

## **Q & A's - Proposed Winans Lake Drainage District**

### **Q: What's been the impact of the stormwater runoff and sediment on the lake?**

A: The stormwater and sediment that flows uncontrolled into the lake negatively impacts water quality due to excess contaminants and nutrients found in runoff. Water clarity is negatively impacted during and after storm events. Sediments also impact spawning beds for fish and cause excessive growth of aquatic vegetation. Uncontrolled stormwater has negatively impacted property owners (flooding of basements, lawns and damage to trees in the frog bog).

### **Q: Why is the district so large when the lake is so small; what properties are included?**

A: The district represents the entire watershed that contributes drainage (stormwater) to Winans Lake. Based on topography, a surveyor determined which properties contribute stormwater to the lake.

### **Q: Why isn't a special assessment being used? Why doesn't a majority vote apply?**

A: Special assessment districts are designed for improvements where the benefits are more or less equally shared. Examples are sewer and road improvements. In most drainage districts, only a minority of landowners are severely impacted. Michigan's laws address this by empowering drain commissioners to establish districts based on need and to assess costs proportionate to benefits. This is a quasi-legal/administrative process rather than by majority vote.

### **Q: What are the opportunities for public input?**

A: WLA members can continue to direct questions and concerns to [wla.ssrc@gmail.com](mailto:wla.ssrc@gmail.com). An informational meeting will be scheduled by the Drain Commissioner after the second petition is submitted. Information can be brought to the attention of the Drain Commissioner. Landowners can formally provide input and challenge assumptions at a public hearing (Day of Determination).

After the Day of Determination, the allocations of costs can only be challenged in court after the posting of a \$10,000 bond.

### **Q: Why aren't the Road Commission and upstream property owners responsible for all the costs?**

A: Michigan is a "right-to-develop" state allowing landowners to have "reasonable" usage of their land. Therefore, upstream property owners will only be assessed the percentage which the Drain Commission finds to be appropriate, given that they do not have to contain all the stormwater on their properties. The Road Commission will assess a significant percentage of costs based upon the public benefit and reduced cost of maintaining Teahen and Cowell Roads as

currently configured. Hamburg Township will be assessed a percentage of costs based on public benefit (because the lake is private, the public benefit may be considered less than for a lake with public access). A significant percentage of costs will be borne by lakefront property owners. All properties in the district will be assessed some percentage of costs. Benefit will also be realized by owners adjacent to Teahen Road given the anticipated road improvements.

**Q: Can you provide an easy to read and follow timeline of the process and what happens at each step?**

A:

- The Winans Lake Stormwater Committee initiated meetings with the Livingston County Drain Commission in hopes of resolving the stormwater/sedimentation issues. The Stormwater Committee submitted the first petition to the Drain Commissioner to initiate the formal process.
- The drain commission hired an engineer to delineate a proposed district based on topography. The engineer has inspected the area and prepared a preliminary improvement plan and cost estimate.
- Meetings were held with the WLA Committee and Drainage Commissioner's staff to discuss scope and preliminary costs.
- The Drain Commissioner determined the drainage district to be practical and delineated a potential drain centerline.
- A second petition will need to be circulated with the # of property owners determined by the drain centerline (currently ~ 36).
- After submission of this second petition, the Drain Commissioner will host an informal public meeting(s) to discuss the process. All affected landowners will be invited.
- The Drain Commissioner will then appoint an independent Board of Determination.
- After receiving bids and calculating costs, the Drain Commissioner holds a Day of Review (a public meeting to hear comments on the project, including the apportionment of benefits and assessment of costs).
- The Drain Commissioner can make revisions based on the comments.
- The costs being reasonable per the Board of Determination, construction will start.
- After completion, remaining funds will be used to maintain structures, etc. in perpetuity.

**Q: What role does the Drain Commission play?**

A: Act 40 of the 1996 Drain Code gives the Drain Commissioner the authority to establish drainage districts and to assess project costs to property owners within a drainage district. Project Engineers are hired to complete necessary drainage improvements after a formal legal process has been completed and the project is deemed "necessary" by a Board of Determination.

**Q: What is the significance of the proposed “drain lines” drawn on the map of Winans Lake that was provided to us from the County Drain Commission?**

A: The drain lines represent proposed drain systems and potential easements for operating and maintaining a system to manage stormwater/sediment runoff. The design is only conceptual at this stage and can change upon further study.

**Q: What is an easement?**

A: An easement is a legal situation in which the title to a specific piece of land remains with the landowner, but an organization (Drain Commissioner in this situation) is given the right to use that land for a distinct purpose. Easements are granted through negotiations with the Drain Commissioner’s office. If negotiations hit an impasse, legal action may be required to obtain an easement.

**Q: How were the preliminary easements determined?**

A: They are determined by the Drain Commissioner's office and are drawn based on prior topographic studies of the watershed/drainage basin. Further design is needed to determine where easements will be needed.

**Q: What type of projects have been proposed by the Drain Commission for managing the Winans Lake Watershed or drainage basin?**

A: Detailed engineering has not been completed by the Drain Commission at this time. However, a preliminary improvement plan has been proposed (by a consulting firm for the Drain Commission). Conceptual Phase improvement options include: improvements to Teahen Road (eg. paving, use of limestone, catch basins), addition of sediment retention structures to capture stormwater and sediment, improvements to drainage on Cowell Road, improvements to the drainage and culverts along Chilson Road.

**Q: Do we know what the cost would be for these various project options?**

A: The Drain Commission has not done detailed engineering. The below cost estimates are from “Conceptual” engineering designs

Option 1A - Pave Teahen Road (2,100 feet) with curb and gutter and enclosed storm sewer, outletting to sediment settling ditch along Cowell Road - \$1,530,000

Option 1B - Crushed limestone on Teahen and check dams in ditches, and settling ditch on Cowell Rd - \$1,000,000

Option 2 - Similar as Option 1B except divert flows of upper reach to wetland areas and then discharge to lake - \$1,210,000

Other improvements include:

- NW Cowell Road outlet improvements \$50,000
- NE Cowell Road outlet improvements \$50,000
- improvements to the drainage and culverts along Chilson Road - \$150,000

Total estimated project cost will depend on options selected with fees added for annual maintenance of systems. Again, the above costs are based on conceptual phase planning (i.e., these are very preliminary estimates).

**Q: What would be the cost impact on individual property owners?**

A: Individual property cost based on the current district which includes approximately 400 properties and assuming the County and Township pick up half the cost, the average costs would be near \$140 per year spread over a 20 year period. Those properties more directly affected (i.e., properties realizing the most benefit from the improvements) will be assessed more and those less directly affected will pay less.

**Q: Which option is the most cost effective?**

A: This is to be determined with engineering studies; however, Option 1A above (Paving Teahen Rd.) appears to be the most cost effective based on the preliminary plans. Paving significantly reduces annual cost for road and gutter maintenance. Also, a limestone road will require a wider footprint (i.e. wider ditches) to capture the larger volume of sediment vs. a paved road.

**Q: What are the cost benefits of a paved vs limestone road over the long term?**

A: A paved road would minimize sediment when stormwater runs off the road. Also, a paved road has a smaller footprint vs. a limestone road with ditches..

**Q: Will this project finally fix the problem of sediment runoff filling in the lake?**

A: Working with the Drain Commission to correct this issue provides an opportunity for a comprehensive approach to this problem. It is hoped that a number of stormwater/sedimentation issues related to the drainage basin will be improved with this work. The project allows for cost to be shared across the entire watershed and spread over a 20 year period.

**Q: How will the project costs be apportioned?**

A: Proportionate to benefit and runoff from individual properties, all properties within the drainage district must participate in paying for improvements. The Drain Commissioner determines each property owner's apportionment of the project costs. Apportionment criteria may include lot size, soil types, how much impervious surface drains toward the lake, and the point at which that water is released, improvement of lake access, slopes, lake frontage, etc.

**Q: Who pays for ongoing maintenance of these projects (eg. sealing pavement, clean-out of gutters & sedimentation ponds)?**

A: Maintenance dollars are factored into the overall project cost.

**Q: What is the expected life of a paved surface on Teahen Road?**

A: Not known at this time. However, the most significant costs for paving a road is in the preparation and construction of the road bed. The road bed should last for a long time. Teahen could be a challenge to pave since it's surface is non-conforming (i.e., significant % grade and sharp curves). Innovative ideas will be required to keep cost reasonable.

Typically, asphalt roads are designed to last 15 - 20 years before an overlay is needed. For example, Pleasant lake Road is still drivable after "many" decades after the original paving.

**Q: Could individual property owners handle their stormwater runoff independently?**

A: Yes, and this could possibly have a minor impact on property assessment. However, for property owners on steep/challenging grades or larger properties, the individual costs could surpass the apportionment due for a comprehensive project.

**Q: At what point can we stop this drainage district improvement project?**

A: The main stopping point is prior to submission of the second petition to the Drain Commissioner. Currently, signatures for this second petition are being collected by WLA committee members. It is anticipated that the second petition will be submitted after the 2021 Annual WLA meeting at which time the WLA Board will discuss this project and answer questions.

**Q: Is there an opportunity for public comment?**

A: Yes - during the public hearings which will be convened by the Drain Commissioner prior to project approval by the Board of Determination.

**Q: If there are legal challenges to the process, who pays for the legal fees/costs?**

A: Legal fees become part of the overall project costs and are shared by property owners according to the apportionment. Cost estimates (outlined above) for the project contained a contingency for easements.

**Q: Does the project include improvements for the connection between Tamarac and Winans Lake?**

A: This was not included in the current plans. The Committee is looking into possibly adding this to the project.

**Q: Was there a legal review performed for this project and could we get a copy?**

A: The legal review was a verbal discussion between the Drain Commissioner and an outside law firm. No written legal review is currently available.

**Q: Who sits on the Board of Determination?**

A: The Drain Commissioner appoints three individuals to sit on the Board per Chapter 4 requirements under the Drain Code. The Board consist of three land owners in Livingston County that live outside Hamburg township and outside the drainage basin..

**Q: What is the role of the Board of Determination?**

A: The Board decides if the project is “necessary” to correct the drainage problem. Essentially they decide if the project can move forward based on cost vs. benefit. Once this is determined, the project begins unless there is a legal challenge.

**Q: Who determines the “benefit” received from the project which is a factor in the apportionment process?**

A: This is determined by the Drain Commissioner. He will consider various factors in calculating apportionment (discussed previously).

**Q: Can a landowner challenge the apportionment (cost) that is assigned to their property? What is the process to challenge?**

A: Yes. During the “Day of Review” property owners are given an opportunity to understand the justification for their apportionment (costs). At this review, owners can challenge apportionment with factual information regarding their property (eg., acreage, runoff coefficients, soil types/permeability, etc.)

**Q: Does the consultant (“Wade Trim” ) hired to engineer the drainage improvements have experience in a project this size?**

A: Yes, they are an established engineering firm with years of experience in projects of this size and larger.

**Q: Why would a lakefront property owner be assessed a cost if their property contributes very little stormwater runoff into the lake?**

A: A lakefront property owner will have benefits associated with this project and therefore must contribute as designated by Chapter 4 of the Drain Code. Benefits may include: lower contaminant loading in stormwater entering the lake, better roads, less property impacts from flooding or better management of stormwater runoff.

**Q: What is the process for fixing problems that may arise after the project is 100% completed?**

A: It is anticipated that the project will take a comprehensive approach to the stormwater runoff issue. Also, the engineering firm will complete as much due diligence as possible to ensure the project scope is adequate to address the issue. Any engineering issues (errors and omissions) would be addressed by the consultant at their cost. However, project scope can not be changed at

the end of the project. Maintenance funds will be set aside sufficient to correct failures after the warranty period

**Q: What health concerns are a result of the sediment build up; why does it matter?**

A: There are no known health issues related to the sediment build up in the lake. The sediment is causing a negative environmental impact on Winans Lake from increased contaminant and nutrient (phosphorous, nitrogen) loadings as discussed previously.