations in a number of plans. You can find recommendations like this in Lorain County Stormwater Sediment and Erosion regulations and there is also a document in 2011 that was created Black River Action Plan. This was signed onto by many governmental entities including Pittsfield Township and on page 180 of this plan which has been provided, the action plan list the issues faced by Plum Creek and recommends reducing agricultural nutrient loads by natural bank stabilization practices including right parien buffers. This gets to the core of this issue, which is there would be a 40 foot easement on this project and 25 foot wide excavation and going to be an excavation of all the trees along this stream or ditch, whatever you would like to call it. This will have impact water quality in both in the Plum Creek area and also further downstream. He said when they questioned Mr. Zwick on this back at the viewing, the question he was asked; he believes "has the impact on the removal of all these buffer have been taken into account and to date it has not. He knows that there is going to be wetland examination but this issue also has to be examined, what impact on water quality is going to happen with all the trees that will be lost in this process.

Attorney Rolf shared pictures of the property. The first one is a good example of what this project is and it is taken just south of the Brown Lateral looking west back onto Quarry Road and all these trees will be taken out and this is roughly the boundary line between Mr. Tavenner and The Waltz's. Most of this will be removed. This again, creates stormwater filtration, reduces the phosphors load, reduces erosion, all good things. Understanding what Mr. Zwick is talking about specifically in relation to the ditches in the right of way, he would think that the removal of these trees would negatively impact the water quality and quality of life of the people along these properties and is a good reason for the project to not go forward or at the very least to be assessed. The next 2 pictures are more of just the trees. This is also a picture slightly under the forest and can see a little bit of stream running through and this picture is taken closer to the private driver further east looking to the north and believe it is a picture of property line on another house that will lose foliage.



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Brown Lateral Ditch hearing cont.

July 7, 2020



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Attorney Rolf wanted to take a minute and go back to Quarry Road, this picture here is on the west side of Quarry Road and you can see there is a lot of grass growing and ditch is shallow, looking down the road near the stop sign is the furthest most culvert and again Mr. Tavenner does not have any objection for any reasonable person would have objection to the improvements in the right of way here, clearly they need to be done.



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Attorney Rolf said this is a picture near the southern culvert on west side of Quarry Road and you can see the water is just sitting there. When you talk about what the public interest is here in terms of reduction of farms and water sitting in a ditch is not necessarily an issue what you really want to avoid is water sitting in fields that can damage crops or water going over the road. To his understanding and if someone has more experience, they can jump in, his understanding in very heavy rains water will overflow Quarry Road and that is what is going to try to be avoided. The way we avoid that situation from happening is not digging out the brown lateral from Quarry Road to the rail road tracks. The way we solve this problem from happening is to increase the capacity of the ditches in the right of way so there is more staging area for the water before it flows through the 2 culvert pipes and giving a better place for the water to flow when it once it crosses over Quarry Road to increase the capacity of the water that flows through there. He thinks replacing the 2 culvert pipes is a good start. You can see in this picture is the road over the southern culvert pipe it looks like it may be collapsing a little bit from the crack down the middle.



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10

Brown Lateral Ditch hearing cont.

July 7, 2020

Attorney Rolf said these are pictures of the southern culvert pipe on the east side of Quarry Road and water comes out and you can see a pool where it sits.



11



12

This is the picture of the ditch looking north towards the Waltz and Tavenner's house. You can get a good indication of just how high this ditch is and very much needs to be dug out. The other issue that is here that when the water comes out of this culvert pipe it's being asked to make a right turn. Water does not like to make right turns, it slows the water down it can scourer out the land and if you want a good.... Of water, making a right turn is not a good idea. If we go through the current project with Brown Lateral it will be asked to make 2 right turns, right angle turns, which would go directly north to the Taverners property and once it reaches the Taverners property it is being asked to make another 90 degree turn to head back.



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Neither of these are conducive to the flow and here is where we get to the proposals of these swales, alternate project the Commissioners should consider is for the swale directly east of this southern culvert pipe to be incorporated into the drainage plan and allow water to flow along the southerly end of the Waltz's property. You can also see the land slope towards the east and this is again taken at the southern culvert, facing east and this is what our suggestion is. This area here be incorporated to the currently existing swale and the water be permitted to flow from the southern culvert underneath Quarry Road directly to the east here. You can see if this is done the southern edge of the property you can see there would be little to no impact on the property or the property owners. You can see an existing swale there and water flows there and from their perspective this would be a good alternative to what is currently proposed, obviously replacing culvert pipes under Quarry Road and excavating ditches along Quarry road are important and should be done in this project. In order to really get the results they are looking for this route east of Quarry Road would be better and less trees to be taken down and would better help the water flow.



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Attorney Rolf said one more thing he would like to share and those that are with us, these photos were taken the day of the viewing. He showed a video that was taken by Mr. Tavenner on May 15, showing the current conditions and you can see that there is little water sitting in front of the Waltz's property. If you go back here there is quite a bit of flow from the water and go over here this is looking on the west side of Quarry Road and due to the culvert needs to be replaced there is a lot of water sitting there. He said with the massive flow going down the current swale, stream or whatever you want to call the Brown lateral is really not the problem at this point. The problem is the areas around Quarry Road, everything he would offer is there are some conservation tools that could aid in this flooding and improvement of the conditions of the fields to the west. He has talked for a while and will conclude his statement here, if there are any questions from the Commissioners he would be happy to talk about those.

Commissioner Kokoski to Mr. Zwick, Engineers Office said if we were only to do the culverts and all the project strictly in the right of way and not the actually ditch along the route, what would this accomplish if anything. She thinks if the culverts were opened up from the west all that farm water would pour through the culverts and flood out the east side, so what would happen if we just did the culverts and worked on the road side.

Mr. Zwick said the short answer is no. He said the licensed professional engineer will advise the Board. As you often here him say the world is a 3 dimensional top, even though it is very flat in Pittsfield Township. If we were to over dig the ditch along Quarry Road and replace and lowered the culverts to the appropriate elevation and in fact there are the water would merely collect more so as you seen in the video of the 90 degree turns it would flood and overflow on Tavenner's property and also Waltz's property worse that it is today. This is the reason why the county engineer has not adopted to deepen that ditch along Quarry Road would not do any good, you would have standing water almost 2 feet that would be even a worse than it is today. Commissioner Kokoski said that is what she thought, thank you.

Commissioner Kokoski asked if the Commissioners had any further questions.

Commissioner Lundy said there is a lot done to unpack there and if there were some other items that raised concerns, did not know water was like Nascar and had to make left hand turns and right was more difficult. Anyhow, there is a lot to unpack there Peter that Mr. Rolf had put on the table and asked if there were any other concerns you can see with his presentation. He realizes that Peter is not an attorney and Mr. Rolf is not an engineer.

Mr. Rolf said he is an attorney and original from Geauga County, did law school at Ohio Northern, the great Black Swamp and familiar with drainage on a large scale and practicing in this area for a few years, born out his own interest with his property and learned a little bit of about it. So obviously if we get to a point, where they would file a written statement to help the Commissioners look at what they said and if they have to they would bring in expert witness on this topic but hopefully this will not be necessary here.

Mr. Zwick said the water today makes some turns left and right and have done so since this historical map since 1884 and probably long before that as well. The hydraulic in this type of the flow regimen is not specifically affected by this, however today is the first time he heard of an alternate running down the south line of the Waltz's property. He does investigate alternatives and will repeat his recommendation which he spoke of earlier and his recommendation is to, clean and shape the ditch at its present location which has been this way for at least 136 years to his knowledge. However, that alternate that was suggested by the attorney leads to obvious problems; #1 – the reason to do it that way is to eliminate 90 degree turns you are just putting the turns somewhere else, someone else backyard and #2 – more importantly it would not relieve the water that accumulates on the his clients property corner and also the common line of the Waltz and what he is doing, or alternative would not accomplish the prayer of petition it could work on the south end but no good on the north end which is an important area as far as he can tell by land.

Mr. Zwick asked commissioner Lundy if that answered his question. Commissioner Lundy said yes, thank you Peter. He said the only thing he would like to add here is that it is, trying to think of a book he read one time called "rising tide", its about how to control the Mississippi river and all the politics involved and how some areas back in the 20's and teens early part of the century where flooding out and other were fine. Water is going to move and also want to point out with that said, it all comes out to everyone being a good neighbor, not saying anyone is a bad neighbor here, but it involves everyone being a good neighbor. When he was in the legislators we were always trying to deal with this issue, because in the past if one property owner did not sign on than nothing every got done, the flooding roads, the flooded fields and so on and so forth. His understanding is that as many as 15 homes can benefit from this and some farmers fields would benefit from this and don't every think that there is a perfect plan, with that said, he knows he has great respect for private property rights and at the same time, the Ohio legislator realized the only way you are going to address the flooding issue to put in place the petition process that has been put in place otherwise you will have these lingering issues. There is a reason why a lot of these ditches have not been touched in some dating back to 1884 because what use to take place in Ohio and we have done a lot of good work since we have set up the SWAC and our projects have demonstrated that we have gone out of our way to work with the property owners and try to use a responsible and fair approach but try to something that effect as well too. So, he would just say that there is certainly a perfect plan but we try to do the best they can so we have effect results, we are spending taxpayer dollars here so we want to make sure that we are not doing something that looks like we are putting up new drapes in a house or new carpeting or something, we want to make sure we are getting results. So, the Commissioners rely heavily on our engineer and advise they receive and be understood that they do respect private property rights and also realize to address safety issues and ..... issues making sure that peoples properties are not flooding out, roads are not flooding out because that is a safety problem and we can address issues like this. We do go out of our way to work with property owners to be fair and reasonable and think they have a strong track record of doing that. It is always trying to get the ..... to me but protecting the private property rights at the same time and make to ensure that the right work is done, the taxpayers' dollars are effective and wise and investment and they produce the resulted in order to protect the homeowners and their farm land as well.

Commissioner Kokoski asked Peter if there is an issue with the water coming over the road and causing flooding the road out on Quarry. Mr. Zwick said yes and said Mr. McConnell could testify to that if needed. Commissioner Kokoski said then we do have a safety concern. Mr. Zwick said in addition to the constant saturation of the soil along Quarry Road reduces the life of the pavement of the road, this is a county road.

Commissioner Sweda asked Mr. McConnell to speak of this since he had shared with her and the water issue that we are facing on the west side. Mr. McConnell said he will verify that there are issues with water over the road and don't know why the county engineer keeps records or not, but he received phone calls during one of our spring events of safety hazards there where there were cars passing through standing water on the road and he called in himself and the Sheriff. It was a weekend or after hours and Sheriff said they had numerous calls and the issues in that particular area. He said he wanted to add on little thing to the erosion control that the attorney mentioned is that all the engineering and bidding of these projects require reestablishment of grass and skim right of way and other than during construction it will not be bare like a construction site where it would erode. Eventually it will be all seeded and grass would mitigate any erosion that was eluted too. The contracts that he has witness through stormwater have been very specific as a quality finished project when it is finished.

Commissioner Sweda said she could speak to the fact the addition or remission of that tree line will not cause anyone thousand of dollars in property values.

Commissioner Kokoski asked if we want to address and said Jerry, this will be funded through the stormwater district if we go forward and maintenance would be deferred, always have to put it on and then the commissioners have to say we will defer, so there is no cost to the property owners for project or future maintenance and asked if Jerry could address this. Mr. Innes said the way this process works the entire project will be funded through the swac funds although we do assess maintenance that is also provided through swac funding and only reason we have to access is because some time in future if law is changed that this would not continue. There should be no cost to any of the land owners regarding this project.

Commissioner Kokoski asked if there were any other questions or comments before she moves to close the public hearing.

Attorney Rolf said jus a few things to add briefly in regard to one commissioner statement to the damages to the property. He thinks it is incumbent upon the commissioners to find out and contract with an appraiser to see what those damages are and to verity that. He said when we are talking about erosions and the impacts downstream it is not just disturbed. When you plant grass and straighten the waterway you remove the natural vegetation you are speeding up the water and he wills ay that he does not know anything about the agriculture practices of the folks on the west side of Quarry Road. He thinks this should be looked at as well in terms of taking measurements. But when you do things like this, remove trees that take out a lot more in the environment than grass you are going to get more sediment nutrient runoff further downstream. The one thing he will close with, just because there is siting water somewhere does not mean a drainage area has not done its job. Large .... Part portion of what they do with drainage on a regional level related to storing stormwater to overflows until we can do something with them and that is where good stormwater practices are about and giving places of capacity that it does not overrun the roads, does not overrun peoples property or things like that until such time the water can flow once away when the storm even has concluded. He thinks what the commissioners have been faced with here is at the very least he would recommend further analysis of this project and we do have a balance here. There is a balance between what the public needs and what money we are going to spend and you all take that into account and so with one of the Ohio reports in the black river watershed indicated that there is a practical middle ground in balancing all these needs. He thinks that this point the project should merit at the very least for consideration before the commissioners go ahead, thank you for your time.

Commissioner Kokoski said her biggest concern is the lateral, the culverts need to be repaired and the flow of water that's going to be pouring through there if those repairs and if the project is not going to go through, we are going to have a huge issue. We need to look at not just the esthetics of the property but also the safety of residents traveling down Quarry road when we have storm events and these are her big concerns.

Commissioner Lundy appreciated Mr. Rolf concerns about the water being clean and getting into Black River and we all take seriously and everyone has been working closely with our agricultural community to make sure we don't have serious issues with the water that eventually ends up in the Black River than to the lake and appreciates sensitivity on that and we are always concerned about and we have worked on a lot of projects, pretty big projects and make sure the water is filtered property and we love our lake and we will do anything to keep it clean and protected.

With nothing further,

Commissioner Kokoski moved, seconded by Commissioner Sweda to close the public hearing. Upon roll call the vote taken thereon, resulted as: Ayes: Kokoski, Sweda & Lundy / Nays: None  
Motion carried.

Commissioner Kokoski said today they have to make a decision as to whether they want the engineers to move forward on this project.

Clerk Upton said they engineer will do a final report based upon today and then at that point a final hearing would be scheduled. She asked if Peter is good with 45 days out to submit that report, so we can schedule for Engineers to submit this report to the commissioners agenda, it is not a hearing, that would be for August 19, is that ok. It would just appear on the agenda, engineer would submit and based on that report, then Commissioners would schedule a final hearing.

Commissioner Kokoski said is there a motion required, then. Clerk said yes asked Mr. Innes to explain this. Mr. Innes said correct a motion to find improvement is necessary based on the 6 factors and improvement will be conducive to the public welfare and the benefits outweigh the cost.

Commissioner Kokoski moved, seconded by Sweda to adopt resolution.

RESOLUTION NO. 20-419

In the matter of setting August 19, 2020 as the date to )  
accept by Commissioners agenda the Lorain County )  
Engineer's report on the Brown Lateral Ditch, )  
Pittsfield Township ) July 7, 2020

WHEREAS, the first hearing of the Brown Lateral, Pittsfield Township was held today, July 7, 2020.

BE IT RESOLVED, by the Lorain County Board of Commissioners that we hereby set the date of August 19, 2020 as the date to accept by Commissioners agenda the Lorain County Engineer's report on the Brown Lateral Ditch, Pittsfield Township.

FURTHER BE IT RESOLVED, this is based upon the six factors to determine if final improvement is necessary and is conducive to the public welfare and cost be less than benefits.

Motion by Kokoski seconded by Sweda to adopt Resolution. Upon roll call the vote taken thereon, resulted as: Ayes: Kokoski, Sweda & Lundy / Nays: None  
Motion carried.

\_\_\_\_\_ (discussion was held on the above)

b CLERK'S REPORT

#1. Wednesday, July 8, 2020 at 9:30 a.m., Commissioners meeting

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JOURNAL ENTRY

With no further business before the Board, Motion by Kokoski seconded by Sweda to adjourn at 10:50 a.m. Ayes: Kokoski Sweda & Lundy / Nays: None  
Motion carried.

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The meeting then adjourned.

\_\_\_\_\_)Commissioners  
Lori Kokoski, President )  
)  
\_\_\_\_\_)of  
Sharon Sweda, Vice-president )  
)  
\_\_\_\_\_)Lorain County  
Matt Lundy, Member )Ohio

Attest: \_\_\_\_\_, Clerk  
Theresa L. Upton