

DEKALB COUNTY DRAINAGE BOARD MEETING

February 23, 2023

Drainage Commissioners Present:

Bruce Bell, II, Chair
Sandra M. Harrison, Vice-Chair
Michael V. Watson, Member
James A. Miller, Member

Others Present:

Glenn Crawford, County Surveyor
Michelle Lassiter, Secr. /Drainage Board Admin. Asst.
Shannon Kruse, Attorney
Troy Bungard, Surveyor Technician

Guests:

Freddie McFerron
Mark Strong
Angela Wallace

Absent: William L. Hartman, Member

Chair Bruce Bell, II called the regular meeting of the DeKalb County Drainage Board to order at 8:30 a.m.

APPROVAL OF MINUTES

A motion was made by Sandy Harrison to accept the Minutes of February 9, 2023, as presented as the standard minutes of the DeKalb County Drainage Board. The motion was seconded by Mike Watson. The motion carried with all voting in favor. It was noted that Mike Watson and Jim Miller were not in attendance at the February 9, 2023 meeting. However, Bruce Bell, II, and Sandy Harrison were comfortable with the minutes as written.

DRAINAGE PLANS

REPLAT OF DICKERHOOF SUBDIVISION – COUNTY ROAD 39

The DeKalb County Drainage Board reviewed the drainage plan for the Replat of Dickerhoof Subdivision, along County Road 39. This development was located within the watersheds of the *Levi Dennison Regulated Tile Drain No. 317-90-0*, and the *Walter Smith Regulated Open Drain No. 20-00-0*.

Angie Wallace presented the drainage plan explaining it was a one-lot subdivision in which a father was deeding a little over three acres to his son to clean up a pool & pool house encroachment, bringing the parcel from 2.8 acres to 5.97 acres.

The Board accepted the Surveyor's Drainage Report, which stated "In regards to the replat of the Dickerhoof Subdivision, I see no drainage issues and approve."

Mike Watson moved to approve the drainage plan drawings dated 01.27.2023, signed and stamped by Angela D. Wallace, Land Surveyor, of Compass Land Surveying, Inc., with the Surveyor's recommendations, the motion was seconded by Jim Miller, and the motion carried.

AUBURN RETAIL, LLC (AUBURN CROSSINGS) – STATE ROAD 8 & INTERSTATE 69

The DeKalb County Drainage Board reviewed the drainage plans for Auburn Retail, LLC, to include the Replat of Lot 2 Hurand-Auburn Subdivision, and the drainage plans for Auburn Crossings encompassing Lot 3 for a Chipotle Restaurant, Lot 4 for a Cellular Connection (Verizon) Store, Lot 5 for a Belle Tire Store, and Lot 6 for a Texas Roadhouse Restaurant, all to be located at the northeast corner of State Road 8 and Interstate 69 and west of Touring Drive, within the City of Auburn, Southeast Quarter of Section 25, Township 34 North, Range 12 East, and the Southwest Quarter of Section 30, Township 34 North, Range 13 East of the 2nd Principal Meridian of Keyser and Union Townships, and within the watersheds of the *Auburn Industrial Regulated Drain No. 256-*

00-0, the John Diehl Regulated Open Drain No. 45-00-0, and the John Ketcham Regulated Tile Drain No. 334-00-0.

Todd Wallace of Civil & Environmental Consultants, Inc. (CEC) presented the drainage plan stating that the project was located in the watershed of the *John Ketcham Regulated Tile Drain No. 334-00-0* which was in process for reconstruction. Mr. Wallace explained the development would have seven lots with two common areas, each with a holding pond for stormwater. The plan had had the north pond draining to the south pond with the south pond tying into the reconstructed *John Ketcham Regulated Tile Drain No. 334-00-0*. Mr. Wallace explained that there were businesses prepared to locate on lots 3 through 6. The ponds were sized to take the 6.5-acre site to the east should it develop, even though it was not part of the Auburn Crossings development. The Ponds would be two feet high at the beginning of the development but constructed to drop when the *John Ketcham Regulated Tile Drain No. 334-00-0* reconstruction was completed. The ponds were calculated to take the 100-year rain event.

The Board accepted the Surveyor's Report, which stated "The Auburn Retail LLC (Auburn Crossings) development plans as designed and presented would provide an adequate release rate. The County will be holding a reconstruction hearing on the John Ketcham Tile Drain No. 334-00-0 in cooperation with the City of Auburn. If the reconstruction project is approved, the new county-regulated drain would be reconstructed with a 48-inch pipe to take on future development and would be surcharged in the final design. It should hold water for a 100-year rain event underground in the tile and should be completed spring of 2024. I have inspected the existing drain and it is working better than previously thought. One section has been repaired and it has been videoed. It is 18 inches lower than the outlet, but once it builds up head pressure the water is forced down line. The reconstruction of the Fred Groscup Jr. Regulated Tile Drain has left the John Ketcham Drain in a better condition to take on the water load proposed. Only Lots 3 through 6 should be approved at this time. The other proposed lots should return to the Drainage Board for drainage plan approval."

Mike Watson moved to approve the drainage plans for the Auburn Crossing (Auburn Retail, LLC) as recommended by the County Surveyor and as presented by Todd Wallace of Civil & Environmental Consultants, Inc. (CEC), for plans dated 11.11.2022 for only Lots 3 through 6, all other Lots will need to bring drainage plans to the Board for approval, the motion was seconded by Jim Miller, and the motion carried.

OTHER REQUESTS

LEEWARD ENERGY – CLASSIC CITY SOLAR FARMS (FORMERLY CHALYUS SOLAR FARMS)

Mark Strong of Engineering Vision, Inc., Fort Wayne, took the floor to request that the Board consider reducing setbacks for the drains located on land his client is looking to use for a solar farm: *Frank Sebert Open Drain No. 75-00-0; Frank Johnson Tile Drain No. 171-00-0; Ira Ricketts Tile Drain No. 406-00-0; Daniel Bake Tile Drain No. 201-00-0; Horatio Squires Tile Drain No. 138-00-0; William Bleeks Open/Tile Drain No. 445-00-0; William Bleeks Lateral 1 Tile Drain No. 445-01-0; William Bleeks Lateral 2 Tile Drain No. 445-02-0; Willialm Bleeks Lateral 3 Drain No. 445-03-0; Levi Rowland Tile Drain No. 11-00-0; and the Steven Lutz Tile Drain No. 346-00-0*. The reasoning for the request was that his client would need to purchase/lease additional land to have the number of desired solar panels for the solar field to reach their targeted production.

Mr. Strong presented two exhibits showing what he believed the setback distances he would like to have granted for his client. Mr. Strong stated that he had located the tiles, most of them were four to five feet deep with the largest being 24 inches in diameter. Mr. Strong stated the tile size and depth

should determine the amount of working space needed for maintenance and reconstruction. The first drawing showed a 12-foot right-of-way on one side of the drain and a 26-foot right-of-way on the other side for a total 43-foot right-of-way for a tile at a 6-foot depth. The second drawing showed a 12-foot right-of-way on one side and a 31-foot right-of-way on the other side of the drain for a total 56-foot right-of-way for a tile at a 10-foot depth. Mr. Strong stated his client would lose 68 acres of usable land due to 75-foot rights-of-way. With 43-foot rights-of-way, his client would only lose 19.5 acres. With the 56-foot rights-of-way, his client would only lose 25 acres. Mr. Strong stated he would prefer to have a small right-of-way on one side. He felt the largest need for space was to stockpile the dirt when installing a tile and then room for maneuvering for backfilling the trench. Mr. Strong stated there had been a strong pushback within the community regarding large solar fields. A reduction in rights-of-way would help reduce the number of acres needed for the solar field.

Mr. Strong stated he had spoken with the Allen County Surveyor's Office and they allowed for a reduction down to 30 feet right-of-way, 15 feet on each side. He realized that the Board probably would not be comfortable with that number. He further stated that Allen County has to address this type of situation due to the large amount of development within that county. The contractors can work in that area.

Mr. Strong stated he had spoken with Knott Excavating and they indicated they would be okay with a 25-foot right-of-way on each side of the drain, a total of 50 feet. Mr. Strong used Knott Excavating to locate the tiles and Knott Excavating did quite a bit of work for the County Surveyor's Office.

Mr. Crawford asked who Mr. Strong spoke to at Knott Excavating. Mr. Strong responded with Billy Ternet, and then added Tim Knott. Mr. Crawford stated that Tim Knott had stated he would not want anything less than 40 feet on each side of the drains. Mr. Strong stated that Tim Knott was more hesitant to go lower than the 40-foot setback.

Mr. Crawford stated the 43 feet might work for a maintenance project but not a reconstruction project. Mr. Strong asked what the difference was. Mr. Crawford stated with a reconstruction a 20-foot stick of pipe had to be carried parallel with the trench. Mr. Crawford then went on to state that having a dirt stockpile by the edge of a trench did not meet OSHA approval. There needed to be a place for the pipe stockpile and if the bank needed to be sloped back that would add to the space needed as well. Mr. Strong stated the slopes on stockpiles shown in his drawings were one-to-one. Mr. Crawford stated that the deeper the trench the larger the difference required by OSHA and that OSHA would not permit the stockpiles to be on the edge of the trench. Mr. Strong stated the pipe could be stockpiled on the opposite side of the trench on the proposed 12-foot side. The 12 feet would be large enough to run a truck or other vehicle up. Mr. Strong stated that a mini-excavator or a skid steer could be used for backfilling the trench. Mr. Crawford stated in a reconstruction he would use a payloader for backfilling the trench.

Mr. Miller stated that having experience on his own farm with tile installation, repair, and reconstruction, the proposed 12-foot right-of-way did not make any sense to him at all. If you are picking up 20-foot lengths of pipe you would need more than 20 feet to maneuver, with 12 feet solar panels would be hit. Mr. Miller stated that the tile was not carried by the end, but in the middle. Mr. Strong stated the tile could be carried so that it overhangs the trench, and only 10 feet from the centerline of the equipment used would be needed for the right-of-way distance. Mr. Crawford stated that he, nor anyone he had ever worked with would want to be in a trench and have tile moving over their heads. Mr. Miller stated that the last thing he wanted was to have a reconstruction project and to have the contractor damage some solar panels ending in a lawsuit. Mr. Strong stated that was the Board's call. He was presenting what he believed would work best for his client.

Mr. Crawford and Mr. Miller both stated the pipe was delivered at the road and then had to be moved to be strung along the trench. Mr. Strong asked what Mr. Miller would suggest. Mr. Miller stated that instead of 12 feet on one side, it should be at least 25-foot.

Ms. Kruse stated that at some point in the future, the landowner(s) will need to apply to the Board for a variance to be closer than the 75-foot rights-of-way.

Mr. Miller stated that even 25 feet were not going to be enough if there were to be bad soil conditions. He also stated he didn't want to set up a precedent. Mr. Strong stated that just because the Board approved a variance of this nature for his client, it didn't have to approve the same type of variance for another project. Mr. Miller stated the next applicant would use the argument that if it was approved for one it should be approved for them as well. Mr. Watson weighed in stating there are three solar field projects in the works and they all are in similar positions you could be fairly certain, but the others would ask for the same. Mr. Strong stated the Board could set a policy under which the variances would be granted, based on soil conditions, etc. Mr. Strong stated he just wanted to start the conversation with the Board to see if they would be agreeable and to help set a policy if they so choose to do so.

Mr. Strong stated that most of the drains were currently 8-inch tile and not currently on the priority list for reconstruction, although they could be placed on the list in the future. Mr. Strong stated that if the pipe were smaller sized then the stockpile area and trench size could be reduced even though the sticks were still 20 feet in length.

There was a discussion in which it was pointed out that the cost of reconstruction could be increased by the contractor due to the small working area making the job more difficult.

Mr. Bell stated he had a hard time with any less than 40 feet on each side of the drains. Mr. Bell remembered that the solar field west of Auburn had wanted less than 40 feet in their variance and the Board declined to approve a lower distance. Mr. Strong stated that the panels still were installed on top of the tile. Mrs. Lassiter informed Mr. Strong that was because the contractor disregarded the Surveyor's flags and was informed they would be responsible for the cost of a future reconstruction for relocating the tile.

Mr. Watson asked Mr. Strong if his client was aware of the drains when they purchased the land. Mr. Strong stated they were but were hoping to have the setback reduced.

Mr. Crawford stated that as a contractor the more room to work in, the better, and the less cost to the county. Mr. Crawford also stated that he believed 150 feet was too much and he would be okay with 40 feet on each side of the drains.

Mr. Crawford then stated that he would have liked for his office to be called when the tiles were opened so his inspectors could have inspected the tiles and gotten GPS shots of the tiles' locations. Mr. Strong stated that he inspected the tiles and took GPS shots. Mr. Strong stated he would share the GPS data with the County Surveyor's Office if his client would permit it. Mr. Strong then went on to say that there were two tiles that he would recommend the Board vacate, *the William Bleeks Lateral 1 Tile Drain No. 445-01-0* and *the William Bleeks Lateral 3 Tile Drain No. 445-03-0*. These drains were four to five deep, with the *William Bleeks Open/Tile Drain No. 445-00-0* seven feet deep at some points.

Mr. Bell asked what would happen if the *William Bleeks Open/Tile Drain No. 445-00-0* had to be reconstructed and rerouted because of the wetlands shown on the maps. Ms. Kruse stated there would have to be a public hearing. Mr. Strong stated that since the wetlands were farmed wetlands, he believed there was a chance the tile could be repaired or reconstructed in place.

Mr. Strong stated that to him it didn't make sense to keep county-regulated drains if the wetlands couldn't be drained. The benefit of a reconstruction had to outweigh the cost of the reconstruction.

Ms. Kruse stated that if the landowner wanted to propose a vacation, if the drain was located on only one landowner's property, and there were no other landowners in the drain conduit, it could be vacated by consent and waiver. The vacation depended on how many landowners were affected.

It was discovered on the maps that a portion of the *William Bleeks Drain No. 445-00-0* located on the west side of County Road 51, north of County Road 48 was vacated.

Mr. Strong stated that the *William Bleeks Lateral 1 Tile Drain No. 445-01-0* south of County Road 48 and the *William Bleeks Lateral 3 Tile Drain No. 445-03-0* were not functional. He further stated that the *William Bleeks Lateral 3 Tile Drain No. 445-03-0* might fall in the property line setback area.

Mr. Strong stated he was somewhat hard of hearing, and asked if the Board members were in favor of a 40-foot setback on one side of a drain and a 25-foot setback on the other side. Mr. Watson stated that without detailed drawings he could not say he would support those setbacks. Mr. Bell stated he was not in favor of those proposed setbacks, that without knowing the details of the tile is hard to change the Board's policy, and he didn't want to change the Board's policy for this project. Mr. Miller stated that like Mr. Watson, without detailed drawings he could not say he would favor the proposed setbacks. Mrs. Harrison stated she was not in favor of the setbacks.

Mr. Crawford stated that different contractors like to work on different sides of a drain. Mr. Strong then stated that urban drains were a lot of time only 25 feet wide. Mr. Crawford stated that work on an urban drain was much more costly.

Mr. Crawford stated that for stormwater runoff calculations, the solar panels needed to be treated as hard surfaces. Mr. Strong stated he had thought the same thing, but the vegetation underneath was to be the same as before the installation.

Mr. Bell stated that when the cost of reconstruction was increased it was the landowners who bore the cost, which is what would happen with the reduction in the work area. He did not feel reducing the work area and increasing the cost was fair to the landowners.

Ms. Kruse informed Mr. Strong that his client could apply to move the drain and its right-of-way at their own cost. The design would need to take the water for the whole watershed and be approved by the County Surveyor and the Board.

Mr. Strong then stated that what he was hearing was that the Board would go no less than 40 feet on each side of a drain for a variance. Mrs. Lassiter asked if the land was owned by Mr. Strong's client or leased. Mr. Strong stated leased for the most part. Mrs. Lassiter stated that any variances would need to be applied for by the landowners and that the landowners would need to be made aware they would be responsible for any additional costs incurred during a drain repair or reconstruction due to the solar panels would be billed to the landowners. Mr. Strong stated he understood.

GUEST COMMUNICATIONS – OTHER THAN AGENDA ITEMS

FRED GROSCUP SOUTH TILE DRAIN NO. 352-80-0

Mr. Freddie McFerron of 1701 Woodview Drive, Garrett took the floor. The *Fred Groscup South Regulated Tile Drain No. 352-80-0* ran along the southern boundary of his property. He had significant flooding in his backyard as did his neighbors to the east of him. Mr. McFerron purchased the property in November 2022 and was not informed of the flooding issue.

Mrs. Lassiter stated that the neighbors had been to the Board a couple of years ago to complain about the tile not working. The former County Surveyor had been aware of this issue and had started to design a reconstruction before resigning.

Mr. McFerron stated there had been 4-inch deep water in front of his shed in the previous days. The water was slowly going down.

Milton Otero of the Garrett Planning Dept. told Mr. McFerron to contact the Board regarding his issues.

Mr. Bell wanted to know if there was immediate relief that could be given. Mrs. Lassiter stated that Mr. Rychener of the Surveyor's Office had inspected the drain in the past. It was plugged with roots from trees on top of the drain.

Mrs. Lassiter informed the Board the subdivision had been constructed some years ago with a sanitary tie-in to the county drain. There were no Drainage Board or Surveyor records showing a separation. In looking at the maps Mr. Bungard found what appeared to be sanitary structures running parallel to the drain. Mr. Bell and Mr. Crawford were somewhat familiar with the area and believed it had been separated.

Mr. Crawford stated his office would investigate to see what could be done short term and to come up with a long-term plan as well. Mr. Crawford stated with the field surrounding the area now being held by an investment firm it would be difficult to determine the best size and location for construction without knowing how the land was to be developed.

SURVEYOR'S REPORT


Mr. Bell asked for the Surveyor's Report and the Board was provided the following information:


Mr. Bungard brought up the area with the *Fred Groscup Jr. Regulated Tile Drain No. 335-00-0* and the *John Ketcham Regulated Drain No. 334-00-0*. He pointed out that the watersheds needed to be redrawn. The water west of I-69 that had been in the *Ketcham* watershed was now in the *Groscup Jr.* watershed. Yet, there was still a small isolated section of the *Ketcham* at the north end of the county pond on the west side of I-69. Mr. Bungard asked how to draw the watersheds since there was no design or public hearing for the *Ketcham* to date.

Ms. Kruse stated that he should draw them with what the Board wants them to become during the public hearing for the *Ketcham*. There would be two public hearings one to reconstruct the *Ketcham* and the other to separate the north section from the *Ketcham* and combine it with the *Groscup Jr.*

There was Board was informed the *Fritz Bartels Drain No. 408-00-0* reconstruction assessments would be brought to the next meeting for approval.

There being no further business or discussion, Mr. Bell thanked everyone for attending the meeting and declared the meeting adjourned at 10:05 a.m.


Bruce Bell, II, Chairman


Michelle Lassiter, Secretary