

DEKALB COUNTY DRAINAGE BOARD MEETING

August 4, 2022

Drainage Commissioners Present:

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

Others Present:

Michael C. Kline, County Surveyor
Michelle Lassiter, Sec. /Drainage Board Admin. Asst.
Shannon Kruse, Attorney
Michael Gustin, Surveyor's Field Inspector

Guests:

Angie Wallace
Michael Gensic
Darrin Good

Absent: None

Chairman Michael Watson 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 Jim Miller to approve the Minutes of July 28, 2022, as presented as the standard minutes of the DeKalb County Drainage Board. The motion was seconded by Bill Hartman, and the motion carried.

DRAINAGE PLANS

SKCVL ACRES SUBDIVISION:

Mr. Kline presented the drainage plan for the Plat of SKCVL Acres subdivision, a one-lot, 17.00-acre +/- subdivision, as submitted by Michael Vodde of Anderson Surveying, Inc., on behalf of Samuel J. Cook, owner. This subdivision was located in the Southwest 1/4, Section 33, T33N, R13E, Jackson Township, and within the watershed of Hilkey-Carnahan Regulated Open Drain No. 12-00-0.

The Board accepted the Surveyor's Drainage Report, which stated "The plat does not appear to exceed the threshold set by the Drainage Board for additional drainage improvements. This development shall not block off-site drainage across the site. Stormwater from this lot shall be directed onto the parent tract and not onto adjoining tracts. This report is subject to any additional information submitted at the Plan Commission hearing."

Bruce Bell, II moved to approve the drainage plan dated 04.29.2022, sealed, and signed by Michael C. Vodde of Anderson Surveying, Inc., with the Surveyor's recommendations, the motion was seconded by Sandy Harrison, motion carried.

NOME ACRES SUBDIVISION:

Angela Wallace of Compass Land Surveying presented, on behalf of Stanley and Naomi Everetts, owners, the Plat of Nome Acres subdivision, a one-lot, 4.90-acre +/- subdivision. This subdivision was located in the North Fractional Half, Section 9, T35N, R15E, Troy Township, and within the watershed of John Leason Lateral 2 Regulated Tile Drain No. 32-02-0. Mrs. Wallace explained that there had not been enough soil samples taken on the site, and the samples taken had been in the wetlands on the site. This led the DeKalb County Health Department to require that site be denied septic and well permits. The owner intended to build a dry storage barn for equipment storage. Mrs. Wallace explained there was a stipulation noted on the plat.

The Board accepted the Surveyor's Drainage Report, which stated "The plat does not appear to exceed the threshold set by the Drainage Board for additional drainage improvements. This

development shall not block off-site drainage across the site. Stormwater from this lot shall be directed onto the parent tract and not onto adjoining tracts. This report is subject to any additional information submitted at the Plan Commission hearing.”

Bill Hartman moved to approve the drainage plan dated as revised 07.29.2022, sealed, and signed by Angela Wallace of Compass Land Surveying, with the Surveyor’s recommendations, the motion was seconded by Jim Miller, motion carried.

AUBURN SHOPPES – 1111 & 1113 WEST SEVENTH STREET, AUBURN:

Darrin Good of D. A. Brown Engineering Consultants presented the drainage plan for the Auburn Shoppes to be located at 1111 & 1113 West Seventh Street, within the City of Auburn, in the Northwest 1/4, Section 31, Union Township, and within the watersheds of the Auburn Industrial Regulated Drain No. 256-00-0 and the John Diehl Regulated Tile Drain No. 45-00-0. The site was to be used for a restaurant and an urgent medical care facility.

The Board accepted the Surveyor’s Report, which stated “The plans as designed and presented would provide an adequate release rate. The County will be reconstructing the John Ketcham Tile Drain No. 334-00-0. The new county-regulated drain would be surcharged in the final design and should hold water for a 100-year rain event underground in the tile. There was an agreement with the City of Auburn for any new development or redevelopment to be required to install ten-year storm event detention in the area. The new building would be picking up downspouts to catch basins, using 12-inch piping with 4-inch restricting orifices, which the property owner would be responsible for keeping clean and open. The parking lot would be used as water detention during heavy rain events. The detention should only be for a few days. The Surveyor recommended approval of the plans as signed and dated 07.28.2022 by Darrin Good of D.A. Brown Engineering Consultants and narrative as signed and dated 08.02.2022 by David Brown of D.A. Brown Engineering Consultants.”

Jim Miller moved to approve the drainage plans as signed and dated 07.28.2022 by Darrin Good of D.A. Brown Engineering Consultants and narrative as signed and dated 08.02.2022 by David Brown of D.A. Brown Engineering Consultants, the motion was seconded by Sandy Harrison, and the motion carried.

UTILITY PERMIT

Frontier Communications requested a permit to cross the Samuel Hawver Regulated Tile Drain No. 330-00-0. The project was located at the corner of County Road 56 & County Road 3 between County Road 7 & County Road 1 along the west side of County Road 3. The location was 2,575 feet east of County Road 1 and 4,945 feet west of County Road 7. The utility would bore from their existing pedestal 30407 on the north side of the intersection across the 40-foot right-of-way of County Road 56 and plow along the west side of County Road 3, 2 feet in the right-of-way for 575 feet to their existing pedestal 5740.

Mr. Kline stated that his staff would need to watch to make sure the drain was not damaged. The utility contractors didn’t usually notify his office as to when the work in a drain right-of-way was being conducted. Mr. Kline stated that the Board might need to consider denying some utility permits to get the utility companies’ attention to get them to abide by the utility permit agreements requirements. Mr. Miller asked if Frontier had created issues in the past. Mr. Kline responded they had not, but other companies had been. Mr. Kline stated his staff didn’t know there were issues until the office received a call regarding flooding in an area. Mr. Kline stated the worst issue happened when County Surveyor staff discovered that NIPSCO had bored through and installed a natural gas line in a county-regulated tile drain. The discovery took place during a repair on the tile. The contractor for the tile repair bumped the tile with an excavator. Luckily, the gas line was not compromised and no one was injured. Mr. Kline stated the utility permit agreement states the utility company is supposed to put the utility line in conduit and mark it with a sign, but that doesn’t happen. Mr. Kline further stated there was difficulty getting locates on county-regulated drains, as the tiles were not on the 811 call before you dig maps because of the age of the tiles. Mr. Kline stated that he was working on a

forthcoming ordinance that would require utility contractors to have drain tiles located. However, that would be difficult due to the 800 miles of drains and the age of those drains.

DISCUSSION

LEVI DENNISON REGULATED TILE DRAIN NO. 317-00-0:✓

Mr. Kline presented letters to the Board members from an attorney representing Larry Kummer and several other landowners in the watershed of the *Levi Dennison Regulated Tile Drain No. 317-00-0*.✓

The attorney for Mr. Kummer and other landowners requested meeting minutes for #1a information regarding the creation/construction/approval/permits including amendment or modification for the construction of the private lake owned by the Dickerhoofs at 3477 CR 39, Waterloo. #1b the Levi Dennison drain and laterals. #1c The Walter Smith Drain. #1d The construction of the Levi Dennison Drain to the extent not provided under request #1b. Mr. Kline stated his office did have that information.

Mr. Kline further stated that the information requested in item #2 minutes from January 1, 2003, to present in which Mr. Larry Kummer was present was doable as well.

Mr. Kline stated the information requested in Item #3 was also available in his office.

Mr. Kline stated that Item #4 was an issue, as the information requested is what would be created during a public hearing for either a maintenance hearing or a reconstruction hearing. The Levi Dennison drain had not had any public hearings. It had never been placed on maintenance.

As for Item #5 requesting information on the *Walter Smith Drain No. 20-00-0*,✓ Mr. Kline was not sure why that information was being requested. Mr. Kline was unsure how the drain was created. There was nothing in the drain file after 2001 and there was no information from any public hearings, as none had been held.

Mr. Kline stated that due to the amount of information being requested and the stated of the files due to the office move last year, the task would not be easy nor quick, and would not be able to be completed within the seven days required.

Mr. Kline stated that as no petition had been submitted for the reconstruction of the *Levi Dennison Drain No. 317-00-0*,✓ he recommended the Board reverse their decision to reconstruct the drain and cancel the contract with Gensic Engineering. Mr. Kline stated the drain was on the reconstruction list because he had thought the drain needed reconstructed. Mr. Kline further recommended the Board ask the County Surveyor's office to investigate the drain condition to determine the exact needs for the drain to work properly. Mr. Kline stated the plans created by Gensic Engineering did not meet the requirements of picking up the water for the entire drain watershed. The plan was deficient and too expensive. Mr. Kline stated he believed the Board would get in too deep if they continued with the current direction for the drain's reconstruction. The Board should look at what is needed to make the drain reconstruction a viable project.

Mr. Bell asked Mr. Kline how many drains on the reconstruction priority list had reconstruction petitions on file. Mr. Kline stated the ones with petitions were marked as such on the list. Mr. Kline went on to explain that by State Code the County Surveyor could recommend reconstruction of a drain to the Board. Mr. Kline further stated that since the letters reference the Judicial Review section of the State Drainage Code, he would recommend caution to the Board moving forward. The individuals who started the process were no longer present and probably had no idea this project would go in this direction. Mr. Kline stated he understood the Board thought they were taking a load off his office when they began the process, but at the time they took the action he had the drain's reconstruction plans almost completed. The plans only needed fine-tuning and would have been ready for a public hearing within a month.

Ms. Kruse stated that she would need to review the State Drainage Code before making any recommendations to the Board.

Mr. Kline stated that all of the information presented regarding the Dennison Drain had been preliminary, and there had been no legal actions taken.

Mr. Hartman asked if the drain's reconstruction plans designed by Mr. Kline were deep enough. Mr. Kline stated the drain as he designed it would pick up the water for the whole watershed. Mr. Gensic's plan did not pick up water across the road or all of the land in the wetlands. Mr. Kline's plan was at a different depth and route than Mr. Gensic's design. Mr. Kline's design would cost \$100,000 less than Mr. Gensic's design. Mr. Gensic agreed with Mr. Kline.

Mr. Gensic explained that he had created three designs for the Board. The first design worked. The State Drainage Code required the tile to serve the whole watershed. The first design did this by going from the banks of the *Walter Smith Drain* to the east and back to the *Walter Smith Drain*. Mr. Gensic agreed with Mr. Kline that the third design now being considered by the Board did not meet the Code requirements. Mr. Gensic stated that if he had spoken with Mr. Kline early on in the process, he would not have taken on the project, nor submitted a proposal. Mr. Gensic felt there were underlying motives at the beginning of the process that he did not appreciate in being included. Mr. Bell stated he didn't appreciate Mr. Gensic's comment regarding underlying motives.

It was determined there was approximately \$17,000 left on the contract with Gensic Engineering. The estimates put together for the alternate #3 construction plans were based on contractors used in Allen County, not the contractors used in DeKalb County.

It was determined the information landowners had was the information provided at the informational meeting held. There was an incomplete design provided at the informational meeting that would have picked up the entire watershed. This drain was chosen for the outside engineering process because the Board thought it would be an easy project to complete. There has been a lot of time and money put into this process. The Board needs to take all of the information and facets into consideration to determine the course forward.

Mr. Gensic stated the current plan under consideration didn't provide service to all the areas it should. It didn't reach the far ends of the watershed. It didn't go deep enough to get to the low holes in the watershed.

Mr. Hartman asked what the difference in the depth was. Mr. Gensic explained that if a drain system goes up a hill, the depth has to be one foot for every hundred feet, which meant that five hundred feet equaled five feet, and one thousand feet equaled ten feet up. Mr. Hartman stated he didn't see the problem. Mr. Gensic stated that as the tile came out of the open ditch, the tile would be too high to get the water. The tile route would need to be shortened and the grade lowered to pick up the water.

Mr. Miller asked Mr. Gensic if his plans 1 and 2 worked. Mr. Miller stated he was confused and wanted help to understand the situation. Mr. Gensic stated that design #3 would start on the east side of County Road 41, picking up the low areas. Getting from the ditch to County Road 34, and didn't serve the watershed on the west side of County Road 41. Design #1 took the water from the north bank of the *Walter Smith* drain and brought the water back to the south section of the *Walter Smith Drain*. Mr. Gensic stated from a practical sense the watershed needed to be divided into two watersheds.

Mr. Gensic explained there was flooding happening north of County Road 34. There was a swale coming from the east of County Road 41 down to County Road 34. He didn't know what the grade of the old tile was. He stated the Board had instructed him to go around the north side of the wetland.

Thus the design didn't pick up the land to the east of County Road 41 due to the field tile in the field on the south side of County Road 34.

Mr. Kline stated that if the tile was brought up from the ditch missing the gas pipeline, then along the south side of County Road 34 arm, north to the ditch. But, he would need to look at the whole watershed and make sure everyone gets serviced. Mr. Kline stated the landowners were not looking at the watershed as a whole, only their own land. Mr. Kline stated that Mr. Kummer had patterned tiled over and through the current regulated drain without any variances from the Board. There was still a statutory right-of-way through the current drain location. The Board and County Surveyor could go through that location, cut off the pattern tile access, put in a new drain, and then reconnect the pattern tile.

Mr. Kline stated the Board needed to give Ms. Kruse time to review the Code and think of what the course of action should be. He stated the Board should also be looking at the Code and options.

Mr. Kline stated that technically this project was not his job. He could walk away from it. However, he didn't want to see the Board have problems. He wanted to see the drain system work fifty years or longer. Mr. Kline stated he wasn't sure how long pattern tiling would last but was sure it wouldn't last as long as a county-regulated tile. He stated time was running out on the seven-day timeline for the requests from Mr. Kummer's attorney. He would need Shannon to tell him what to have his office provide.

Ms. Kruse stated she would call the attorney to ask for a time extension.

Mr. Miller asked Mr. Kline if the lake in the watershed was an issue. Mr. Kline stated he had inspected the lake and its outlet. The discharge requirement was a 6-inch tile with a .03 cfs per acre discharge. The lake was less than that, which is less and helping to hold the water back. The 6-inch outlet was a trickle in the system. It was approved by the DNR, went into the wetlands, and kept it fresh. There was a catch basin at the level of the wetlands at the edge to keep the water off the road. Mr. Kline stated that since Mr. Kummer damaged the downside of the drain with his pattern tiling, it was flooding the upper end of the system. Mr. Kline stated the reconstruction design needed to be a good plan that would work, and last a long time at an appropriate cost.

Mr. Watson stated that the Board needed to hit the pause button on the project, let Ms. Kruse deal with the attorney, and get the Board through this situation before moving forward with the project.

Mr. Kline stated he would go so far as to recommend vacating the drain, walking away, and letting the neighbors work it out themselves.

Mr. Bell stated others in the watershed should have a voice in the project, not just Larry Kummer. He would like to see the project completed, as others needed relief.

Ms. Kruse agreed with Mr. Kline, in that she didn't want to see the project go to judicial review and have it thrown out because due diligence wasn't done.

Mr. Kline and Mr. Gensic stated that Ms. Kruse should challenge the attorney to find a credentialed expert who would say the pond is not working as designed and causing an issue in the watershed.

SURVEYOR'S REPORT

Mr. Watson asked for the Surveyor's Report and Mr. Kline provided the following information:

Mr. Kline stated he would ask the Board to change the date for the *E. P. Sherwood Drain No. 50-00-0*. Mr. Kline explained his inspector had been out ill most of the week and needed time to see if the new tile works to get the cost estimates calculated. The Board decided to move the hearing to October 6, 2022, at 9:30 a.m.

Mr. Kline then stated he needed direction from the Board regarding the landowner notices for the *Charles Kaellner Drain No. 432-00-0* maintenance public hearing. Mr. Kline stated there were three parcels in the watershed of less than an acre. The proposed assessment rate was 12.50 per acre. Would the Board like to use a one-acre minimum? The Board affirmed they would like to go with the one-acre minimum.

Mr. Kline stated he didn't want to offend any of the Board Members. He only wanted everyone to look good, not like they didn't know what they were doing.

Mr. Hartman and Mr. Watson stated they were not offended. There were a lot of tough decisions to make and they all needed to work as a team.

DISCUSSION

Mr. Watson asked the Board for additional discussion. There was no additional discussion.

Mr. Watson then thanked everyone for attending the meeting and declared it adjourned at 10:14 a.m.



Michael V. Watson, Chairman

Michelle Lassiter, Administrative Assistant

DEKALB COUNTY DRAINAGE BOARD

NO.	NAME	PHONE (HOME)	PHONE (CELL)	EMAIL ADDRESS	MAILING ADDRESS	PETITION OF INTEREST
1	APRILE WALKER		260-473-6483		COMPASS LAND SURVEYING	ADULT AGENS
2	MICHAEL GEORGE		260-489-7643		CLASSIC ENGINEERING	LEWIS-DENNISON
3	DARREN GOOD		260-725-2020		D.A. BROWN ENGINEER	AUBURN SHOPPES
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DATE
08/04/2022

