



MEETING SUMMARY OF THE CHARTER TOWNSHIP OF TEXAS FLOODING TASK FORCE MEETING HELD ON JANUARY 16, 2019

A meeting of the Charter Township of Texas Flooding Task Force was held on January 16, 2019, commencing at approximately 10:30 a.m. at the Texas Charter Township Hall.

1. INTRODUCTIONS

Supervisor John Hinkle opened the meeting, thanking everyone for taking the time to attend and inviting the Task Force members to introduce themselves. The following members of the Task Force were present:

- Engineer Tom Smith, Prein & Newhof
- Engineer Tom Wheat, Prein & Newhof
- Derek Haroldson, DEQ
- Jeff VanBelle, Deputy Drain Commissioner
- Travis Bartholomew, RCKC Deputy Director
- Dan Moyle, RCKC Chairman of the Commission
- Kendra Gwin, City of Portage Public Services Director
- Jordan, Restorative Lake Sciences
- Jim Roberts, Crooked Lake Association
- Senator Sean McCann
- John Casper, Bass Lake Representative
- Dennis Berkebile, Town Hall Meeting Moderator
- Kalamazoo County Commissioner Christine Morse
- Russ Walters, Crooked Lake Association
- Amy Coon, Eagle Lake Association
- Len Bosma, Eagle Lake Association
- Dian Latora, Pine Island Development Representative
- Aaron Collins, Bass Lake Representative
- Josh Ruhrup, Vineyard Development Representative
- Texas Township Trustee Nick Loeks
- Texas Township Trustee Tim Brown
- Texas Township Superintendent Julie VanderWiere
- Texas Township Supervisor John Hinkle

2. FLOODING STATUS

Jim Roberts (Crooked Lake) reported that Crooked Lake is at 27.5" as of today's meeting.

Amy Coon (Eagle Lake) reported that Eagle Lake still is up 1' from the month. ELTA was able to collect over 600 signatures for a letter of support requesting assistance from Senator McCann and Representative Iden. Of those signatures, over 100 comments were provided. She also reiterated that Treasure Island can't handle 4 more inches of water.

Len Bosma (Eagle Lake) read a statement from ELTA and indicated that the statement would be available on the ELTA Facebook page as well. The statement emphasized that action needed to be taken immediately before any more people lose their homes.

Josh Ruhrup (Vineyards) reported that the Vineyards is still high.

Dian Latora (Pine Island Development) reported that Pine Island Development is still at an all-time high. A water gauge was installed to monitor the levels.



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3. DEQ PERMIT UPDATE

Tom Wheat reported that the DEQ did consider our application complete. The DEQ Public Hearing is scheduled for January 31st, 2019. Additionally, we are working on obtaining the easements so we could try to line it up with the issuance of the permit as closely as possible.

Derek Haroldson reported that the Public Notice had been issued. There are 19 documents that make up the public notice. These documents provide details on the exact project the Township is applying for permission to do. The Public Comment period has begun and will end on February 10, 2019. The Public Hearing is scheduled for January 31, 2019 at 7pm. There will be an informal Q&A at 6:30pm. This hearing will be held at KVCC, Dale Lake Auditorium (same auditorium as the Town Hall meeting).

Derek reported that he, Kam Jordan, Attorney Homier and Superintendent VanderWiere had a conference call last week on whether authorization was required or not. Attorney Homier's opinion was that the DEQ did not have the authority to require downstream authorization. He has provided a letter indicating the same. Derek has obtained authorization from DEQ Administration to send the letter to the AG's office for their opinion as well.

The Public Notice comment period will end February 3rd and then there will be comment period for the Public Hearing ending on February 10th. Comments can be sent via email, MIWaters or directly to Derek. The Public Notice was sent to 900 Land owners purposely casting a wide net. This project is expected to impact 31 acres of wetland owned by 40 property owners (49 parcels of land).

Derek is currently seeking comment from DEQ Staff. He hopes to have their comments back by the Public Hearing.

The "Red File" is required because of an agreement with the EPA that the MDEQ will allow the EPA to provide comment any time a Threatened Species is involved. The EPA has 90 days to comment, however, the EPA is currently on furlough due to the shut-down. This of course will cause a backlog of DEQ permits; however management has agreed to elevate our request. The 90 day clock is still running even though there is a shut-down.

Tom Smith, Prein & Newhof, asked Derek why there was a "red file" when this is not in the statute.

Jeff VanBelle, Drain Commission, responded that authorization downstream is due to a Part 31 requirement anytime there will be impact area over 2 square miles.

Russ Walters asked Derek what the process was for DEQ to analyze the comments provided during the public comment period.

Derek Haroldson responded that they have to sift thru the relevance of the comments. They will make the Township aware of all of the comments. They do keep track of whether there is general favor or against the project. There is no formula; they have to consider does it relate to the statute.



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Russ Walters asked how “significant impact” is being determined if it isn’t in the statute? He asked how come we keep getting new stuff to determine. We need someone to work for us-not against us.

Derek Haroldson responded that the legal questions need to be answered by the AG’s office- during the comment period. DEQ Management know that this is a top priority.

Tom Wheat responded that this is unprecedented. What happens if the Federal Govt doesn’t open in 90 days? Does the project move forward without the EPA comment?

Derek Haroldson responded that he is not sure and they will be working to figure this out.

Jim Roberts inquired about the EPA and the Massassagua Snake. Is the snake considered Endangered, threatened for not at all?

Derek Haroldson responded that the snake is considered Threatened. He advised that we need to get on the ground to conduct a site inspection to see if they are located within the impact area.

Tom Smith inquired by the Indiana Bat was different? The Indiana Bat does not require a “Red File”

Derek Haroldson responded that there is a “by-pass” plan for the Indiana Bat so it does not require a “red file”.

Tom Smith asked if the review could be done now to show that it won’t impact the snake? He also inquired if there was a reduction in the rate of flow; would that eliminate the need for the “red file”?

Derek Haroldson responded that there is not a specific number that would eliminate the need for the ‘red file”

Tom Smith then asked if there was any way around the “red file”?

Derek Haroldson responded No. The snake does come out of hibernation in March/April but the permit is for one year.

Jim Roberts commented that by April the snake is not an issue.

Derek Haroldson responded that is not exactly correct as it is all part of the big picture. He indicated that based on the most recent maps it seems to be most likely on the open water areas that the snake is likely to be located.

Len Bosma asked if it was possible to see what is sent to the Federal Agency for the Red File requesting comment?

Derek Haroldson responded Yes. We provide an overview of the project. He advised he could provide that to Superintendent VanderWiere.



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Len Bosma responded that it is important to understand what is being transmitted to higher agencies. This needs to be treated as the Emergency that it is. Tom Smith has mentioned several times that the amount of flow can be reduced. AG ought to have that information. He asked if Derek was meeting weekly with Staff to keep this moving?

Derek Haroldson responded that they are meeting daily. DEQ Director is aware that this a pressing urgent file for DEQ, due to Senator McCann's and Representative Iden's requests.

County Commissioner Christine Morse asked if the EPA doesn't respond in 90 days is that it?

Derek Haroldson responded that the EPA must notify the DEQ within 30 days if that they intend to comment. Typically they do provide comment.

Commissioner Morse asked if they could respond sooner?

Derek Haroldson responded yes, normally they do. Normally we nudge them to comment before our deadline which is the public comment period.

Commissioner Morse urged the DEQ to determine what will occur if the furlough is still going on in 90 days.

Jim Roberts commented that the downstream property owner's houses appear too high above the area of impact.

Derek Haroldson responded that is possible but property damage and loss of riparian rights must also be taken into consideration.

Tom Smith commented that Bass Lake is going to be 1 ft. higher @ 3000gpm, but this could be reduced if necessary.

Jeff VanBelle commented that this is also temporary, not permanent, and this should be taken into consideration.

Russ Walters asked if it made sense for a subcommittee to set down with the decision makes to move this along? Is there a short cut to get to a conclusion?

Derek Haroldson advised that if there was a need to get DEQ Supervisors to attend meetings, he is willing to do that.

Russ Walters asked how do we get a resolution faster?

Derek Haroldson responded that he believes the DEQ Administration gets the urgency. Senator McCann and Representative Iden have been pushing this forward. Senator McCann may have met with the DEQ Director on Tuesday.



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Jeff VanBelle commented that there is a Drain Commission Conference being held in Kalamazoo the week of February 13th, sometimes the DEQ Director attends this conference. He will push to have her attend.

Jordan, Restorative Lake Sciences, asked if any impact is going to be allowed to the Threatened and Endangered Species?

Derek Haroldson responded that T&E will allow some impact but it must be with a plan in place.

Jordan stated that there was no numerical value to significant impact and no level of what that impact is.

Derek Haroldson stated that the additional water for 1 year will make an impact. We do not have any standard right now and it will be more site specific. We know there are not many alternatives. If there were standards that would make this easy.

Amy Coon commented that there are some serious Public Health Concerns as this flooding lasts longer and longer. There are concerns over mold in homes as well as septic tanks leeching into the water. Will these concerns be taken into consideration during the public comment period?

Derek Haroldson responded that Yes, Public Health concerns are very important to share during the Public Comment period.

Tim Brown stated that 90 days started on Monday January 14th. He also inquired if anonymous comments would be received? And will they also be shared with the Township?

Derek Haroldson responded that yes anonymous comments would be received. They will remain anonymous if asked to remain that way.

Tim Brown commented that we haven't dealt with the Liability. Why would DEQ wait to assess the project? The liability has not been determined. We should get it out on the table that DEQ is concerned about the liability of issuing the permit.

Derek Haroldson responded that authorization is related to liability. Hopefully that will be answered soon.

Jim Roberts stated that mold is a serious Public Health Issue. Homes may need to be torn down. Liability for holding up the project also exists.

Russ Walters asked what are the priorities to be answered? Liability, Impacts to T&E, invasive species transfer.

Tim Brown commented that we can't pick a date of when the pumping will start because we don't know. Will April 14th be too late? April 14th is too late. There are at least 4 abandoned homes already.

John Hinkle responded that no one is sitting on their hands. Everyone at this table is engaged. Christine, Senator, Representative and Township. Everyone is working hard to figure it out. This is not linear; it is all



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hands on deck. He further stated that he appreciates the civility to Derek today because he is really on the hot seat.

Amy Coon responded that they appreciate the process. We understand the downstream impacts and don't want to affect others downstream. But there is a power button that we could shut off if it was causing negative impacts.

Derek Haroldson commented that due to the complexity of the project there would be a great deal of monitoring.

Amy Coon commented that she appreciated the information provided today on the Public Notice and Public Hearing.

Josh Ruhrup asked if we could see the statute?

Derek Haroldson responded that he would provide a link to Superintendent VanderWiere to put on the Township Website.

4. TOWN HALL MEETING

John Hinkle explained that the focus tonight at the Town Hall meeting is on Funding of the Short Term Solution. Comments on how it has impacted each person are better served at the Public Hearing for the DEQ. There will be comment cards to be filled out at the meeting and with the information obtain, the Township will be able to make the best decision possible. The Township will not be deciding the funding at the Town Hall meeting but we hope to gain insite into what people want.

The agenda for the Town Hal Meeting will be on the website.

5. COMMENTS/QUESTIONS

Travis Bartholomew asked for an update on the Long Term Solution?

Jeff VanBelle responded that he has received a copy of the short term solution permit application from Prein & Newhof. He will be reviewing the permit application. He further stated that the EPA typically uses the Public Hearing as a self-imposed deadline, but due to the shut down this is different. He stated that usually by the hearing date the EPA will comment that they are satisfied or that there are more comments to come.

Jim Roberts inquired how much money will it take to do the short term solution? This obviously is going to be a SAD including those that benefit, which will need to be set up. He also commented that in Texas Township, the four largest drainage basins are the lakes. The ground water recharges the lakes.

Jeff VanBelle responded that in a "nutshell" that is correct.



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Commissioner Morse stated that she campaigned for Hearts and Minds. She spoke last night at the County Commission meeting and got push back because there was no help for previous flooding instances. We need to show real world impacts that tell a story.

John Hinkle commented that we are trying to speed the process up for the funding because we do not want the funding to the hold up.

Jim Roberts asked what is the figure for the short term costs?

Tom Wheat responded about \$800k.

Mr. Halveson from Treasure Island commented that when the water comes up more it will impact the sewer system.

Tom Wheat advised that The City of Kalamazoo is aware of the potential issue and is monitoring it.

Jon Dixon commented that this is beyond urgent. Homes are abandoned. He urged everyone to go look at Ken Toys house. We are in a terrible crisis. 10 property owners agreed to put up a sea wall that will cost a lot of money. How do we shorten the process? He also asked who makes the ultimate decision?

Derek Haroldson responded, for right now, it is me, unless I am told otherwise but I don't operate in a vacuum.

Jon Dixon responded it is Risk vs Reward. DNR access is greatly impacted and everyone uses it. Who has seen the rattlesnake? There have been no sightings since 2016. Treasure Island Drive to the left once on the island has water ½ way over the road. He asked who is talking to the City reference to the pumping station? He stated further, that "those of us that live on the Island don't sleep".

Tom Wheat responded that the City of Kalamazoo is well aware and will sandbag and pump if necessary.

John Casper commented that Bas Lake is a private lake and private property. Bass Lake is the highest it has ever been. He further does not believe that the outlet is capable of handling added water flow, as the Boy Scout access is near flooded now. He is also concerned about the invasive species. The proposed solutions have opportunity and risks. He encourages the use of the By-pass around Bass Lake solution recommended by AeM.

Jim Roberts commented that Dr. Jennifer Jones didn't know why we were filtering. She felt the screening was overkill. He asked Jordan if he had a comment reference to that?

Jordan responded that the monitoring will definitely help.

Jeff VanBelle asked if Prein & Newhof could address the concern over the outlet?

Tom Smith replied that there was discussion about replacing one of the culverts; however the issue is the way the flow comes out. If the culvert were addressed it would lessen the increase to Bass Lake.

Aaron Collins commented that the BSA is currently neutral. They are concerned about losing their access. He has a meeting tomorrow with management to discuss.



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Jerry Campbell commented that culvert between Bentwood and Crooked Lake should not have been filled in because it would be providing some relief. He urged the short term solution move forward to get something going into Portage Creek not necessarily 3000gpm.

Tom Wheat commented that Historical Topographical maps show that the man made gully would not flow water @ level the water is today.

John Hinkle commented that the Long Term Solution is in the Drain Commissions hands.

There was a comment from a citizen stating that the rattle snake is not considered endangered in Michigan, it is only considered special concern. The last sighting of the snake in Michigan according to the MNFI was 2016; there have been a total of 19 sightings since 1923.

Jim Roberts commented that the Township is doing an excellent job. The DEQ needs to get on this right away.

The next Task Force Meeting has not been scheduled yet.

Submitted by Superintendent Julie VanderWiere
January 28, 2019