

**DEKALB COUNTY DRAINAGE BOARD MEETING**

August 18, 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, Secr. /Drainage Board Admin. Asst.  
 Shannon Kruse, Attorney  
 Katie Rutan, Surveyor's Clerk

**Guests:**

Lucas R Manon  
 Justin Hoffman  
 Joe Herendeen  
 Daryl McConnell

**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 August 4, 2022, with the correction of Hartman to Harrison on page one, paragraph three under Drainage Plans, as presented as the standard minutes of the DeKalb County Drainage Board. The motion was seconded by Bill Hartman, and the motion carried.

**APPROVAL OF CLAIMS**

Mr. Watson asked for a motion for Ms. Kruse's September stipend of \$1,295.00. Bruce Bell, II moved to approve Ms. Kruse's May stipend of \$1,295.00, Jim Miller seconded the motion, and the motion carried

**DRAINAGE PLANS****TECHO BLOCK – 2397 COUNTY ROAD 27, WATERLOO:**

The Board reviewed the drainage plan for the Techo Bloc, 2397 County Road 27, Waterloo, IN 46793, in Section 32, Smithfield Township as submitted by Justin Hoffman of Brooks 1st, on behalf of the owners, and within the watersheds of the Frank Albright Regulated Open Drain No. 14-00-0 and the Elijah Sherwood Regulated Drain No. 50-00-0.

The Board accepted the County Surveyor's Drainage Report, which stated the company produced pavers and stone blocks. The company was looking to convert a large 13-acre stone storage area to concrete. The property sheet flowed to an existing pond on the northeast side of the property that discharged to the Frank Albright Regulated Open Drain No. 14-00-0. In 2015 the Drainage Board approved a drainage plan for the site for a site expansion. In 2015 it was determined the pond on the northwest side of the site was short on capacity and had not been built to design. In 2015 the pond was supposed to have been completed and had not been to date. The County Surveyor, Mike Kline, stated the pond needed to be completed to take the water from the proposed concrete. If the pond were completed to specification, the peak elevation of the pond would only be increased by a few 10ths of an inch. The specifications were for the pond to be a 2-stage pond with the open portion of the Elijah Sherwood Regulated Drain No. 50-00-0 going through the pond and a control structure to slow the release rate to the Frank Yarde Drain No. 14-00-0. Mr. Kline recommended the Board approve the proposed drainage plan with the revision date of 08.11.2022, signed by Justin Hoffman, conditional to the pond being completed as per the approved 2015 drainage plan.

Jim Miller moved to approve the drainage plan with the revision date of August 2, 2022, and the stormwater report dated August 15, 2022, sealed, and signed by Justin Hoffman of Brooks 1st, with

the condition that the northern pond is completed as per the approved 2015 drainage plans by MLS Engineering dated May 18, 2015, and with the Surveyor's recommendations, send a letter to the Town of Waterloo Plan Commission. The motion was seconded by Bill Hartman, and the motion was carried.

**REPLAT OF LOTS NUMBERED 1-4 IN THE REPLAT OF LOT NUMBER 1 OF HICKORY HILLS:**

The Board reviewed the drainage plan for the Replat of Lots Numbered 1-4 in the Replot of Lot Number 1 of Hickory Hills subdivision, a two-lot, 16.591-acre +/- subdivision, as submitted by Joseph Herendeen of Sauer Land Surveying, Inc., on behalf of Auggie & Lisa Gatt and Arden & Frances Button, owners. This subdivision is located in the Southeast 1/4, Section 31, T34N, R14E, Wilmington Township, and within the watersheds of the William Bleeks Regulated Tile Drain No. 445-00-0 and the William Bleeks Lateral 1 Regulated Tile Drain No. 445-01-0.

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."

Bill Hartman moved to approve the drainage plan dated 08.03.2022, sealed, and signed by Joseph R. Herendeen of Sauer Land Surveying, Inc., with the Surveyor's recommendations, the motion was seconded by Bruce Bell, II, motion carried.

**VARIANCE REQUESTS & AGREEMENTS**

**DAVID & THERESA MARTIN – LOT 3 BARKHAUS ADDITION – 6552 COUNTY ROAD 27:**

Mr. Kline reminded the Board that Mr. Martin had attended the July 21, 2022, Drainage Board meeting to discuss the possibility of a driveway encroachment in the 75-foot right-of-way of the *James Ferguson Regulated Open Drain No. 86-00-0*. Mr. Martin and his wife had signed an ingress/egress agreement for a 40-foot by 40-foot driveway with Jeff & Kellee Barkhaus, owners of the land through which the drain ran.

Mr. Kline then presented the Board with a variance agreement for a gravel driveway to be no closer than 16 feet from the top of the bank of the *James Ferguson Regulate Open Drain No. 86-00-0*. Mr. Kline stated he encouraged the Board to approve the variance.

Bruce Bell, II made a motion to approve the variance agreement with David and Theresa Martin and Jeff and Kellee Barkhaus for a gravel driveway to be permitted no closer than 16 feet to the top of the bank of the *James Ferguson Regulated Open Drain No. 86-00-0*. Bill Hartman seconded the motion, and the motion carried.

**MATTHEW AND CATHY BISHOP – 401 DURYEA DRIVE, AUBURN:**

Mr. Kline then presented a request from Matthew and Cathy Bishop at 401 Duryea Drive, Auburn, for a variance for a fence and a rock wall in the 75-foot right-of-way of the *Cedar Creek Regulated Open Drain No. 470-00-0*. Mr. Kline explained the Bishops were not able to attend the meeting as Mr. Bishop had tested positive for the coronavirus.

Mr. Kline explained the Bishops had built the rock wall within the floodway and the drain right-of-way to keep out flood waters. The fence had been installed before the Bishops purchased the property. The Indiana Department of Natural Resources had been notified of the violation and had contacted the City of Auburn since Kellie Knauer, the Director of Building, Planning, and Development was the City's Floodplain Administrator. Mrs. Knauer had sent a letter to the Bishops informing them of the violations. Mr. Kline had met with Mr. Bishop, Kellie Knauer, and the IDNR

official to discuss the violation. The IDNR official had stated that if the Board granted a variance for the rock wall and fence, then IDNR would issue a permit for the rock wall and the fence. The wall was 14 feet and the fence was 33 feet from the top of the creek bank.

Mr. Kline further explained that the contractors his office hired didn't usually work from the bank to clear the creek. The work usually happened within the waterway using floating barges, which was preferred by IDNR. Mr. Kline stated he had informed Mr. Bishop that should the Surveyor's Office need to work from the bank, the rock wall and fence would be moved and Mr. Bishop would be responsible for the cleanup and any extra costs incurred due to the rock wall and fence. Mr. Kline stated that the Surveyor's Office did have the option to work from the west side of the creek. Currently, trees were cut in the water, floated to the nearest bridge, caught by a net, and removed by a crane.

During the Board discussion of the request, the following information was brought up:

- There was a swimming pool at 400 Duryea Drive that appeared to be within the drain's right-of-way.
- Mr. Miller stated he was concerned with the rock wall only being 14 feet from the top of the bank as it didn't leave a lot of room for work. He also didn't like that the owners had installed the structures without permits and were now asking for forgiveness. I
- It was noted that rock walls and hedges were covered under the City of Auburn's definition of a fence and permitting requirements.
- Mr. Kline was surprised that IDNR didn't look harder at the rock wall being in the floodplain. Although, the wall is minor and would not cause too much of an issue.
- Mr. Bishop told Mr. Kline that he had not brought in fill dirt. Mr. Bishop had only scraped the dirt from the area to create the berm between the top of the bank and the rock wall.
- Mr. Bishop planted trees in the area between the rock wall and the top of the creek bank because the Auburn Electric Department had removed a bunch of trees in the floodway because they were in the electric lines. There were naturally occurring trees already within the drain right-of-way. Ms. Kruse stated the trees planted by Mr. Bishop needed to be included in the variance.
- Mr. Kline and his staff could find no evidence of Cedar Creek being made an urban drain.
- The Board wanted to make sure that if the variance was granted it in no way set precedence to permit a permanent structure closer than 40 feet to the top of the bank for an open drain or from the centerline of a tile drain. Ms. Kruse stated this could be done through findings with the motion.

Bruce Bell, II made a motion to approve the variance based on the County Surveyor's recommendation, with the finding this decision is based on the unique circumstances of this property and in no way sets a precedence for other encroachments to be closer than 40 feet to the centerline of tile drains or 40 feet to the top of the bank for open drains in the future. Mike Watson seconded the motion. The motion carried with Bruce Bell, II, Mike Watson, and Bill Hartman voting in favor, and Jim Miller and Sandy Harrison voting against the motion.

#### LUCAS AND KATIE MANON – 403 DURYEA DRIVE, AUBURN:

The Board reviewed a request for a variance from Lucas R. and Katie L. Manon of 403 Duryea Drive, Auburn, IN for an 8-foot by 16-foot utility shed, located in the northwest corner of their property within the 75-foot statutory right-of-way of the Cedar Creek Regulated Open Drain No.

470-00-0. The Board determined that a variance was not needed because the shed was not a permanent structure per the Board's criteria for permanent structures. The shed was on skids and not a slab or foundation. The Board also determined that an 8-foot diameter fire pit with wooden benches was not a permanent structure and did not require a variance.

Jim Miller made a motion to have the Board secretary send a letter to the Auburn Building and Planning Department informing them that the shed and fire pit were not permanent structures and did not require a variance. Bill Hartman seconded the motion, and the motion carried.

## AGREEMENTS

### INTERGOVERNMENTAL AGREEMENT FOR RECONSTRUCTION: JOHN KETCHAM REGULATED TILE DRAIN NO. 334-00-0:

Mr. Daryl McConnell, Director of the City of Auburn's Engineering Department presented the document, thanking the Board for their consideration. Mr. McConnell stated that Ms. Kruse had worked with Erik Weber, the City of Auburn's attorney to create the document. The City of Auburn Board of Public Works & Safety had approved and signed the document. Mr. McConnell explained that this was considered Phase II of the reconstruction of the *Fred Groscup Jr. Regulated Tile Drain No. 335-00-0*. Mr. McConnell stated there would need to be additional drainage work along Grandstaff Drive in the near future.

Mr. Kline stated that if the Board was comfortable with the document, he would ask they sign it. Mr. Kline stated two things needed to happen as soon as possible. One was for the board to sign this interlocal agreement document and the other was for the Board to sign a contract with ForeSight Consulting, LLC for the new drain design. The area to the west of Taco Bell was being proposed to be developed at the Auburn Crossing Plat with multiple lots.

Mr. Kline explained that the current drain went under Pizza Hut's current building. Pizza Hut was constructing a new building and would be demolishing the current building. The contractor for the new building needed to locate the current drain to make a temporary connection to the current drain.

Mr. Kline informed the Board that the reconstruction of the *Fred Groscup Jr. Regulated Tile Drain No. 335-00-0* would begin sometime in September or October depending on the contractor's schedule. The tile was already on site. The structures would be delivered next week, with stone to be delivered when ready. Part of the reconstruction of the *Groscup Jr. Drain* was to lower the pond so that the water would no longer be sent to the *Ketcham Drain*.

Mr. Kline explained that the Interstate 69 water flowed through the *Ketcham Drain* and he wasn't sure what would be done with that water. He was going to meet the developer for Auburn Crossing and would discuss this issue. Mr. Kline would like to see the I-69 water sent to the pond and exist through the *Groscup Jr. Drain*.

Mr. Kline explained there were two lots in the proposed Auburn Crossing plat that businesses would like to construct buildings on now, Verizon and Chipotle Grill. Currently, there was nowhere to send the stormwater for those two sites. Mr. Kline was unsure of where the *Ketcham Drain* went after it went under Pizza Hut. Mr. Kline would need to speak with the project engineers to see what was possible. A shallow tile for temporary connection to the existing tile may need to be used.

Mr. Kline explained that the proposed route for the drain reconstruction would be behind Taco Bell and AT&T, which would require an easement to cross Wendy's property. Easements could not be acquired until after a public hearing for the reconstruction.

Mr. Kline further explained that the drain design and plans could not be created unless the Board signed the interlocal agreement with the City of Auburn and signed the contract with ForeSight Consulting. Mr. Kline did not see any issues with either document.

Mr. Kline stated the City of Auburn would be depositing funds upfront into the *Ketcham Drain's* reconstruction account. ForeSight would be paid from those funds, as would the reconstruction invoices.

Mr. Kline informed the Board there was more development forthcoming in this area of Auburn and the City and County wanted to get and keep those developments to bolster the area's economy.

Ms. Kruse stated she had made additions to the interlocal agreement that made it clear the public hearing results were not a forgone conclusion. She also stated there would be statements in the public hearing legal notices the City of Auburn would be paying for the reconstruction, and the drain would be turned over to the City in the future.

Bill Hartman made a motion to approve the Intergovernmental Agreement with the City of Auburn for the reconstruction of the *John Ketcham Regulated Tile Drain No. 334-00-0*. Bruce Bell, II seconded the motion, and the motion carried.

#### FORESIGHT CONSULTING, LLC CONTRACT FOR ENGINEERING AND SURVEYING SERVICES FOR THE RECONSTRUCTION OF THE JOHN KETCHAM REGULATED TILE DRAIN NO. 334-00-0:

Mr. Kline stated that even though the City of Auburn would be paying for the contracted services, it would be an expensive cost. ForeSight would have to verify the watershed to make sure that all owners pay their fair share of the reconstruction. They would need to locate all of the utilities in the State Road 8 right-of-way to determine if the road crossing would be open cut or boring. The Surveyor's Office and the City of Auburn would use City/County employees as much as possible for the project. All of the proposed new developments would need stormwater systems on-site. There was also proposed new development on Fifteenth Street behind Kroger Grocery Store. That development would need a stormwater system as well. Mr. Kline recommended the Board approve and sign the contract with ForeSight Consulting.

Mr. Kline stated that the Surveyor's Office would be limited in what it could do because of the staff's current workload. Mr. Kline would oversee the project, but ForeSight and the City of Auburn would be doing the bulk of the work. This contract would make the Surveyor's Office work easier. It came with a cost of \$296,450.00. The City had agreed to go with ForeSight because their staff worked on the *Butler City Drain* and knew the State Drainage Code and how to meet the requirements.

Mr. Watson stated he was comfortable with ForeSight. He had been working with them on the new County Highway project and had worked with them on other private projects.

Mr. Hartman stated he felt they worked slowly on the County Highway project.

Mr. McConnell explained that with so many different participants and pieces to this project timing was going to be tricky. There would have to be coordination with the private developers. This project needed to be moved forward since contractors were already taking on work for next year. The project needed to get to the bid process and on a contractor's schedule.

Jim Miller made a motion to approve the contract with ForeSight Consulting, LLC for engineering and surveying services for the reconstruction of the *John Ketcham Regulated Tile Drain No. 334-00-0*. Sandy Harrison seconded the motion, and the motion carried.

DRAIN VACATION – JOHN KETCHAM LATERAL 1 REGULATED TILE DRAIN NO. 334-01-0:

Mr. Kline stated that the *John Ketcham Lateral 1 Regulated Tile Drain No. 334-01-0*, a five-inch tile installed in 1898 couldn't be found despite several attempts over the years. The drain was 124 years old and didn't do anything. Mr. Kline was asking if the Board would be in favor of vacating the drain by consent and waiver so that there were no variances for the forthcoming developments. There were only two property owners involved. Garry Hurand and the City of Auburn.

Mr. Hartman speculated that the drain may have been cut off when State Road 8 was constructed. Mr. Kline stated it was probable. Mr. Bell asked if vacating the drain would have any drainage effect on properties. Mr. Kline stated it would not, as the developments would be installing their own storm systems. The Board consensus was for the County Surveyor's staff to draw up the consent and waiver form for signatures.

## RECONSTRUCTION PETITIONS

JOHN SMITH REGULATED DRAIN 1-00-0 – NANCY PRESLEY 6447 CR 12:

Mr. Kline presented a request for the reconstruction of the *John Smith Regulated Drain No. 1-00-0* signed by Nancy Presley 6447 County Road 12. Mr. Kline explained the drain had been reconstructed by Gene Clifford but was not working well. Mrs. Presley was the legal owner of the land, but Mr. Kline had spoken with her husband, Doug Presley, who stated they were having drainage issues and had lost 15 acres of crops. The Presleys were requesting the drain be reconstructed before next spring.

Mr. Kline stated it was up to the Board to decide where to place the reconstruction on the priority list. Mr. Kline explained the soil types on the Presleys' property were of the type that seals itself and he was unsure if his staff and the Board would be able to help with all of the Presley's drainage issues.

Mr. Kline stated that the tile portion Mr. Clifford worked on was a 12-inch tile into an 18-inch tile that had come apart. The tile sits in a "bowl" with a distinct line within a slope of the soil with a lot of muck. Over time the tile had settled and there had been a slippage in the line.

Mr. Kline stated that his staff could do the work as maintenance. However, it would put the drain account in the red for seven years. Mr. Kline explained there were five million dollars in the maintenance fund and the State Board of Accounts had said it could be used for any drain needing maintenance. Mr. Kline stated he would need to dip the open portion of the drain, which would require a long-reach excavator.

Mr. Miller, Mrs. Harrison, and Mr. Watson all agreed they had no issues with using the maintenance fund to get the drain repaired.

Ms. Kruse informed the Board of the criteria put in place in 1995 for drain maintenance accounts not to be placed in the red for more than five years. She stated the Board was a more conservative Board at the time the criteria were created.

Mr. Kline explained that there were a lot of drains that only collected \$2 an acre in assessments. This didn't provide enough in the maintenance accounts to provide any kind of repair. It really would require public hearings for a maintenance assessment to be amended. It really took at least \$15 an acre to maintain a drain. Mr. Kline also asked the Board to amend the policy for how long a drain could be in the red and allow the Surveyor's staff to repair the drains as needed.

Mr. Kline stated the reconstruction funds had been depleted. Several drain reconstructions needed assessed and collected.

Mrs. Kruse requested that a list of drains in the red be put together and brought to a Board meeting for review. Mr. Kline stated staff could do that.

Mr. Miller stated he believed the drain had been reconstructed in 2012. If it was done incorrectly he felt it needed to be fixed. Mr. Miller stated he had experience with Mr. Clifford installing tile incorrectly and it needed to be replaced. Mr. Miller felt that Mr. Presley need to be able to get his farmland back into production.

Mr. Bell was concerned with changing the priority list for reconstruction. That the projects on the list should not be moved around unless there were issues with roads or homes being flooded.

Mr. Kline was going to look at the tile design and get cost estimates for the repair of the tile.

Mr. Kline wanted to be able to tell Mr. Presley if the tile would be repaired under maintenance or needed to be reconstructed.

### **SURVEYOR'S REPORT**

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

Mr. Kline stated he had his budget hearing on Wednesday, August 17, 2022. At the meeting, he was questioned by two council members regarding the flooding of homes on North Randolph Street in Garrett. Mr. Kline stated he had spoken with Mayor Fiandt, had shot grades and elevations, and provided the Mayor with a drawing to correct the issue, and to date, the City of Garrett had not taken action to fix the flooding.

Mr. Watson stated he would speak with the Mayor and was hoping the Garrett City Council had been informed of the situation.

Mr. Kline stated that Council President Rick Ring had brought up that he didn't feel that Mr. Kline's office was getting work done in the County. Mr. Kline stated he told Mr. Ring if he could find someone to take the Surveyor's position who could do the job better than Mr. Kline, then Mr. Kline would walk away from the position. Mr. Kline told Mr. Ring that he was in the Surveyor's Office because he felt he could make a difference for DeKalb's citizens.

Mr. Kline informed the Board there was discussion among the Indiana County Surveyors regarding budgets, fees, and ordinances. A lot of County Surveyors in Indiana were not licensed surveyors and could not review plats, development plans, or cornerstone recovery locations. They also could not draw up construction plans. Those County Surveyors had to hire professionals for the reviews and drawings and were using fee ordinances to cover paying the consultants.

Mr. Watson thanked Mr. Kline for the information.

### **DISCUSSION**

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

Mr. Miller stated he had been mulling over what was said at the August 4<sup>th</sup> meeting regarding the reconstruction of the *Levi Dennison Drain No. 317-00-0*. Mr. Miller told Mr. Kline he didn't believe Mr. Kline should need to worry about the drain reconstruction. He should only get involved if Mr. Gensic directly asked for assistance. Mr. Miller thought Mr. Kline should let the process set in motion play out with the consultants. That the decision to use a consultant was the Board's and it rested on the Board, not Mr. Kline. Mr. Miller stated he wanted the reconstruction completed and done correctly. If it was done wrong, it would rest solely on the Board, not Mr. Kline or his office.



Mr. Miller asked Mr. Kline to let it go, and let the Board handle it. Should the Board decide to change course they would let Mr. Kline know.

Mr. Watson said he agreed with Mr. Miller. Mr. Watson stated that Mr. Kline was carrying enough of a work and stress load and didn't need to lose sleep over this reconstruction project. Mr. Watson stated this project and the processes were not a reflection on Mr. Kline or his office. Mr. Watson stated the Board and Surveyor's Office needed to move as many reconstruction projects forward as possible and the experience with the reconstruction of the Dennison Drain had been an eye opener and would help the Board understand the processes going forward.

Mrs. Lassiter informed the Board she would not be at the September 1, 2022 meeting and Katie Rutan would fill in for her.

It was found that Mrs. Lassiter, Ms. Kruse, Mrs. Harrison, and Mr. Watson would all be absent from the September 22, 2022 Board meeting.

Mr. Miller would be absent from the August 25, 2022 meeting.

Mr. Watson then thanked everyone for attending the meeting and declared it adjourned at 10:43 a.m.

  
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Michael V. Watson, Chairman  
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Michelle Lassiter, Administrative Assistant



# DEKALB COUNTY DRAINAGE BOARD

| NO. | NAME            | PHONE (HOME)   | PHONE (CELL) | EMAIL ADDRESS           | MAILING ADDRESS           | PETITION OF INTEREST |
|-----|-----------------|----------------|--------------|-------------------------|---------------------------|----------------------|
| 1   | Lucas R. Monon  | (260) 255-0431 |              | lucemmon@gmail.com      | 403 Duques Dr. Auburn, IN |                      |
| 2   | Justin Hoffman  | 260-478-1990   |              | jwhoffman@brieks1st.com | 6525 Ardmore Ave FW 46809 |                      |
| 3   | Joe Herendeen   | 260-478-3300   |              | joe@saversurving.com    | 14033 Lewis Rd Ft W 46814 |                      |
| 4   | Daryl McConnell | 260-925-8264   |              | City of Auburn          |                           |                      |
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DATE  
08/18/2022

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