

Memorandum of Decision by the Marshall County Engineer

Art Bogner, Mike Bogner, Lee Doyle and Darrel Schlosser, Petitioners
And
Dennis M. Pyles, Saratoga Township Road Commissioner, Respondent

Failure to Repair a Culvert on 1400 N, Saratoga Township

March 12, 2020

INTRODUCTION

The Saratoga Road Commissioner, Dennis M. Pyles, received a Demand to Repair and Maintain from four landowners of the township dated 11-1-2019. The Demand is presented in Exhibit A and states,

“We, the undersigned, being landowners in Saratoga Township and Road District, hereby demand that you repair and maintain the culvert located on 1400 N and depicted in the attached photos. This Demand includes but is not limited to a demand that such culvert is repaired and maintained to allow for the use of 1400 N to the full extent of properly enacted weight restrictions.

This Demand is made pursuant to 605 ILCS 5/6-401, 70 ILCS 605/12-4, and 70 ILCS 605/12-10.

This Demand seeks the repair and maintenance of the aforesaid culvert such that the culvert will accommodate not less than the maximum legal limit of 1400 N.”

The Marshall County Engineer received a “Petition to Compel Repair and Maintenance of Saratoga Township Road 1400N” by certified mail on February 12, 2020. The cover letter and petition from Donald Q. Manning, One of their attorneys, was dated February 5, 2020. The Petition is presented in Exhibit A.

Pursuant to 605 ILCS 5/6-401, the Marshall County Engineer scheduled a Public Hearing to hear the Petition on February 28, 2020 at 2 PM at the Saratoga Township Building, Camp Grove, IL. The Notice of Public Hearing was posted the afternoon of February 20, 2020 at the follow locations:

- Culvert East Weight Limit Sign
- Culvert West Weight Limit Sign
- Intersection of La Prairie Road and 1400 N Weight Limit Sign
- South bulletin board of the Camp Grove Post Office
- West bulletin board of the Camp Grove Post Office
- Door of the Saratoga Township Building
- Marshall-Putnam County Highway Office Bulletin Board

The Notice was hand delivered to the Dennis M. Pyles, the Saratoga Township Road Commissioner on February 21, 2020.

On February 20, 2020, the Notice was emailed to the attorneys representing the parties of the Petition, Donald Q. Manning, One of the Petitioners Attorney, Rockford, IL, and Michael Evans, Wyoming, Illinois, attorney for Saratoga Township. In addition, the attorneys and Dennis M. Pyles were provided a copy of the Highway Hearing Procedures.

PRELIMINARIES

Patrick G. Sloan, Marshall County Engineer, held the hearing at 2 PM, February 28, 2020, at the Camp Grove Township Building as issued in the public notice. A transcript, exhibits and attendance sheet is available for the hearing.

Prior to the hearing, the county engineer received a letter from Donald Q. Manning, dated February 26, 2020 and labeled as Exhibit B for this hearing. While the letter does not state who he is representing and it mentions "my client's plan (Buffalo Run, LLC)", who is not a landowner in Saratoga Township, he does reference "Petitioner Darrel Schlosser" and the original petition signed as Donald Q. Manning, One of the their attorneys. Therefore, the entire letter and its contents were considered.

The first demand in Exhibit B is that Patrick G. Sloan recuse himself because a conflict of interest. The request is denied, because all actions have been undertaken in accordance with my appointed position as County Engineer / Superintendent of Highways. Refer to 605 ILCS 5/5-201, County Superintendent of Highways, 5-205.1, "Prepare or cause to be prepared, plans, specifications and estimates for all bridges and culverts to be built by the county, or by one or more road districts, and supervise the construction of all such bridges and culverts.", 5-205.3, "Advise the highway commissioners of the road districts in his county, when requested in writing, ...", and 5/6-401, "... and 3 landowners in such district may petition the county superintendent of highways...". The last reference pertains to this hearing. In addition, as defined in 605 ILCS 5/5-201, "county superintendent of highways means county engineer or county superintendent of highways wherever it appears in this code...".

The second request is to deem that the hearing process published by the County Engineer was not lawful. This request is denied. As stated in writing and at the hearing, "The Illinois Highway Code does not demand the hearing employ strict rules of evidence and examination as used by the judicial system." Further, all participants were granted the opportunity and question others as it pertains to the Petition. No limitations were imposed.

LANDOWNERS CASE

Exhibit B stated that, "this letter shall constitute the sole and only submission the "Landowners" will make in connection with the hearing". It was stated that the culvert had not been repaired or maintained, as demanded, that the culvert is in bad repair and the 15 ton weight limit of the has "rendered 1400 N unusable for commercial and agricultural traffic". It further states that, "Mr.

Schlosser demands the right to be able to use Road 1400 N, particularly at the location of the culvert, to run his farm related trucking activity.”

Mr. Lee Doyle and Mr. Darrell Schlosser were the only petitioners making an appearance at the hearing. Upon questioning, it was discovered that Mr. Lee Doyle had recently sold his 80 acres in Saratoga Township and did not own any other land in the township. The hearing was continued, since three landowners remained as petitioners. Mr. Doyle stated that he may use 1400 N when he is hauling grain to the Wyoming elevator. He also stated that to detour around the posted culvert required a 2 mile additional bypass.

Mr. Schlosser owns farmland adjacent to 1400 N and has three trucks. The elevator they haul to depends on the price and they could use 1400 N when hauling to Galva, Edelstein and Akron. The detour was discussed and Mr. Schlosser stated that the gravel 400 N road (posted Dry Weather Road) is a hindrance for a bypass. The maximum legal weight limit was discussed. Mr. Schlosser thought it was 73,280 pounds. The County Engineer stated that the maximum on La Prairie Road is 72,000 pounds, and 50,000 pounds on 5 axles during the spring posting period.

Mr. Schlosser confirmed that 1400 N is passable for cars and pick-ups, when questioned by Mr. Evans.

HIGHWAY COMMISSIONER’S CASE

Mr. Pyles testified that he is maintaining 1400 N, including plowing snow and it is open to the public. He testified that when he was inspecting the road to see what it would take to improve it, he discovered the poor condition of the culvert and called the County Engineer. The County Engineer requested the State of Illinois to make the structural evaluation, which resulted in the 15 Ton weight limit. The IDOT letter directing the 15 Ton weight limit is dated June 24, 2019 and is presented in Exhibit D.

Mr. Pyles testified that the subject culvert is an overflow for the nearby drainage district culvert. He wants to address both structures at the same time and replace them with one structure such as a bridge. He stated that the last bridge the township completed, last year on 400 E, cost \$360,000 and the township does not have that much money right now. He testified that the 400 E bridge, recently replaced, took approximately 8 years to replace, including planning and funding, after first learning of it.

Mr. Pyles provided the hydraulic evaluation of the culverts in the form of a letter from the County Engineer to Michael Evans and Dennis Pyles, dated November 27, 2019 and labeled as Exhibit C. The letter states, “The concrete box overflow culvert at 1400N is structurally deficient and needs to be corrected so that the 15 Ton Bridge Weight Limit Posting can be removed.” Option 1, plugging the concrete overflow structure (subject culvert) was not recommended due to the loss of hydraulic capacity. Option 2, replacing the overflow structure with a culvert of similar hydraulic capacity was recommended.

Questioning of Mr. Pyles by Mr. Schlosser discussed whether Mr. Rippel had offered to help pay to put a bridge in. Mr. Pyles stated he was not aware of Mr. Rippel offering to pay to replace the culvert. Mr. Rippel is a potential developer who is purchasing property from Mr. Schlosser. Mr. Schlosser stated that Mr. Rippel has not yet purchased the property.

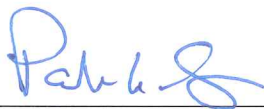
DISCUSSION

Testimony and evidence indicates that 1400 N is being properly maintained, including complying with required postings for safety, and is usable for all traffic, except that weighing greater than 30,000 pounds. Both sides agree that the culvert is structurally deficient. The Road Commissioner, with the assistance of the County Engineer, took steps to have a structural evaluation conducted, resulting in the 15 Ton limit. The road is currently lightly used with a published traffic count of 25 vehicles per day. Loads greater than 15 tons, who are the local farmers, have a detour bypass distance of 2 to 3 miles, when hauling to some grain terminals. Assuming a cost of \$120 per hour for trucking and a 900 bushel load, the cost per bushel for those loads is estimated to be 2 to 5 cents per bushel.

The Road Commissioner indicated that he is beginning with planning for the replacement, preferring it be with one structure to replace the two existing culverts. Steps he has taken to this point has been consulting with the County Engineer and Centerville Drainage District.

FINAL DECISION

The road commissioner is instructed to proceed with planning for the replacement of the deficient structure by employing an engineer to conduct appropriate design and permitting work, and by seeking funding to complete the project, including but not limited to, county aid, grants, inducements from users of the road and road use agreements.



Patrick G. Sloan
Marshall County Engineer

3-12-2020

Date