LEELANAU COUNTY DRAIN COMMISSION

Steve Christensen, *Drain Commissioner*

8527 E. Government Center Dr., Suite #205, Suttons Bay, MI 49682 ▪ 231-256-9783

www.leelanau.cc ▪ schristensen@co.leelanau.mi.us

April 3, 2019

TO: Bob Hawley
Rich Bahle
Gary Fredrickson
Rob Chapman, Alternate

FROM: Steve Christensen

RE: Board of Determination – Schomberg Drain

Enclosed please find an "Appointment of Board of Determination" members for the proposed Locating, Establishing and Constructing of the Schomberg Drain. The meeting is scheduled for **6:30 p.m. on April 23, 2019, at the Munnecke Room of the Leland Township Library**.

Also enclosed are documents pertaining to this meeting:

1. Order for Laying Out and Designating the Schomberg Drain Drainage District.

2. Petition for Locating, Establishing and Constructing of the Schomberg Drain signed by 11 property owners (3 minimally required) who may be liable for an assessment.

3. Exhibit showing the tentative Schomberg Drain route and course & the proposed Schomberg Drain Drainage District Boundary.

4. Procedural information and background information for Board of Determination meeting.

5. Proposed / Sample Agenda for the Board of Determination meeting.

6. Sample motion(s) for the Board of Determination meeting.

If you have any questions, feel free to contact me.

LEELANAU COUNTY DRAIN COMMISSION

Steve Christensen, *Drain Commissioner*

8527 E. Government Center Dr., Suite #205, Suttons Bay, MI 49682 ▪ 231-256-9783
www.leelanau.cc ▪ schristensen@co.leelanau.mi.us

STATE OF MICHIGAN
OFFICE OF LEELANAU COUNTY DRAIN COMMISSIONER
In the Matter of: SCHOMBERG DRAIN

APPOINTMENT OF BOARD OF DETERMINATION

APRIL 3, 2019

TO: Bob Hawley
6831 W. Day Forest Rd.
Empire, MI 49630

Rich Bahle
PO Box 39
Suttons Bay, MI 49682

Gary Fredrickson
10201 N. FoxView Dr.
Northport, MI 49670

ALTERNATE:
Rob Chapman
2252 S. Maple Valley Rd.
Suttons Bay, MI 49682

You are hereby appointed as a Board of Determination to determine whether the Schomberg Drain as prayed for in petition by property owners for Locating, Establishing and Constructing a Drain or Drains or a portion thereof, dated February 6, 2019, is necessary and conducive to public health, convenience or welfare in accordance with Chapter 4 of the Michigan Drain Code, Public Act 40 of 1956, as amended.

You are further notified that said Board of Determination shall meet on **April 23, 2019, at 6:30 p.m.** at the **Munnecke Room of the Leland Township Library, 203 E. Cedar St., Leland, MI 49654**, to meet with the interested parties for the purpose of determining whether the Locating, Establishing and Constructing is necessary and conducive to public health, convenience or welfare and whether maintenance and improvement is necessary for the protection of the public health of the Townships of Leland and Centerville.

Steve Christensen
Leelanau County Drain Commissioner

ORDER FOR LAYING OUT AND DESIGNATING A DRAINAGE DISTRICT

Whereas, an application in writing, dated the 7th day of March, 2018 has been made and filed with me, the County Drain Commissioner for the Leelanau County, Michigan, praying for the Laying Out and Designating of a Drainage District, with reference to a certain Drain, proposed to be named as follows: **Schomberg Drain**;

And Whereas, the application was signed by sixteen (16) freeholders, 5 or more of whom will be liable for an assessment on the Drain;

And Whereas, as a means of determining the amount of tax or special assessments remaining unpaid on the tax rolls for the three years preceding this order, I did obtain a statement from the County Treasurer, and from that statement I find taxes and special assessments remaining unpaid to be 1.7% percent.

And Whereas, as a further means of determining the practicability of the proposed drain, I did cause a survey to be made by a State of Michigan Licensed Professional Engineer, Brian J. Cenci, P.E. #53847 of Eng., Inc., who's address is 4063 Grand Oak Drive, Suite A109, Lansing, MI 48911.

Now, Therefore, I do hereby determine that the application for Laying Out and Designating a Drainage District for the drain should be granted, and I do hereby determine from the survey that the drain is practicable, in accordance with the survey, which is more particularly specified below.

And I do further determine that the name or number of the Drain shall be the "Schomberg Drain", by which name or number it shall hereafter be known and recorded.

It is further ordered and determined that the commencement, route and terminus of the drain and where applicable the width, length and depth thereof shall be in accordance with the survey, as follows:

AN OPEN DRAIN BEGINNING AT A POINT ON LAKE MICHIGAN LOCATED IN GOVERNMENT LOT 2, SECTION 29, TOWN 30 NORTH, RANGE 12 WEST, LELAND TOWNSHIP, LEELANAU COUNTY, MICHIGAN. SAID POINT OF BEGINNING ALSO BEING 75 FEET, MORE OR LESS, WESTERLY ALONG THE SOUTH PROPERTY LINE EXTENDED WEST OF PARCEL NO. 009-029-007-00 TO ITS CONFLUENCE WITH LAKE MICHIGAN. THENCE EASTERLY, BEING AN OPEN DRAIN, ALONG THE SOUTH LINE EXTENDED OF PARCEL NO. 009-029-007-00, HAVING A BEARING OF SOUTH 88 DEGRESS 37 MINUTES EAST A DISTANCE OF 75 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF THE AFOREMENTIONED PARCEL. THENCE CONTINUING AS AN OPEN DRAIN A DISTANCE OF 55 FEET +/-. ALONG SAID SOUTH PARCEL LINE HAVING A DESCRIBED BEARING OF SOUTH 88 DEGRESS 37 MINUTES EAST. THENCE CONTINUING IN AN ENCLOSED STORM SEWER PIPE ALONG THE SOUTH PROPERTY LINE OF PARCEL NO. 009-029-007-00 HAVING A DESCRIBED BEARING OF SOUTH 88 DEGRESS 37 MINUTES EAST A DISTANCE OF 462.67 FEET, MORE OR LESS, TO

THE WESTERLY RIGHT-OF-WAY LINE OF M-22 (A.K.A. SOUTH MANITOU TRAIL), SAID POINT ALSO BEING THE SOUTHEASTERLY PARCEL CORNER OF PARCEL NO. 009-029-007-00. THENCE SOUTHWESTERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF M-22 IN AN ENCLOSED STORM SEWER PIPE, A DISTANCE OF 125 FEET, MORE OR LESS, TO THE WEST SIDE OF A BOX CULVERT UNDER M-22. THENCE EASTERLY 66 FEET, MORE OR LESS, UNDER M-22 THROUGH AN EXISTING BOX CULVERT, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF M-22. SAID POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF M-22 ALSO BEING 160 FEET, MORE OR LESS, NORTHEASTERLY FROM THE WESTERLY MOST PARCEL CORNER OF PARCEL NO. 009-655-900-00. THENCE CONTINUING NORTHEASTERLY AS AN OPEN DRAIN ALONG THE EASTERLY RIGHT-OF-WAY LINE OF M-22 A DISTANCE OF 145 FEET, MORE OR LESS, THENCE NORTHEASTERLY AS AN OPEN DRAIN A DISTANCE OF 600 FEET, MORE OR LESS, TO THE WESTERLY RIGHT-OF-WAY LINE OF SCHOMBERG ROAD AND THE POINT OF ENDING OF THIS DESCRIPTION.

SAID DRAIN ROUTE & COURSE BEING 1,528.67 FEET IN LENGTH (0.29 MILES +/-), MORE OR LESS. SAID PROPOSED ROUTE AND COURSE IS ALSO DEPICTED IN THE ATTACHED EXHIBIT "A".

It is further ordered and determined that the following lands shall constitute the Drainage District and this Drainage District is depicted on the attached Exhibit "A" and the lands/properties are generally described as:

PART OF SECTIONS 28, 29, 32, & 33, TOWNSHIP 30 NORTH, RANGE 12 WEST, LELAND TOWNSHIP, LEELANAU COUNTY, MICHIGAN. SAID PROPERTIES COMPRISING THE PROPOSED DRAINAGE DISTRICT IN LELAND TOWNSHIP ARE AS FOLLOWS:

009-028-001-00	009-028-008-00	009-029-001-00	009-032-009-00	009-033-009-30	009-033-019-00
009-028-002-00	009-028-008-10	009-029-002-00	009-032-009-10	009-033-009-40	009-033-020-00
009-028-002-10	009-028-009-00	009-029-003-00	009-032-010-00	009-033-009-50	009-655-001-00
009-028-002-15	009-028-010-00	009-029-004-00	009-032-010-10	009-033-009-60	009-655-002-00
009-028-002-20	009-028-011-00	009-029-005-10	009-033-001-00	009-033-009-70	009-655-003-00
009-028-005-00	009-028-011-05	009-029-005-15	009-033-002-00	009-033-009-80	009-655-004-00
009-028-006-05	009-028-011-10	009-029-005-20	009-033-004-00	009-033-009-90	009-655-005-00
009-028-006-10	009-028-011-12	009-029-005-25	009-033-006-00	009-033-011-00	009-655-006-00
009-028-006-20	009-028-011-15	009-029-005-30	009-033-006-10	009-033-011-10	009-655-008-00
009-028-006-25	009-028-011-20	009-029-005-35	009-033-006-20	009-033-012-00	009-655-009-00
009-028-006-30	009-028-011-25	009-029-005-40	009-033-006-30	009-033-013-00	009-655-900-00
009-028-006-41	009-028-011-30	009-029-005-60	009-033-006-40	009-033-013-10	009-898-001-00
009-028-006-45	009-028-011-35	009-029-006-00	009-033-006-50	009-033-013-15	009-898-002-00
009-028-006-51	009-028-011-40	009-029-007-00	009-033-007-00	009-033-013-20	009-898-003-00
009-028-006-55	009-028-011-50	009-029-008-00	009-033-008-00	009-033-013-30	009-898-004-00
009-028-006-61	009-028-011-60	009-029-008-10	009-033-008-10	009-033-014-00	
009-028-006-65	009-028-013-00	009-029-011-00	009-033-008-20	009-033-014-10	
009-028-006-70	009-028-014-00	009-029-011-15	009-033-009-01	009-033-014-21	
009-028-006-75	009-028-014-50	009-029-011-16	009-033-009-10	009-033-014-31	

009-028-007-00	009-028-015-00	009-032-001-00	009-033-009-20	009-033-016-00	

AND ALSO,

PART OF: SECTIONS 4 & 5, TOWNSHIP 29 NORTH, RANGE 12 WEST, CENTERVILLE TOWNSHIP, LEELANAU COUNTY, MICHIGAN.

SAID PROPERTIES COMPRISING THE PROPOSED DRAINAGE DISTRICT IN CENTERVILLE TOWNSHIP ARE AS FOLLOWS:

002-005-001-00
002-004-004-20
002-004-004-00
002-004-004-05
002-004-004-10

SAID PROPOSED DRAINAGE DISTRICT BOUNDARY IS ALSO MORE SPECIFICALLY DEPICTED IN THE ATTACHED EXHIBIT "A" AND ON FILE WITH THE LEELANAU COUNTY GEOGRAPHIC INFORMATION SYSTEMS (GIS) DEPARTMENT'S COUNTY BASE MAP. SAID LEGAL DESCRIPTION FOR THE PROPOSED DRAINAGE DISTRICT BOUNDARY IS AS FOLLOWS:

PROPOSED SCHOMBERG DRAIN DRAINAGE DISTRICT BOUNDARY DESCRIPTION

PART OF SECTIONS 28, 29, 32 AND 33 OF LELAND TOWNSHIP, TOWN 30 NORTH, RANGE 12 WEST & SECTIONS 4 AND 5 OF CENTERVILLE TOWNSHIP, TOWN 29 NORTH, RANGE 12 WEST, LEELANAU COUNTY, MICHIGAN, MORE PARTICULARLY DESCRIBED AS::

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SECTION 32, SAID POINT LYING 1017 FEET WEST ALONG SAID SOUTH LINE FROM THE SOUTHEAST CORNER OF SAID SECTION 32, THENCE N 17°05' E 563.44 FEET; N 40°33' W 452.20 FEET; N 19°36' E 1201.95 FEET; N 05°25' E 641.27 FEET; N 15°13' E 654.06 FEET; N 00°00' E 1101.61 FEET; N 20°39' W 1513.73 FEET; N 34°49' E 235.26 FEET; N 08°03' W 648.19 FEET; N 26°12' W 444.75 FEET; N 21°10' E 255.85 FEET; N 00°00' E 286.08 FEET; N 13°15' E 507.35 FEET; N 39°36' W 185.77 FEET; N 31°49' E 561.45 FEET; N 00°14' E 484.44 FEET; N 40°48' E 181.57 FEET; N 07°27' W 191.73 FEET; N 59°10' E 265.16 FEET; N 33°09' E 780.19 FEET; N 08°27' E 332.73 FEET; S 88°52' E 2169.26 FEET; S 33°38' E 1218.32 FEET; N 90°00' E 105.49 FEET; S 35°56' E 417.60 FEET; S 01°41' E 743.19 FEET; S 41°33' E 249.63 FEET; S 63°20' E 478.10 FEET; S 20°41' E 664.87 FEET; S 03°15' W 626.91 FEET; S 18°02' W 1339.02 FEET; S 05°03' W 215.86 FEET; S 60°57' W 444.12 FEET; S 00°00' E 104.70 FEET; S 34°49' E 278.90 FEET; S 00°00' E 319.52 FEET; S 21°37' W 457.21 FEET; S 12°38' E 753.44 FEET; S 00°00' E 367.71 FEET; S 56°17' W 397.76 FEET; S 00°00' E 151.29 FEET; S 35°04' E 298.60 FEET; S 49°20' W 630.17 FEET; S 84°06' W 660.04 FEET; S 45°27' W 272.97 FEET; S 03°07' W 1198.56 FEET; S 32°00' W 621.40 FEET; S 66°24' W 616.60 FEET; S 14°55' W 610.92 FEET; S 71°11' W 1228.30 FEET; N 90°00' W 547.91 FEET; N 63°37' W 796.75 FEET; N 37°14' W 530.03 FEET; N 33°36' E 642.80 FEET; N 90°00' E 646.63 FEET, MORE OR LESS, TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

THE BASIS OF BEARINGS USED FOR THIS DESCRIPTION WAS ESTABLISHED FROM THE LEELANAU COUNTY GIS MAPPING SYSTEM.

THE TOTAL PROPOSED DRAINAGE DISTRICT BOUNDARY CONTAINS 1004.49 +/- ACRES (933.24 +/- ACRES IN LELAND TOWNSHIP & 71.12 +/- ACRES IN CENTERVILLE TOWNSHIP).

It is further ordered and determined that the following cities, villages and townships, county roads and state highways are benefited by the proposed drain and therefore may be liable to assessment:

Leelanau County; At-Large for benefits to County Roads
Michigan Department of Transportation; At-Large
Leland Township; At-Large
Centerville Township; At-Large

Given under my hand, this 14th day of November, 2018

Steve Christensen
Leelanau County Drain Commissioner

PETITION FOR LOCATING, ESTABLISHING AND CONSTRUCTING A DRAIN OR DRAINS OR ANY PORTION THEREOF

To the County Drain Commissioner of the County of **Leelanau**:

The undersigned petitioners are freeholders in the Drainage District as Laid Out and Designated in the Order dated November 14, 2018, in the County of **Leelanau**, State of Michigan, in which District the **Schomberg Drain**, being applied for, is to be located, established and constructed.

The petitioners constitute a number of freeholders in the Drainage District whose lands would be liable to an assessment for benefits equal to 50% of the number of freeholders whose lands would be traversed by the drain or drains applied for, or abut on the part of the highway or street along either side of which the drain extends between the point where the drain enters the highway and the point where it leaves the highway.

The following named persons constitute all the freeholders whose lands would be traversed by the drain or drains applied for or abut on any highway or street along either side of which the drain extends between the point where the drain enters the highway and the point where it leaves the highway:

PARCEL NUMBER:	OWNER NAME:	# FREEHOLDERS:
009-655-009-00	ROSEMARY D. TUPPER – TRUST	1
009-029-007-00	ARNDT WITTROCK & TANJA MOLBY	2
009-029-008-00	TROY BIDDIX	1
009-655-900-00	MANITOU PASSAGE SUBDIVISION	1
009-029-002-00	BRUCE MALESKI	1
	TOTAL:	**6**

50% OF FREEHOLDERS = 3 signatures minimum

The locating, establishing and constructing of said Drain or Drains, or any part thereof, is necessary and conducive to the public health, convenience or welfare.

The undersigned petitioners therefore make petition, and ask you to locate, establish and construct, a drain or drains, or any portion thereof, which will properly drain the lands in the district, under the provisions of Act No. 40 of the Public Acts of 1956, as amended. The location of the drain or drains, or any portion thereof, are as given in your Order for Laying Out and Designating the Schomberg Drain Drainage District, to be substantially as follows:

AN OPEN DRAIN BEGINNING AT A POINT ON LAKE MICHIGAN LOCATED IN GOVERNMENT LOT 2, SECTION 29, TOWN 30 NORTH, RANGE 12 WEST, LELAND TOWNSHIP, LEELANAU COUNTY, MICHIGAN. SAID POINT OF BEGINNING ALSO BEING 75 FEET, MORE OR LESS, WESTERLY ALONG THE SOUTH PROPERTY LINE EXTENDED WEST OF PARCEL NO. 009-029-007-00 TO ITS CONFLUENCE WITH LAKE MICHIGAN. THENCE EASTERLY, BEING AN OPEN DRAIN, ALONG THE SOUTH LINE EXTENDED OF PARCEL NO. 009-029-007-00, HAVING A BEARING OF SOUTH 88 DEGRESS 37 MINUTES EAST A DISTANCE OF 75 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF THE AFOREMENTIONED PARCEL. THENCE CONTINUING AS AN OPEN DRAIN A DISTANCE OF 55 FEET +/-. ALONG SAID SOUTH PARCEL LINE HAVING A DESCRIBED BEARING OF SOUTH 88 DEGRESS 37 MINUTES EAST. THENCE CONTINUING IN AN ENCLOSED STORM SEWER PIPE ALONG THE

SOUTH PROPERTY LINE OF PARCEL NO. 009-029-007-00 HAVING A DESCRIBED BEARING OF SOUTH 88 DEGRESS 37 MINUTES EAST A DISTANCE OF 462.67 FEET, MORE OR LESS, TO THE WESTERLY RIGHT-OF-WAY LINE OF M-22 (A.K.A. SOUTH MANITOU TRAIL), SAID POINT ALSO BEING THE SOUTHEASTERLY PARCEL CORNER OF PARCEL NO. 009-029-007-00. THENCE SOUTHWESTERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF M-22 IN AN ENCLOSED STORM SEWER PIPE, A DISTANCE OF 125 FEET, MORE OR LESS, TO THE WEST SIDE OF A BOX CULVERT UNDER M-22. THENCE EASTERLY 66 FEET, MORE OR LESS, UNDER M-22 THROUGH AN EXISTING BOX CULVERT, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF M-22. SAID POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF M-22 ALSO BEING 160 FEET, MORE OR LESS, NORTHEASTERLY FROM THE WESTERLY MOST PARCEL CORNER OF PARCEL NO. 009-655-900-00. THENCE CONTINUING NORTHEASTERLY AS AN OPEN DRAIN ALONG THE EASTERLY RIGHT-OF-WAY LINE OF M-22 A DISTANCE OF 145 FEET, MORE OR LESS, THENCE NORTHEASTERLY AS AN OPEN DRAIN A DISTANCE OF 600 FEET, MORE OR LESS, TO THE WESTERLY RIGHT-OF-WAY LINE OF SCHOMBERG ROAD AND THE POINT OF ENDING OF THIS DESCRIPTION.

SAID DRAIN ROUTE & COURSE BEING 1,528.67 FEET IN LENGTH (0.29 MILES +/-), MORE OR LESS. SAID PROPOSED ROUTE AND COURSE IS ALSO DEPICTED IN THE ATTACHED EXHIBIT "A".

1) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

009-655-009-00

Rosemary D. Tupper *Signature of Owner*

Owner's Name: Rosemary D. Tupper

2) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

_____ *Signature of Owner*

Owner's Name: _____

CATHY D WISEMAN
OFFICIAL SEAL
Notary Public, State of Illinois
My Commission Expires
November 21, 2021

SOUTH PROPERTY LINE OF PARCEL NO. 009-029-007-00 HAVING A DESCRIBED BEARING OF SOUTH 88 DEGRESS 37 MINUTES EAST A DISTANCE OF 462.67 FEET, MORE OR LESS, TO THE WESTERLY RIGHT-OF-WAY LINE OF M-22 (A.K.A. SOUTH MANITOU TRAIL), SAID POINT ALSO BEING THE SOUTHEASTERLY PARCEL CORNER OF PARCEL NO. 009-029-007-00. THENCE SOUTHWESTERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF M-22 IN AN ENCLOSED STORM SEWER PIPE, A DISTANCE OF 125 FEET, MORE OR LESS, TO THE WEST SIDE OF A BOX CULVERT UNDER M-22. THENCE EASTERLY 66 FEET, MORE OR LESS, UNDER M-22 THROUGH AN EXISTING BOX CULVERT, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF M-22. SAID POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF M-22 ALSO BEING 160 FEET, MORE OR LESS, NORTHEASTERLY FROM THE WESTERLY MOST PARCEL CORNER OF PARCEL NO. 009-655-900-00. THENCE CONTINUING NORTHEASTERLY AS AN OPEN DRAIN ALONG THE EASTERLY RIGHT-OF-WAY LINE OF M-22 A DISTANCE OF 145 FEET, MORE OR LESS, THENCE NORTHEASTERLY AS AN OPEN DRAIN A DISTANCE OF 600 FEET, MORE OR LESS, TO THE WESTERLY RIGHT-OF-WAY LINE OF SCHOMBERG ROAD AND THE POINT OF ENDING OF THIS DESCRIPTION.

SAID DRAIN ROUTE & COURSE BEING 1,528.67 FEET IN LENGTH (0.29 MILES +/-), MORE OR LESS. SAID PROPOSED ROUTE AND COURSE IS ALSO DEPICTED IN THE ATTACHED EXHIBIT "A".

1) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

009-029-007-00 / 220 S. Manitou Trail

Tanja Withrow *Signature of Owner*

Owner's Name: Tanja Withrow Mulg

Both on

2) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

009-029-007-00 / 220 S Manitou Trl

Signature of Owner

Owner's Name: ARNOT WITTROCK

SOUTH PROPERTY LINE OF PARCEL NO. 009-029-007-00 HAVING A DESCRIBED BEARING OF SOUTH 88 DEGRESS 37 MINUTES EAST A DISTANCE OF 462.67 FEET, MORE OR LESS, TO THE WESTERLY RIGHT-OF-WAY LINE OF M-22 (A.K.A. SOUTH MANITOU TRAIL), SAID POINT ALSO BEING THE SOUTHEASTERLY PARCEL CORNER OF PARCEL NO. 009-029-007-00. THENCE SOUTHWESTERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF M-22 IN AN ENCLOSED STORM SEWER PIPE, A DISTANCE OF 125 FEET, MORE OR LESS, TO THE WEST SIDE OF A BOX CULVERT UNDER M-22. THENCE EASTERLY 66 FEET, MORE OR LESS, UNDER M-22 THROUGH AN EXISTING BOX CULVERT, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF M-22. SAID POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF M-22 ALSO BEING 160 FEET, MORE OR LESS, NORTHEASTERLY FROM THE WESTERLY MOST PARCEL CORNER OF PARCEL NO. 009-655-900-00. THENCE CONTINUING NORTHEASTERLY AS AN OPEN DRAIN ALONG THE EASTERLY RIGHT-OF-WAY LINE OF M-22 A DISTANCE OF 145 FEET, MORE OR LESS, THENCE NORTHEASTERLY AS AN OPEN DRAIN A DISTANCE OF 600 FEET, MORE OR LESS, TO THE WESTERLY RIGHT-OF-WAY LINE OF SCHOMBERG ROAD AND THE POINT OF ENDING OF THIS DESCRIPTION.

SAID DRAIN ROUTE & COURSE BEING 1,528.67 FEET IN LENGTH (0.29 MILES +/-), MORE OR LESS. SAID PROPOSED ROUTE AND COURSE IS ALSO DEPICTED IN THE ATTACHED EXHIBIT "A".

1) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

1304 Schomberg Rd

Margaret K Daniels *Signature of Owner*

Owner's Name: Margaret K. Daniels

2) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

1304 Schomberg

Signature of Owner

Owner's Name: Richard A Wh

3) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

009-029-002-00

Bruce A Maleski *Signature of Owner*

Owner's Name: Bruce A. Maleski

4) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

009-655-002-00

Signature of Owner

Owner's Name: ROBERT G. GILBERT & DEBORAH A. GILBERT (TRUSTS)

5) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

009-655-002-00

Deborah Gilbert *Signature of Owner*

Owner's Name: DEBORAH A GILBERT (TRUST)

6) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

009-028-007-00

Angela E. Maleski *Signature of Owner*

Owner's Name: Angela E. Maleski (Trust)

7) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

130 S MANITOU PASSAGE TR

Marie Preston *Signature of Owner*

Owner's Name: MARIE PRESTON Trust

8) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

1320 S. Schomberg Rd.

John P Van Raalte *Signature of Owner*

Owner's Name: John P. Van Raalte

Trust Both on

9) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

1320 S Schomberg Rd

Tracy L Van Raalte *Signature of Owner*

Owner's Name: Tracy L Van Raalte

10) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

009-028-006-30

Stephanie J Maleski *Signature of Owner*

Owner's Name: Stephanie J. Maleski

Both on

12) *DESCRIPTION OF LAND (PARCEL NUMBER OR PROPERTY ADDRESS):*

009-028-006-30

Steve Maleski *Signature of Owner*

Owner's Name: Steve Maleski

AFFIDAVIT OF CIRCULATOR OF PETITION

I Hereby Certify that I did personally circulate this petition and that the signatures to same were made in my presence and are the genuine signatures of those whose names are affixed.

Bruce A Maleski
Name of Circulator
Bruce A Maleski

Dated: 2-6-19

STATE OF MICHIGAN)
)ss.
COUNTY OF Leelanau)

On the 2nd day of February, 2019, before me, Dorothy M. Miller in and for said County, personally appeared Bruce A. Maleski, to me known to be the person ____described in and who circulated the foregoing petition.

Dorothy M. Miller

Dorothy M. Miller
Notary Public, Leelanau County
State of Michigan
Acting in the County of_____
My Commission Expires 11-06-2020

INSTRUCTIONS FOR PETITION SIGNERS ON A PETITION FOR LOCATING, ESTABLISHING AND CONSTRUCTING A DRAIN OR DRAINS OR ANY PORTION THEREOF:

The Petition shall be signed by a number of freeholders in the drainage district whose lands would be liable to an assessment for benefits, equal to 1/2 the number of freeholders whose lands would be traversed by or is abutted by the drain.

Husband and wife are counted as 2 freeholders and each is to sign in his/her own behalf. Each must sign with a given name, nor Mr. or Mrs._____.

Proof of ownership of property listed for the petition signers must be verified by the Drain Commissioner.

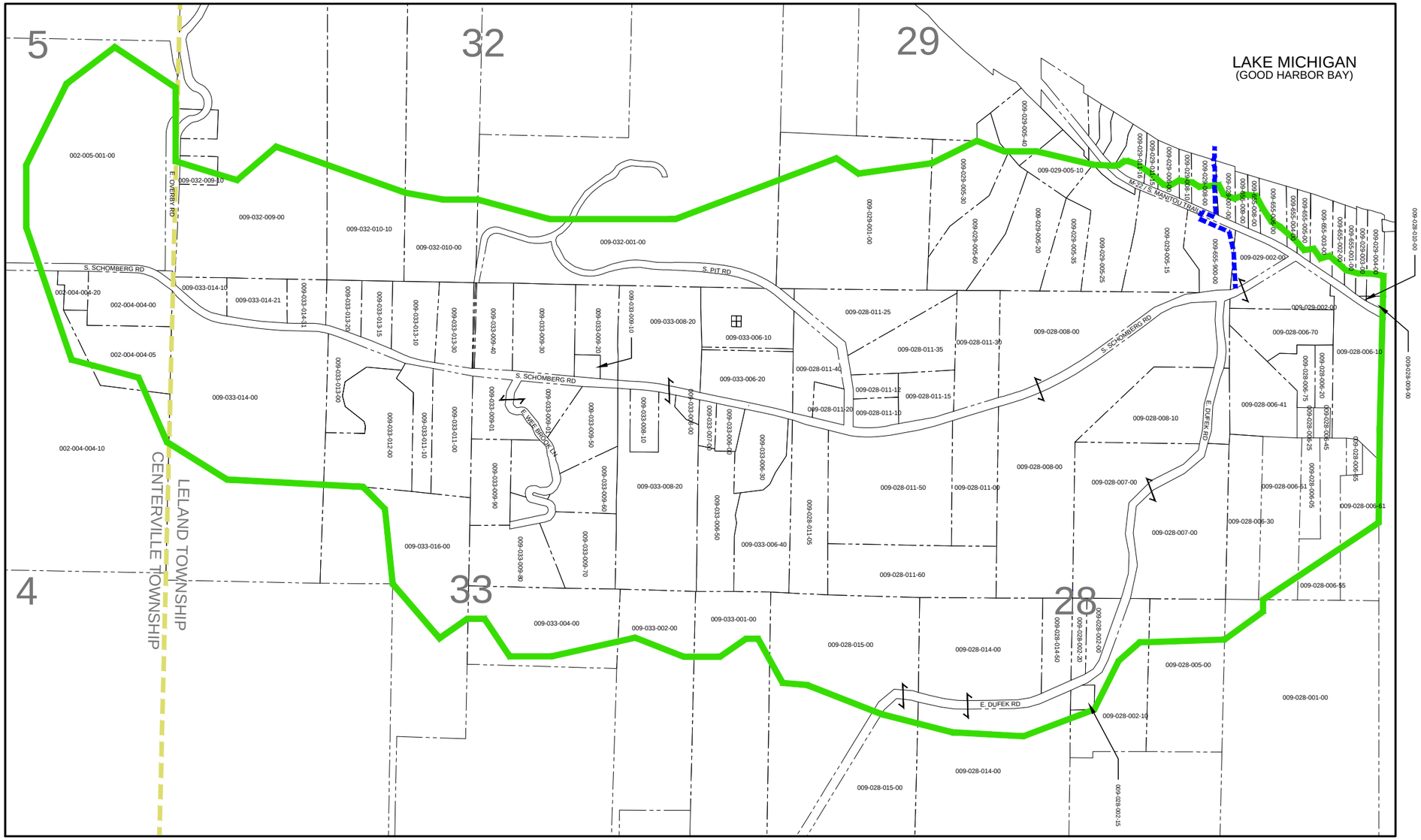
The circulator of the petition MUST sign the affidavit on the back of the petition before a Notary Public. This can be done when it is brought to the Drain Office or may be done before it is brought in.

STEVE CHRISTENSEN

LEELANAU COUNTY DRAIN COMMISSIONER

PROPOSED SCHOMBERG DRAIN DRAINAGE DISTRICT

SECTIONS 28, 29, 32 AND 33, LELAND TOWNSHIP, TOWN 30 NORTH, RANGE 12 WEST & SECTIONS 4 AND 5,
CENTERVILLE TOWNSHIP, TOWN 29 NORTH, RANGE 12 WEST, LEELANAU COUNTY, MICHIGAN



SITE LOCATION MAP
NO SCALE

TOTAL PARCELS IN DRAINAGE DISTRICT: 120

TOTAL PARCELS IN DRAINAGE DISTRICT IN LELAND TOWNSHIP: 115

TOTAL PARCELS IN DRAINAGE DISTRICT IN CENTERVILLE TOWNSHIP: 5

TOTAL ACRES IN DRAINAGE DISTRICT: 1004.27± ACRES

ACRES OF DRAINAGE DISTRICT IN LELAND TOWNSHIP: 933.25± ACRES

ACRES OF DRAINAGE DISTRICT IN CENTERVILLE TOWNSHIP: 71.12± ACRES

NOTE: ALL PARCEL INFORMATION BASED ON MAY, 2018 GIS DATA AND MAPPING, INFORMATION FROM LEELANA COUNTY OBTAINED.

N

SCALE: 1"=1000'

LEGEND

- PROPOSED SCHOMBERG DRAIN ROUTE & COURSE
- PROPOSED SCHOMBERG DRAIN DRAINAGE DISTRICT BOUNDARY
- TOWNSHIP BOUNDARY LINE
- PARCEL LINE
- 12 SECTION NUMBER

MAP FOR BOARD OF DETERMINATION

NO.	REVISIONS	BY	DATE

Drawn by: CAB
Date: 6/1/18
Approved by:
Date:

4063 Grand Oak Drive Suite A109
Lansing, MI 48911
517.887.1100

16930 Robbins Road Suite 105
Grand Haven, MI 49417
616.743.7070

engdot.com

Eng TM
Engineering & Surveying

STEVE CHRISTENSEN
LEELANAU COUNTY DRAIN COMMISSIONER

PROPOSED SCHOMBERG DRAIN

SECTIONS 28, 29, 32 AND 33, LELAND TOWNSHIP, TOWN 30 NORTH, RANGE 12 WEST & SECTIONS 4 AND 5, CENTERVILLE TOWNSHIP, TOWN 29 NORTH, RANGE 12 WEST, LEELANAU COUNTY, MICHIGAN

PROJECT NO.
18020

SHEET NO.
EXHIBIT A

Schomberg Drain, Board of Determination – Role and Duties of Board

On February 6, 2019, twelve (12) landowners who may be liable for an assessment of the proposed new Drain signed a petition for the location, establishment and construction of the Schomberg Drain.

The Drain Code requires that upon the receipt of a Petition for constructing and establishing a new County, the Drain Commissioner is required to appoint a Board of Determination composed of 3 disinterested property owners who are residents of the County but do not live in or have any property interests in the proposed Drainage District boundary or the townships included in the Drainage District; in this case either Leland or Centerville Townships.

The Drain Commissioner is not part of the Board of Determination and has no role, influence or decisions to make at the Board of Determination meeting. The Drain Commissioner will swear in the Board and once that is done, the meeting is essentially run by the Board members and it is their meeting.

The Board of Determination elects a Chairperson and a Secretary. The Secretary records the minutes of the meeting, with a recording secretary provided.

The Board of Determination will hear testimony related to the necessity for the location, establishment and construction of a new County Drain to be known as the Schomberg Drain. The Board of Determination will also hear testimony on the proposed Drainage District boundary for the Schomberg Drain.

After public testimony, the Board will then decide whether the location, establishment and construction of the new Drain is necessary and conducive to the public health, convenience or welfare for any lands within the Drainage District boundary; and whether the proposed Drainage District Boundary accurately defines the boundaries of the lands that may be benefited by the Drain.

The Drain Commissioner and Engineer will stay for the meeting but have no role in the decision as to whether a project is necessary. They do not support or oppose a project. That is solely within the discretion of the Board. However, the engineer will try to answer any questions the public or the Board may have.

At the meeting the only decisions that will be rendered are whether the location, establishment and construction of the Drain is necessary and conducive to the public health, convenience or welfare for any properties or municipalities within the Drainage District; and whether the lands comprising the Drainage District boundary accurately define the boundaries of the lands benefited by the Drain. For the first item regarding the necessity of the Drain petition, the word 'any' is underlined because it is important to understand that the Drain Code is set up to protect the rights of the affected / incumbered landowners within a Drainage District and it is not a democratic vote based on who in the audience wants to proceed with a project or not. The Michigan Drain Code recognizes that by in large a far greater number of people in a drainage district typically have no drainage problems and usually a few number of properties typically are burdened with the runoff from those unaffected landowners who are much higher in elevation within a Drainage District. This is why the Drain Code is considered a minority protection law, meaning that the rights of only a few number of landowners within a Drainage District, which could be just one landowner even (i.e. typically the downstream "flooded" properties), are equally

or more important that those in the Drainage District that have no drainage problems (i.e. typically landowners who are higher and upstream in the Drainage District and their runoff from their lands drain on to the flooded downstream property owners).

The Engineer, Brian Cenci, P.E. of Eng., Inc. will be there to present findings from a conditions assessment and analysis of the proposed new drainage system location. These were items required in the Drain Code to be done as part of the new Drain District Application and new Drain petition process. Although part of the work that he was required to do was come up with some recommendations relative to the drainage issues, those issues or those recommendations are not being presented to the Board as the Board does not vote on the cost, size or scope of the work and whether to do any of those recommendations. The engineer is also there to answer any questions procedurally for a Board of Determination meeting, provide a summary of various aspects of the Michigan Drain Code and of course answer any technical or engineering related questions regarding the petition.

The engineer for this project, Mr. Brian Cenci, is originally from Lake Ann in Benzie County, attended Benzie Central H.S. and received dual Bachelors of Science degrees from Michigan State University in 2002 in both Civil Engineering and Fisheries & Wildlife. He has been a certified State Licenssed Professional Engineer since 2006. Mr. Cenci works almost solely on projects for County Drain Commissioners throughout Michigan. He currently is working first-hand on approximately 35 projects in 8 different counties in Michigan. Over his career he has worked for 15 different county drain offices in his 19 years with Eng., Inc. and has participated in over 100 Board of Determination meetings and completed over 225 Drain projects in Michigan. He is recognized as an expert in the practical application of the administratively and legally complex law that governs Drain Commissioners in the State, the Michigan Drain Code. In 2018 he was recognized as an "expert" by being admitted into Federal Court for a case involving the Michigan Drain Code and the assessments from a particular drain petition project in Ingham County. Mr. Cenci has also been recognized for his quality, low-cost work and innovative solutions and designs on petitioned county drains in Michigan by being the project engineer / manager on 4 State recognized Innovation & Excellence Award winning projects. Each year the Association of Michigan County Drain Commissioners elects one or two projects for this prestigious award as it is essentially picking the "best drain project in the State completed that given year." Mr. Cenci recently won this award three consecutive years in a row, a first for the over 110-year old Association. In 2016 he won for the award for the Walker Drain in Allegan County, 2017 for the North Shore Drain also in Allegan County and 2018 for the Groesbeck Park Drain in Ingham County. His other best overall award winning project was the Towar Rain Garden Drains in 2008, located in Ingham County. He also has received 3 honorable mentions for this award, in 2011, 2012 and 2015.

Now that I've told you what this meeting is about, let me tell you what it's not about. The Board only determines whether a project is necessary. The Board should determine that a project is necessary if it hears any testimony that establishing the new Drain is necessary for the protection of public health, public conveniene or public welfare. A common scenario in which a Board should determine a project necessary is if it hears from even one, or more than one, landowner(s) providing testimony of their property being flooded or standing water in their house because of the proposed Drain. The Board does not determine the scope of a project, how to fix the issue, the route of the Drain, how much it costs, who or whether their will be assessments or how the assessments are apportioned. In fact, those issues should not play into the Board's decision making process.

The good thing is the Drain Code is filled with all kinds of due process protections and all of these items will be addressed at a later time at later meetings. If the Board approves a project, it will be up to the Drain Commissioner to determine how much the project will cost and the scope of the project. The drain law in Michigan requires that the Drain Commissioner apportion the costs of a drain project to property owners and public corporations. Apportionments to properties are made based on the principal of benefits derived. Apportionments to municipalities, in this case Leland and Centerville Townships, are based on benefits to public health and to Leelanau County and MDOT for benefits to county and state roads. However, if there is no necessity, there is no project and there can be no new petition for another year.

On the other hand, if the Board does determine that a project is necessary, they will prepare and enter a document called an Order of Necessity.

Anyone aggrieved by the decision of the Board as to whether the maintenance and improvement is necessary and conducive to the public health, convenience or welfare may appeal the decision within 10 days and that appeal must be filed with the Leelanau County Circuit Court. Anyone aggrieved by the Board's decision as to the boundaries of the Drainage District may appeal within 10 days to the Leelanau County Circuit Court as well.

You will be reminded again at the conclusion of the meeting.

Board Decisions

Determination regarding the location, establishment and construction of a new County Drain:

The Drain Code provides that you are to determine if a problem exists and you have received evidence of such (testimony at the BOD, pictures, documentation, etc.) than the establishing and constructing of a new Drain is **necessary and conducive to the public health, convenience, or welfare**. Whether you find that it is or is not, you must sign an order stating such. A blank order will be prepared that you may fill out as you deem fit.

Examples of **Public Health, Convenience, or Welfare**:

> Public health – See below:
> and whether a particular property or properties are benefited
> and other benefits to property owners such as
> a broken or cut tile
> particular property or properties are drained because of living conditions are horrible with that property or properties.
>
> In such cases, the improvements are benefiting a landowner and the improvements would go beyond public health or for that matter may not include public health.
>
> In such a case, the finding is that a portion of the costs shall be apportioned to the municipality or township at large.

Certainly under such a determination, the Drain Commissioner has broader discretion in determining who is benefiting and the manner of apportioning the cost of the improvements.

EXAMPLES OF PUBLIC HEALTH:
Community health, free from contaminated water, free flooded land on properties, basement flooding, toilet backups because septic systems cannot function due to the precense of standing water, free from flooded roadways, stagnant water, diseases, septic overflows, allowing safe passage of emergency vehicles, mosquitos, sanitation problems.

EXAMPLES OF PUBLIC CONVIENENCE:
Making life better for people, making it easier for economic growth, making it easier for agricultural production and using of agricultural land, making life better for homes and properties that are no longer flooded, making life easier for people.

EXAMPLES OF PUBLIC WELFARE:
State of doing well, happiness, well being, aesthetics and monetary welfare, better schools, the idea that an entire municipality may have a better public perception for not having flooding problems within their jurisdiction and better served in development potential.

Determination Regarding Establishment of the Drainage District Boundary:

> The Michigan Drain Code, permits the Board to determine if the proposed Drainage District boundary accurately defines the boundaries of the land benefitted by the Drain.

At the end of each meeting the following will be read…

Section XIII. Right to Appeal Order of Necessity

Anyone aggrieved by the decision of the Board as to whether the maintenance and improvement is necessary and conducive to the public health, convenience or welfare may appeal the decision within 10 days and that appeal must be filed with the Leelanau County Circuit Court. A municipality may appeal the determination of whether the maintenance and improvement is necessary for the protection of the public health by appealing to the Leelanau County Probate Court within 20 days of receiving notice of the determination. Anyone aggrieved by the Board's decision to revise the boundaries of the Drainage District may appeal within 10 days to the Leelanau County Circuit Court.

The Court's review is limited to whether the Board's actions are authorized by law and whether the Board's findings of fact are supported by material, substantial, and competent evidence on the whole record (i.e., whether or not they were presented at least some minuta of evidence, like landowner testimony, to support their decision).

The Order of Necessity will be available at the drain office the following morning after the BOD.

We recommend anyone wanting to aggrieve this, consult an attorney regarding these issues.

Board of Determination for Schomberg Drain Drainage District
April 23, 2019 – 6:30 p.m.
Munnecke Room of the Leland Township Library, 203 E. Cedar St., Leland, MI 49654

PROPOSED / SAMPLE AGENDA

I. Pledge of Allegiance

II. Welcome and Introductions
Leelanau County Drain Commissioner, Steve Christensen

Introductions:
Engineer – Brian Cenci, P.E., Eng., Inc.

Board members: Bob Hawley, Rich Bahle, Gary Fredrickson *ALTERNATE: Rob Chapman*

Read aloud the petition (by Drain Commissioner)

III. Administration of Board of Determination Oath
Steve Christensen, Leelanau County Drain Commissioner

IV. Election of Chairperson and Secretary / Approval of Agenda
Board of Determination

V. Role and Duties of Board
Brian Cenci, P.E. – Eng., Inc.

VI. Presentation by Drainage District Engineer, Brian Cenci, P.E., of Eng., Inc.

VII. Public Testimony

VIII. Determination regarding Necessity of the Petition for the Schomberg Drain

IX. Determination regarding the proposed Schomberg Drain Drainage District boundary

X. Right to Appeal Order of Necessity and Boundary Revisions
Brian Cenci, P.E., of Eng., Inc.

XI. Adjournment

DRAFT

BOARD OF DETERMINATION
SAMPLE MOTIONS

The following motions are examples for your use. After each motion is made by a Board member, another Board member may second the motion. The Chairperson will ask if all are in favor, and will announce the passing or failing of the vote, and by the number of votes. For the first motion, the election of the Chair, the person making the motion should ask if all are in favor, announce the passing or failing of the vote, and by the number of votes.

1. **ELECTION OF CHAIRPERSON AND SECRETARY & PUBLIC COMMENT TIME LIMIT**

   A. **I make a motion that _____ serves as Chairperson of the Schomberg Drain Board of Determination.**
   Motioned by _____ and seconded by _____
   PASS ___ / FAIL ___ # VOTES YES___ / # OF VOTES NO___

   B. **I make a motion that _____ serves as Secretary of the Schomberg Drain Board of Determination.**
   Motioned by _____ and seconded by _____
   PASS ___ / FAIL ___ # VOTES YES___ / # OF VOTES NO___

   C. **I make a motion that public comment should be limited to 3 minutes per person.**
   Motioned by _____ and seconded by _____
   PASS ___ / FAIL ___ # VOTES YES___ / # OF VOTES NO___

2. **DECISION AS TO NECESSITY OF DRAIN PETITION**

   A. **I make a motion that the proposed locating, establishing and constructing of the Schomberg Drain as petitioned, {choose one} ___ IS NECESSARY / ___ IS NOT NECESSARY, and conducive to the public health, convenience, or welfare.**
   Motioned by _____ and seconded by _____
   PASS ___ / FAIL ___ # VOTES YES___ / # OF VOTES NO___

3. **DECISION AS TO THE PROPOSED DRAINAGE DISTRICT BOUNDARY**

   A. **I make a motion that the proposed Schomberg Drain Drainage District boundary as presented by the Engineer and represented by the Exhibit drawing, {choose one} ___IS JUST / ___IS NOT JUST, and equitable to define the lands benefited by the proposed petition. <u>IF FOUND NOT JUST, THEN BOARD MUST DEFINE CHANGE TO BE MADE OR ALLOW ENGINEER TO REVISE AND RE-VOTE BASED ON DESIRED CHANGE.</u>**
   Motioned by _____ and seconded by _____
   PASS ___ / FAIL ___ # VOTES YES___ / # OF VOTES NO___

DRAFT