

DEAN LAKE ASSOCIATION
DEAN LAKE DRAIN ASSESSMENT - FREQUENTLY ASKED QUESTIONS

**1. Why is the Kent County Drain Commission preparing to install a drain on the lake?
[UPDATED 5/26/25]**

In the late 2010s, the lake suffered significant flooding caused by several consecutive years of high precipitation. At its peak, the lake was approximately 2.5 feet above our current level. This had a significant impact on lake frontage, especially on lower lying parcels, and also resulted in the entire lake having a voluntary no-wake policy for boating. Although this was not the first time the lake had flooded, it was the most severe flooding in recent memory.

In response, the Association approached the Kent County Drain Commission to inquire about the possibility of installing a drain in the lake. This was not the first time that lake residents had approached the Drain Commission about a drain. In 2020, over 2/3 of residents on the lake signed a petition supporting a preliminary study on the feasibility and estimated cost of a drain.

The Drain Commission retained the engineering firm of Prein & Newhof to conduct this preliminary study. Prein & Newhof issued its feasibility and cost report in January 2021. The study concluded that a drain could be installed running from Dean Lake Park to Plainfield Avenue (approximately ½ mile), where it would connect to the Hills and Dales storm drain that runs to Ambrose Pond and ultimately to the Grand River. Prein & Newhof estimated the cost of the drain project at \$1,130,000 if a permanent pump were installed.

In August of 2021, Association members were surveyed about whether they support the proposed project, although another formal petition was not circulated. Most of those surveyed supported the project, but many Association members did not respond to the survey. The results of the survey were shared with the Kent County Drain Commission.

In September 2021, the Kent County Board of Commissioners adopted a resolution to reset the legal lake level at Dean Lake and authorize infrastructure improvements (a drain and a new augmentation pump) to maintain the revised legal lake level, along with the establishment of a Special Assessment District of properties that would be assessed the cost of these improvements.

In October 2022, after notice to all residents and a court hearing, the Kent County Circuit Court established a new legal lake level for Dean Lake of 706.8 feet above sea level. This was 7.8 inches above the prior legal lake level, as a higher lake level could be maintained if a drain was in place. The new lake level was a compromise between the interests of various homeowners on the lake.

The court order requires the County to take action to maintain the legal lake level and establishes the boundaries of the Special Assessment District to finance the improvements necessary to maintain the legal lake level (i.e., the drain and augmentation pump). Only the parcels with lake frontage were made part of the Special Assessment District under the court order.

2. Why wasn't the drain installed in 2023 or 2024 after the court order?

The Drain Commission prioritized other projects over the Dean Lake drain for the 2023 and 2024 construction seasons but appears committed to going forward with the project in 2025. The Drain Commission obtained the necessary permit from EGLE and placed the project out for bid, receiving two bids for construction of the project. Assessment notices were mailed out to all property owners in the Special Assessment District on May 2, 2025. A public hearing on the proposed assessment took place on May 21, 2025, at the Drain Commission office.

3. How much was the drain originally estimated to cost?

The estimated cost of the project in 2021 was \$1,130,000, which fell into four categories:

Construction Costs (pump and forcemain pipe)	\$734,000
Soft costs (engineering, legal, administration)	\$93,000
Future replacement of pump and controls	\$190,000
Contingency (10%)	\$113,000

Spreading the estimated cost of the project equally among the 125 parcels on the lake was anticipated to result in an assessment of just over \$9,000 per parcel.

4. What is the drain currently estimated to cost? [UPDATED 5/26/25]

The current estimated cost of the project is \$2,915,588.32, which falls into six categories:

Construction Costs (pump and forcemain pipe)	\$2,038,359
Soft costs (engineering, legal, administration)	\$324,718
Augmentation Pump (not in original estimate)	\$38,303
Bond issuance costs	\$117,155
First year bond/note interest	\$132,000
Contingency (10%)	\$265,053

The most recent estimate of the assessment is \$23,608 per parcel.

5. Why is the cost for the drain so much higher than was estimated in 2021?

According to the Drain Commission, there are five primary contributors to the cost increase:

- Inflation in construction costs.
- Changes in the scope of the project that increased the cost of construction.
- Higher engineering costs than previously estimated.
- Costs to obtain a municipal bond that were not part of the 2021 estimate.
- As the overall cost of the project has increased, the required contingency also has increased.

6. How much inflation has there been in construction costs?

According to the Drain Commission, over the last several years the average annual rate of inflation for construction projects in West Michigan has been approximately 15 percent per year. If this is correct, inflation in construction costs since early 2021 would appear to account for over \$500,000 of the cost increase from the 2021 estimate.

7. What changes have there been to the scope of the drain project? [UPDATED 5/26/25]

According to the Drain Commission, the primary change to the project is the method for running the ½ mile of forcemain pipe from Dean Lake Park to Plainfield Avenue. The original estimate was based on being able to directionally bore the pipe under the existing streets and/or in the greenway. This would avoid having to cut open streets and then having to repair those streets after placement of the pipe was completed.

Prein & Newhof has concluded there are too many utility line conflicts in the drain path to install the forcemain pipe by directional boring. Additional construction costs from change of scope appear to account for approximately \$500,000 of the cost increase from the 2021 estimate.

In addition, there has been a massive increase in the proposed cost of the drain pump station and controls. In the original estimate, the cost of the drain pump and controls totaled \$418,000. In the 2025 construction bid, the total cost for the pump station was \$949,275. Several questions and comments were made at the public hearing and in discussions after the meeting about the massive increase in pump station costs and potential options to reduce those costs.

8. Why are engineering costs so much higher than previously estimated? [UPDATED 5/26/25]

We still do not have a clear answer for this. The impression received from the informal meeting with the Drain Commission is that addressing the utility conflicts and planning for the open cut project increased the engineering costs well beyond what was previously estimated. The Drain Commission commented that engineering costs of 10% of the overall cost of a project are in line with their experience on other projects.

Additional soft costs (primarily engineering costs) account for over \$150,000 of the cost increase from the 2021 estimate.

9. Why are there bonds costs? Why weren't bond costs included in the 2021 estimate?

According to the Drain Commission, the estimated cost of the project in 2021 was low enough that the County would have been able to fund the project without having to obtain a municipal bond, allowing property owners up to 10 years to pay their assessment.

However, with the cost of the project more than doubling, and in order to offer property owners a longer period of time to pay their assessment (up to 20 years), a municipal bond is now required. Obtaining a municipal bond comes with a host of additional costs, including retaining bond counsel, a financial advisor, a bond rating agency fee, underwriting fees, and a requirement to capitalize the first year of interest on the bond. Costs associated with the municipal bond account for approximately \$250,000 of the cost increase from the 2021 estimate.

10. Why is such a large contingency built into the cost estimate?

Michigan law requires a minimum contingency for cost overruns and unanticipated events of ten percent (10%) of the overall cost of the project be included in the assessment. The contingency funds will also be used to address any future maintenance needs related to the drain, such as if the drain pump or controls need to be replaced.

As the cost of the project more than doubled, the contingency amount more than doubled as well. This accounts for approximately \$150,000 of the cost increase.

**11. Is there anything that can be done to reduce the construction costs for the project?
[UPDATED 5/26/25]**

According to the Drain Commission, Prein & Newhof has taken reasonable steps to manage the cost of the project in their construction plan. Copies of the Computation of Cost and Bid Tabulation are posted to the Association website with more detail from the Drain Commission on the construction costs for the project. We do not have additional information to further assess whether there is anything that could be done to reduce the construction costs on the project.

In the Association's written objections submitted to the Drain Commissioner, we identified several areas for potential cost savings. We are continuing to discuss areas of potential savings with the Drain Commission office. We have also spoken with Kent County Commissioner Ben Greene, who attended the public hearing, to ensure that he is aware of areas of potential savings and can help advocate for reduced project costs where possible.

12. What about rebidding the project or delaying construction for a year or two?

Two bids were received for the project. Notably, the winning bid was for \$2,038,359 and the other bid was for \$2,497,363 – more than \$450,000 higher. According to the Drain Commission, they do not expect that delaying the project would result in lower construction costs in the future. To the contrary, the Drain Commission believes that future construction costs would be higher if the project is delayed.

13. What about coordinating with the Road Commission to mitigate the extra cost of having to open cut streets to install the forcemain pipe?

According to the Drain Commission, they have already coordinated with the Road Commission to obtain any costs savings possible by working in tandem with the Road Commission. For example, we have been told that we will not be assessed for surfacing streets after open cutting that were already scheduled for resurfacing by the Road Commission.

14. Can we expand the group of property owners assessed for the drain to included property owners who are not on the lake who benefit from having their groundwater drained to Dean Lake? [UPDATED 5/26/25]

According to legal counsel for the Drain Commission, the properties included in the assessment district were set in the October 2022 court order and cannot be changed absent court order. In addition, it is the position of the County that the owners on the lake are the primary beneficiaries of the drain, such that we are the proper people to pay the assessment. Our legal counsel agrees that, at this point, only the Circuit Court can add properties to the Special Assessment District.

15. Can the assessment be apportioned among property owners in some different way, such as by lake frontage or assessed value? [UPDATED 5/26/25]

According to the Drain Commission, all special assessments for all lakes in Kent County are assessed on a “per each” basis with each parcel in the special assessment district paying the same amount for the assessment. It is their position that apportioning on a frontage basis is too difficult and is inconsistent with historical precedent. The Drain Commission stated that that they cannot legally apportion based on assessed value.

However, the Drain Commission announced at the public hearing that he had modified the special assessment role in a manner that did treat some property owners differently. For example, the roll provided a 0.5 assessment share (half of the \$23,608 amount) to a parcel that was deemed to have only “back lot” access rights to the lake rather than full access.

In addition, the two parcels owned by Plainfield Township are now being treated differently than the rest of the parcels on the lake. The smaller parcel where the drain pump is being installed is now no longer being assessed because, in the view of the Drain Commission, the parcel is primarily being used for the pump station for this project. Dean Lake Park is now being assessed a 0.5 assessment share on the premise that the Association’s use of the park as a boat ramp warrants a lower assessment to the Township.

At the public hearing, the Association objected to the changes in the Special Assessment Roll giving preferential treatment to the Plainfield Township parcels.

16. Are there any other sources of funding? What about state, county, or township funds?

In the opinion of the Drain Commission, the project was initiated by and is for the benefit of the property owners on the lake. They do not believe that the state, county, or township would voluntarily contribute any additional funds to the project.

The law does allow the County to decide to apportion less than 100 percent of the project costs to the special assessment district if the County wishes to fund a portion of the project itself. While it may be unlikely that the County would do so, it is an option available under the law.

17. What if I originally signed the petition to install the drain but I now oppose the drain at this higher cost? [UPDATED 5/26/25]

All residents on the lake had the right to object to the proposed assessment if they wished to do so. Approximately 55 people submitted either written comments to the Drain Commission or made comments in person at the May 21 public hearing. This included both written comments and comments in person by the Association concerning the project. The Association's written comments were emailed to Association members and posted on the Association website.

As discussed further below, the next step in the process is consideration of the proposed assessment by the Kent County Board of Commissioners.

18. Can the Board circulate a new petition and see whether Association members still support the drain at this higher cost? [UPDATED 5/26/25]

There is no mechanism by which the residents of the lake can now submit a legally binding petition or take a legally binding vote to stop the drain project from going forward. A petition at this point would only be advisory and is not binding on the Drain Commission or the County.

19. What can residents who object to the drain project do at this point? [UPDATED 5/26/25]

The County has made it clear that the way for Association members to be heard at this point is through participation in the public hearing process before both the Drain Commission and the County Commission. If the Kent County Board of Commissioners adopts a resolution approving the assessment, that resolution becomes conclusive unless appealed in a court within fifteen (15) days. Only individuals who have submitted either written objections or objected in-person at a public hearing may file an appeal to Circuit Court.

20. Is the Board going to oppose the drain project? [UPDATED 5/26/25]

At the Special Meeting of the Association on May 14, the Board voted to submit written comments and objections and to present a statement at the Drain Commission hearing on May 21. Association president Bryan Walters presented the Association's position at the May 21 hearing.

The Association's focus is to make every effort to reduce the costs of the project and reduce the assessment amount to Association members should the project go forward. The Association has not taken a position on whether or not the drain project should go forward if the project cost and assessment amount remain unchanged.

According to our Bylaws, the object of the Association is "to preserve and maintain Dean Lake, its beauty and usefulness, and to promulgate rules and regulations that will insure the maximum enjoyment to the members of this Association." The members of the Board have a fiduciary duty to act in accordance with the object of the Association as described in our bylaws.

There is little question that the proposed drain, particularly when paired with the augmentation pump, would help "to preserve and maintain Dean Lake [and] its beauty and usefulness...." The drain/augmentation pump combination would help stabilize and protect the lake, ensure it can continue to be used as an all-sports lake, potentially improve water quality on the lake, and allow property owners to build and maintain improvements at their shoreline in reliance on a stable and reliable lake level.

However, the Board understands that the cost of the project is very significant and that many members of the Association believe that the new estimated cost of the project outweighs its proposed benefit. Other members believe that the benefit of the drain makes this project worthwhile even at this substantially higher cost. The Board decided to allow individual members to speak for themselves on whether they support or oppose the drain at the new cost estimate, rather than purporting to speak for the entire Association on that issue.

21. Is the Drain Commissioner open to cancelling the drain project if there is widespread opposition from lake residents?

During our discussion, the Drain Commissioner expressed his opinion that while he understands the "sticker shock" that residents are having over the assessment notice, he believes the drain project is in the best interest of lake residents to stabilize the lake, even at this higher than anticipated cost. However, he also stated that he wants to take the opinion of residents into account in making his recommendation to the County Commission on whether to proceed with the project and at what assessment amount.

The Drain Commissioner also explained that he makes a recommendation to the County Commission but does not make the final decision on whether to proceed with the project or how much to assess the members of the Special Assessment District. The Kent County Board of Commissioners holds the final say on whether to go forward with the project and at what assessment amount.

The Drain Commissioner also explained that even if he recommends that the drain project not go forward due to resident opposition, the County might choose to go forward with the project

anyways. Under the October 2022 court order, the Drain Commissioner has a legal obligation to take steps to manage the lake level to 706.8 feet above sea level on behalf of the County. Potentially, the County could be legally liable for flood damage under the court order if it failed to install a drain, the lake level rose substantially above 706.8 feet, and there was significant property damage as a result.

22. What is the procedure for the Drain Commission hearing?

The Drain Commission hearing is on Monday, May 21, at 1:00 pm at the Kent County Drain Commission's office at 775 Ball Ave NE. Written objections or comments must be received by the Drain Commission in advance of the meeting.

Similar to other governmental meetings, attendees will have the ability to speak for up to three minutes (with the Drain Commissioner having discretion to allow a longer comment period). The Drain Commissioner may or may not choose to respond to particular questions or comments. It is not clear whether the Drain Commissioner is going to announce his recommendation at the end of the hearing or take the issue under advisement.

The Drain Commissioner's decision is only a recommendation. The Drain Commissioner's recommendation must be acted on by resolution of the Kent County Board of Commissioners at a later meeting of the County board.

23. What happens if the drain project is cancelled? Does the legal lake level go back down to the prior level?

It is not clear what would happen to the legal lake level if the drain project does not go forward. Most likely, there would have to be some legal process to return to Circuit Court to amend or vacate the October 2022 order, as that order was entered in anticipation that a drain would be installed at the lake. The Drain Commission's position is that the lake level would need to legally change back to its previous level (7.8 inches lower than the current legal lake level).

All costs incurred on this project to-date by the Drain Commission (engineering, legal, augmentation pump, etc.) would still be assessed to lake residents in the Special Assessment District. There may be upwards of \$300,000 in costs incurred to-date, such that the assessment for incurred costs to-date could be approximately \$2,500 per parcel.

24. What happens if I do not pay the assessment in full when it is issued this summer?

According to the Drain Commission, an installment payment will be placed on your winter property tax bill with interest on the unpaid balance of the assessment, which the Drain Commission currently estimates at 5.5 percent.

Interest is not amortized in the same way as a mortgage on a home where the total of principal and interest payments over the 20 years are spread into equal installments over the 20 years (approximately \$1,180/year at the current estimated assessment amount). Rather, property owners are charged simple interest once a year on the remaining balance owed on the assessment. The property owner can avoid future interest charges by paying off the remaining assessment balance without penalty at any time.

This means that while the principal amount charged in the winter tax bill will be 1/20 of the overall assessment, there will also be a substantial interest charge. During the first few years of the assessment, the additional interest charge will be as much or even slightly more than the principal assessment amount. The amount of interest charged each year will decrease as the property owner's remaining balance on the assessment decreases.

25. What happens if I sell my property before the assessment is paid off in full?

The assessment runs with the property and becomes the responsibility of the new owner. However, because the assessment will show up as an encumbrance on the property in a title search, the buyer's lender will typically require the assessment to be addressed as a condition to the loan. Whether the buyer or seller bears the cost of paying off the assessment or share that cost between them would typically be the subject of negotiations as part of the purchase agreement.

26. Can we get legal advice on these issues?

The Association has retained Dustin Ordway, a well-respected attorney with experience on inland lake issues, to advise the Association on these issues. Information on Mr. Ordway can be found at <http://www.ordwaylawfirm.com/>

Mr. Ordway attended the Special Meeting on May 14 and is continuing to help answer legal questions the Association Board has related to this issue.

Mr. Ordway is counsel for the Association, not for any member of the Association individually. Each member of the Association may retain their own legal counsel if they wish to do so.

27. What happened at the Drain Commission public hearing? Did the Drain Commissioner take any action? [UPDATED 5/26/25]

The meeting began with a presentation by the Drain Commission's legal counsel, Stacy Hissong of Fahey Schultz Burzych Rhodes PLC, about the legal process. This included a discussion about the fact that there was not a final petition signed by 2/3 of lake residents to authorize the project. The County's position is that a final petition from 2/3 of lake residents was not legally required because the Kent County Board of Commissioners authorized the process by a resolution in September of 2021. The Association's legal counsel believes this is a correct reading of the law.

The Drain Commission then announced changes to the special assessment roll regarding a “back lot” and the Plainfield Township parcels. These changes are summarized in the updated response to FAQ #15 above.

Kevin Gritters of Prein & Newhof then gave a short presentation about the construction plan, including some discussion about the proposed route of the drain and the utility conflicts that require open-cut installation of the forcemain pipe for the section of the line between Dean Lake Park and the corner of Holtman and Vineyard (the line from Vineyard to Plainfield does not require open cutting of Vineyard).

Prein & Newhof also discussed how the controls for the drain pump and augmentation pump would be automated and what settings those pumps would be set at. There is ongoing discussion about whether and how the controls might be set to allow for more frequent running of the augmentation pump to allow fresh water into the lake to improve water quality, as well as whether the controls can be simplified to reduce costs.

Prein & Newhof then briefly discussed the spike in construction costs for the project. They identified inflation as the primary factor for the increase in costs.

The Drain Commission then allowed for public comment. Bryan Walters spoke first on behalf of the Association, presenting comments consistent with the Association’s written objections. 23 other attendees presented public comments as well sharing a wide range of perspectives – too many to summarize in this document. The Board appreciates that so many Association members participated in the public hearing process through written comments and in-person comments.

The Drain Commissioner then made some final comments before closing the meeting. He noted that the Kent County Board of Commissioners holds the power to decide how to proceed. He will forward all of the written comments to the County Board and will attend the County Commission meeting when the issue is discussed and decided.

The Drain Commissioner also noted that if the project does not go forward for some reason, the properties in the Special Assessment District will still be assessed all of the costs incurred to-date by the County related to the project, including any future legal costs to go back to Circuit Court to modify the October 2022 court order if the project does not go forward.

The Drain Commissioner did not take any formal action at the end of the meeting. The Drain Commission has not decided whether a written summary or memorandum of his recommendation will be prepared for the County Commission. The Drain Commission stated that if a written memorandum is prepared for the County Commission in advance of the County Commission meeting, a copy will be sent to Board President Bryan Walters, who would in turn share it with Association members.

**28. What is the next step in the process after the public hearing of the Drain Commission?
[UPDATED 5/26/25]**

The next step is for the Kent County Board of Commissioners to make its final determination on the assessment amount and assessment roll. According to the Drain Commissioner, this is tentatively planned for the County Board's meeting on Thursday, June 12, at 8:30 am, at the Kent County Administration Building, 300 Monroe NW, Room 310. The Dean Lake drain would likely be one of several items on the County Board's agenda for that meeting.

There would be an opportunity for public comment at this meeting similar to the public comment at the Drain Commission hearing. However, the meeting process is likely to be more formal and more tightly controlled by the County Commission.

It is possible that the final determination by the County Board of Commissioners will not happen on June 12, given the large number of comments received about the project and the potential open issues regarding project costs. It is possible that the issue might first be referred to the Finance Committee of the County Board before going before the entire County Board. Finance Committee meetings are also open to the public and would also allow an opportunity for public comment.

The Association will continue to track the issue and keep members advised about the next steps in the process.

29. What happened at the Kent County Board of Commissioners Finance Committee Meeting on June 3rd? [UPDATED 6/4/25]

The Kent County Board of Commissioners decided to undertake an intermediate step in its decision-making process by having its Finance Committee discuss the Dean Lake project at its meeting on June 3rd. The Association Board learned that the Dean Lake project would be on the Finance Committee agenda on Monday, June 2nd and promptly notified Association members.

Approximately a dozen property owners attended the Finance Committee meeting. Attendees were given three minutes to make public comments. During the public comment period, six property owners made comments:

- Bryan Walters (individually and on behalf of the Association): focused on increase in project costs from \$1.1 million estimate in 2022 to \$2.9 million in 2025 and that explanation to-date from the Drain Commissioner did not adequately explain this cost increase; asked County to do a deeper dive on project costs and explore every possible means of reducing costs; asked for delay of process for two weeks to allow more time to scrutinize project costs and explore cost saving options.

- Mike Present: echoed Bryan Walters comments on increases to project cost; noted that increase in project costs largely result from decisions by the County outside of the control of the homeowners, such that the County should bear a portion of the cost increase from the original estimate.
- Dean Dodgson: noted the potential for Dean Lake Avenue to flood in the future and asked that the County bear a portion of the cost of the project.
- Nyleene Dodgson: supports drain but concerned about project cost; urged County to explore ways to reduce the cost.
- Cindy Bright: agrees with the concept of a drain but not at this price; at this assessment amount, the cost of a drain outweighs the benefit.
- Jerry Hunefeld: agrees that a drain is needed but believes the drain is over-engineered and that there are ways to reduce the cost of the project.

Ken Yonker (Drain Commissioner) and Stacy Hissong (legal counsel for the Drain Commission) then gave a presentation to the Finance Committee. The presentation was an abbreviated version of the presentation given at the May 21 Drain Commission public hearing.

Members of the Finance Committee then asked several questions of Ken Yonker, Stacy Hissong, and Kevin Gritters (engineer at Prein & Newhof). Broadly speaking, the questions and comments from the Finance Committee expressed support for the drain but concern about the project cost. Questions from the Finance Committee members about project cost were at a high level and did not drill down into details.

A few items of note from the questions/comments and the responses provided:

- Prein & Newhof continues to state that inflation is the main driver of the cost increase from the original estimate.
- Changing the pump controls from an automated system to a manual system would save approximately \$80,000.
- According to Prein & Newhof, the drain pump might not run regularly (other than to “exercise” the pump) for 5, 10, or even 20 years, depending on the lake level over the coming years.
- The winning construction bid is only good for 90 days from when it was received in April, which accelerates the County’s timeline for considering the proposed assessment.
 - If the County does not act quickly, the construction bid will no longer be valid and the project will have to be rebid, most likely at a higher cost.
 - Commissioner Ben Greene (Plainfield Township) expressed frustration that there was not more time to consider this issue and explore cost saving alternatives.

- Finance Committee chair Lindsey Thiel (Grand Rapids Township), with the support of Commissioner Greene, directed the Drain Commissioner to meet with representatives of the Association Board to further discuss project costs and potential ways to reduce costs and to provide documentation requested by the Board related to project costs without requiring a FOIA request.

At the conclusion of the question/comment period, the Finance Committee unanimously passed a motion recommending that the Board of Commissioners pass a resolution to approve the project costs, issuance of bonds, and special assessment roll for the Dean Lake project.

30. What is the next step in this process after the Finance Committee meeting? [UPDATED 6/4/25]

The Association Board will be submitting a list of additional questions and information requests to the Drain Commissioner later this week. Bryan Walters and Tom Dugan will then be meeting with the Drain Commission team and Kevin Gritters from Prein & Newhof the morning of Tuesday, June 10.

After that meeting, the Association Board will prepare and submit to the Kent County Board of Commissioners a written supplement to its prior written comments and objections. That supplemental statement will be shared with the Association membership and posted on the Association website prior to the Board of Commissioners meeting on Thursday, June 12.

At its June 12 meeting, the Kent County Board of Commissioners is expected to consider a resolution to approve the project costs, issue bonds, and finalize the special assessment roll. We will not know for sure if the Dean Lake issue is on the agenda until closer to June 12, but it is very likely to be on the agenda. The Dean Lake drain would likely be one of several items on the County Board's agenda for that meeting. Meeting information is below:

Kent County Board of Commissioners
June 12, 2025 @ 8:30 a.m.
300 Monroe NW, Room 310
Grand Rapids, MI 49503

As with other public meetings, individuals have the right to attend and to provide up to three minutes of public comment at the meeting. Individuals also can submit written comments to the Board of Commissioners in advance of the meeting. Tom Dugan will present public comment on behalf of the Association, as Bryan Walters will be out of town.

If the Board of Commissioners adopts a resolution, this starts the 15-day time period under which an appeal may be taken to Kent County Circuit Court. By law, only individuals who have objected to the assessment (either in writing or in public comment) may appeal to Circuit Court. It is not clear what will happen with the project if an appeal to Circuit Court is filed.

31. What happened at the Kent County Board of Commissioners Meeting on June 12? [NEW 6/19/25]

The County Commission meeting on June 12 included as an agenda item consideration of a proposed resolution to approve the computation of project costs and special assessment roll proposed by the Drain Commissioner, authorize the issuance of bonds to finance the project, and move forward with construction of the drain.

The meeting was attended by many lakefront residents. Approximately 15 residents spoke during the public comment period. These comments largely echoed previous comments made at the Drain Commission public hearing and Finance Committee meetings. Among the notable comments, Tom Dugan spoke on behalf of the Association in Bryan Walters' absence, and Steve Harpold presented a petition that he indicated had been signed by 71 lakefront residents asking the County to withdraw its proposed resolution.

After public comment, the Drain Commissioner and his team, including legal counsel and the consulting engineer from Prein & Newhof, gave a presentation to the Board of Commissioners. The presentation was nearly identical to presentations previously given at the Drain Commission public hearing and the Finance Committee meeting.

The County Commissioners then asked many questions of the Drain Commission team. The period of questioning and deliberation by the County Commission took more than two hours and covered far too many issues to summarize in this document. Many of the questions and comments focused on the dramatic increase in the cost of the project from the original estimate, along with whether the county should bear some portion of the cost of the project.

Ultimately, the County Commission adopted the resolution approving the computation of cost prepared by the Drain Commissioner, approving the issuance of a bond to finance those costs, and adopting the assessment roll proposed by the Drain Commissioner. The resolution was approved by a 14-4 vote. Board Chairman Ben Greene (Plainfield Township) and Commissioner Lindsey Thiel (Grand Rapids Township) were among the 14 board members who voted in favor of the resolution, although Chairman Greene noted that he was doing so "very reluctantly."

The minutes of the Board of County Commissioners' June 12 meeting will be posted to the Dean Lake Association website when they are publicly available. In addition, a recording of the entire County Commission meeting (which lasted nearly four hours) can be viewed at <https://www.youtube.com/watch?v=S827wdSUBA8>

32. What can be done at this point to further challenge the drain project or the assessment amount? [NEW 6/19/25]

The only remaining option for challenging the drain project or the assessment amount is an appeal to Kent County Circuit Court. Because this is a lake level special assessment over which the circuit court has jurisdiction, anyone filing an appeal should file in Kent County Circuit Court, not with the Michigan Tax Tribunal. Contact information for the court is as follows:

Kent County Circuit Court
180 Ottawa Avenue NW
Grand Rapids, MI 49503
(616) 632-5220
<https://www.kentcountymi.gov/1476/17th-Circuit-Court>

33. What is the deadline for filing an appeal in Kent County Circuit Court to challenge the county's decision? [NEW 6/19/25]

The special assessment roll with the assessments listed become final and conclusive unless appealed with 15 days after county board approval. The County Board of Commissioners approved the assessments on June 12, such that anyone wishing to appeal must file their appeal in Kent County Circuit Court no later than Friday, June 27, 2025.

34. Is the Association going to file an appeal in Kent County Circuit Court to challenge the county's decision? [NEW 6/19/25]

The Association will not be filing an appeal in Kent County Circuit Court. The Board has decided not to do so for several reasons.

First, as described previously in FAQ #20, going to court to try to stop the drain project entirely would be contrary to the mission of the Association, which is “to preserve and maintain Dean Lake, its beauty and usefulness...” There is no question that a drain, coupled with the augmentation pump, would help preserve the beauty and usefulness of the lake. The issue from the Board's perspective is the dramatic spike in the cost of the drain. This is why the Association's comments to the Drain Commissioner and County Commission have focused on proposed reductions to the project cost and the potential for the County sharing some of the project cost.

Second, while the Association could limit its appeal in court to a challenge of the amount of the assessment, such challenges are properly made by individual property owners. Individual property owners are best suited to speak to (and provide evidence of) whether the amount of their assessment is unreasonably disproportionate in comparison to the value which would accrue to their property from a drain being constructed.

Because the Association does not own property on the lake, the Association may not have legal standing to challenge the reasonableness of the assessment amount. The County has also stated its position that appeals of the reasonableness of the assessment amount must be made by individual property owners and would almost certainly challenge the Association's standing to raise such issues in court.

Finally, the Board must weigh the likelihood of success of an appeal against the cost of pursuing an appeal. As to the likelihood of success of an appeal, the law is in favor of the County. There is a presumption that municipal special assessments are valid. The threshold for overcoming this presumption in favor of the county is substantial. Winning an appeal would be challenging.

On the cost side, the cost of pursuing an appeal would be substantial. This includes not only the cost of retaining a lawyer to pursue the appeal (which would be tens of thousands of dollars), but also the likelihood that the project cost, and the resulting assessment amount, would further increase if the appeal is not successful.

It is very likely that the County would include its legal costs defending an appeal in the final project cost calculation, which would increase the assessment amount for all members. In addition, if construction is delayed until next year because of the appeal (or perhaps even longer if the Circuit Court's decision is then appealed to the Michigan Court of Appeals), this would require the construction project to be rebid in the future if the appeal does not result in the drain project being permanently halted. With the high rate of inflation in construction projects, it is likely that the future cost of construction would be even higher than the current bid amount. Those increased construction costs would almost certainly be added to the final project cost calculation, which would further increase the assessment amount for all members.

Each and every member of the Association Board is incredibly frustrated with this situation. We have worked very hard to advocate for reductions in the project cost and cost-sharing with the County, both in our written and public comments at meetings and in behind-the-scenes discussions with the Drain Commissioner and several County Commissioners. Unfortunately, there are no good options at this point.

Based on all of these considerations, our 10-member Board, which includes both "highlanders" and "lowlanders" living across the lake, has unanimously concluded that the Association should not file an appeal to Kent County Circuit Court.

35. Since the Association is not going to file an appeal, can the Association Board or the Association's lawyer advise me on how to file my own appeal? [NEW 6/19/25]

The Board cannot provide members with advice on how to file their own appeal. We highly recommend that members consult with an attorney if they wish to consider filing an appeal with the Kent County Circuit Court.

The Board has put some documents on the Dean Lake Association website which could be a helpful starting point for members looking to learn more about the legal considerations that might be involved in filing an appeal. These documents include the Michigan statutes governing inland lake level assessments and a recent legal opinion by the Michigan Court of Appeals involving an appeal of a lake level special assessment (*Heron Cove Association v. Midland County Board of Commissioners*). This is not a comprehensive attempt to gather all information or resources that may be necessary to file an appeal and does not constitute legal advice from the Association to members.

As for the Association's attorney, Mr. Ordway was hired to advise the Association Board on this issue, not to represent or advise individual Association members. Therefore, Mr. Ordway may not provide legal advice to individual Association members as part of his function as the Association's attorney.

However, based on its decision not to file an appeal in circuit court, the Association has ended its attorney-client engagement with Mr. Ordway. As a result, Mr. Ordway could now be hired to represent one or more individual homeowners on an appeal. The Board does not know whether Mr. Ordway is willing to be retained by individual homeowners or what the terms of any such representation might be. Such discussions would have to occur between the individual homeowner(s) and Mr. Ordway without the Association's involvement.

36. Would an appeal to Kent County Circuit Court halt construction of the drain? [NEW 6/19/25]

Filing an appeal with the Circuit Court does not halt construction of the drain. Only a temporary restraining order or preliminary injunction from the Circuit Court would legally stop construction of the drain while the appeal is being considered by the court. Such orders are difficult to obtain and require the court to conclude, among other things, that irreparable injury would occur if construction of the drain went forward while the appeal was being considered.

It is possible that if one or more appeals are filed, the County might voluntarily decide not to go forward with construction of the drain until the appeals are resolved. This could also include voluntarily delaying construction until any subsequent appeal of the Kent County Circuit Court's decision to the Michigan Court of Appeals was resolved.

As mentioned in FAQ #34 above, if the appeal(s) do not result in the drain project being permanently halted, any delay in construction would result in the project being rebid in the future, most likely at a higher cost. Any increase in project costs resulting from construction delays as the result of any appeal(s) would almost certainly be passed on to all property owners as part of an updated assessment calculation.