

DEKALB COUNTY DRAINAGE BOARD MEETING

February 22, 2024

Drainage Commissioners Present:

Bruce Bell, II, Chair
William L. Hartman, Member
Michael V. Watson, Member
Sandra M. Harrison, Member

Others Present:

Tyler Lanning, Lead Survey Tech
Michelle Lassiter, Sec./Drainage Board Adm.Asst.
Shannon Kruse, Attorney

Guests:

Ken Harris
Rory Walker

Absent:

James A. Miller, Vice-Chair
Glenn Crawford, County Surveyor
Troy Bungard, Survey Tech

Chair Bruce Bell, II, called the February 22, 2024, regular DeKalb County Drainage Board meeting to order at 8:30 a.m.

APPROVAL OF MINUTES

A motion was made by Mike Watson to accept the Minutes of February 15, 2024, as presented as the standard minutes of the DeKalb County Drainage Board. Bill Hartman seconded the motion, and the motion carried, with Sandy Harrison abstaining due to her absence from the meeting.

RECONSTRUCTION ASSESSMENT CERTIFICATION

The reconstruction assessment certification for the Guy Platter Tile Drain No. 112-00-0 was presented to the Board. The engineer’s estimate was \$88,375.00. The project came in well under the estimate at \$71,394.49. The cost per acre was \$219.55.

Bill Hartman moved to approve the reconstruction assessment certification of the Guy Platter Tile Drain No. 112-00-0. Sandy Harrison seconded the motion, and the motion carried.

PLAT DRAINAGE PLANS

NATURE’S LAND – PARCEL #14-06-27-200-019 – NORTH SIDE OF COUNTY ROAD 40A, WEST OF COUNTY ROAD 39

The Board reviewed the drainage plan for the Nature’s Land Plat, located on Parcel #14-06-27-200-019, on the north side of County Road 40A west of County Road 39, in the Northeast 1/4, Section 27, T33N, R13E, Jackson Township. This plat is for a one-lot minor subdivision, platted as 20.068 acres, 19.554 net acres. The plat is located within the watersheds of the Cliff Metcalf Open Drain No. 83-00-0, the Cliff Metcalf Tile Drain No. 83-20-0, the William Carmer Drain No. 85-00-0, Watler Smith Open Drain No. 20-00-0, and the Cedar Creek Open Drain No. 470-00-0.

Ken Harris with Abonmache Donovan was present. Mr. Lanning explained that the county-regulated William Carmer Drain No. 85-00-0 located to the west of the parcel had been worked on recently.

The Board accepted the Surveyor’s Drainage Report, which stated “I approve the proposed subdivision given that it has adequate drainage available for the intended use as a single-family residential parcel.” Mike Watson moved to approve the plat drawings dated January 15, 2024, as submitted by Kenneth W. Harris, Land Surveyor with Abonmarche Donovan, with the notation that the landowner was to be notified that trees and landscaping were not permitted within the 75-foot drain right-of-way, a permit would be required for any connections made to the county-regulated William Carper Drain No. 85-

00-0, and with the Surveyor's recommendations. The motion was seconded by Sandy Harrison, and the motion carried.

SURVEYOR'S REPORT

Mr. Bell asked for the Surveyor's Report and the surveyor's staff provided the following information:

Mr. Lanning reported the following information:

- Several maintenance projects in process were going well.
- Mr. Lanning and the field inspectors had met with NIPSCO and Pipe Strong representatives in southern Steuben County regarding the damage to the *John Bemenderfer Lateral 3 Spur 1 Tile Drain No. 49-03-1* and the *John Bemenderfer Lateral 1 Tile Drain No. 49-01-0*. The meeting had gone well. There was some pushback by the Pipe Strong representative, but the NIPSCO representative was amicable and accepted that there was an issue. The Pipe Strong representative stated that they had hit a pipe in the road at the southern location but had repaired it. This news was contradictory to what had been told before, which was that there had not been any pipes damaged. Mr. Lanning stated that there was a road culvert with a standpipe that was working well, and he believed that was what Pipe Strong had damaged and repaired. Pipe Strong will not cut the road until the asphalt plants open which will be close to April. Mr. Lanning stated that he believed Pipe Strong had damaged other tiles along their project's route in Steuben County. However, that was not DeKalb County's worry.
- The *William Bickel Tile Drain No. 133-00-0* reconstruction was moving along. There were issues with the replacement of Lateral 2. The plans had it at least 12 feet deep. However, the soils were not good, there was a of water, mud, rocks, and boulders. The consistency was almost like concrete. The sides of the trench kept collapsing. The decision was made to cap it yesterday. The field inspectors would get GPS shots with the intent to bring the tile up to 6 feet deep to finish the last 200 to 300 linear feet of the lateral to connect to the standpipe by the woods. There was a tile that daylighted to collect water.
- Knott Excavating was working on the Auburn Hotel demolition. Tim Knott had planned to bounce between the hotel and the *Fred Groscup Tile Drain No. 352-00-0* reconstruction in Garrett. However, he may now stay on the hotel demolition until completed and then move over to the reconstruction project.
- Tri-County Excavating would start the *Albert Higbea Lateral 1 Tile Drain No. 268-01-0* reconstruction project.
- Mrs. Lassiter informed the Board that when Mr. Bungard put the list for certification together joint drains with oversight by other counties were included that had not been requested to be collected. Ms. Kruse had advised that the Board be informed of the situation and be noted in the minutes. The certification did not need to be amended since no drains were being added to the collection list. A copy of the minutes will be given to the Auditor in case the State Board of Accounts were to have any questions regarding the 2024 maintenance assessments.
- Mr. Lanning stated that Mr. Bungard was very knowledgeable about the yearly maintenance assessment computer processes. The office would be lost without him.
- Mrs. Lassiter informed the Board that a letter had been received by a Columbus, Indiana, company asking to be included in the next spray package bid.

It was then 8:53 a.m. and Mr. Bell then announced a five-minute recess before starting the 9:00 a.m. public hearing.

9:00 A.M. PERIODIC MAINTENANCE PUBLIC HEARING

GEORGE SHONER DRAIN NO. 356-00-0

Mr. Bell called the public hearing to order, stating that landowner notices had been sent out on January 12, 2024, and legal notice had been published in The Star of Auburn on February 8, 2024, with a corrected notice published on February 15, 2024. Mr. explained that each person in attendance was requested to sign in with their name, address, and any group or firm they represented.

Mr. Bell asked for the Surveyor to report on any petitions filed on record and dates of the filing, and those persons who signed the filing. Mr. Lanning stated that Rory Walker, president of the M & P Walker Family Corp. had signed the petition. It had been received in the Surveyor's Office on December 14, 2023.

Mr. Bell then informed the room that the procedure for conducting the hearing would be as follows: the Surveyor's Report, any petitions, any objections, and lastly questions and answers.

Mr. Bell then asked for the County Surveyor's report. Mr. Lanning read the following report, first explaining that he had given an updated report to members of the Board as he realized it had the tile distances incorrectly listed on the first report handed out:

The reconstruction of the drain system last occurred in 2024 by consent and waiver from the watershed landowners with the ~~WALKER~~ Farm providing the labor. The materials were purchased by the Walkers, Bowmans, and Rineholds. The drain was being proposed to be moved from "not on maintenance" to an established adequate maintenance amount for future appropriate upkeep of the drain system. The existing tile by the record was 1,628 linear feet of 15-inch diameter HDPE tile, 670 linear feet of 12-inch diameter HDPE tile, and 993 linear feet of 8-inch diameter HDPE tile. All were installed in 2024. The watershed consisted of 104.80 acres, with four landowners and seven parcels. I would ask the Drainage Board to establish maintenance assessments of \$15.82 per acre for agricultural land, \$31.65 per acre for residential land, and \$47.47 per acre for commercial land for future collections of maintenance as necessary to provide adequate funds to keep the new drain in good repair. Each parcel will be assessed a minimum of \$25.00. This will provide an annual assessed maintenance fund of \$3,291.00 for the George Shoner Drain System, which will be collected only as needed at the discretion of the DeKalb County Drainage Board. Respectfully, Glenn M. Crawford.

Mr. Lanning then explained that the Rinehold property was zoned for commercial use, even though the majority of the property was used for agricultural purposes. This would cause them to pay a substantial amount more money than if the property were broken up by platting. Mr. Lanning further explained that the yearly maintenance amount was calculated at \$1.00 per linear foot of drain. The Board then looked at a map of the current watershed to see how the seven parcels were located within the watershed. Mr. Lanning explained there was one parcel showing less than 0.01 acres, so the landowner had been removed from the watershed and not assessed.

Rory Walker presented to thank the Board for granting the consent and waiver for reconstruction. He would not have been able to get the work done this early in the year without it. He had originally planned to do the reconstruction in the spring, but with the unseasonably warm weather, he had been able to get almost all of the work done now. Mr. Walker was working with Ben Park of the County Highway Department for the road crossing. Mr. Parker would be providing the risers on each side of the road to keep water off the road. The road crossing would take place when the weather was warmer, and the asphalt plant was open. Mr. Walker stated that the old tile was shot. He further asked the Board to keep the yearly assessment collection to a minimum since the tile is new and shouldn't need much maintenance to begin.

Mr. Bell then asked if any Board member, or any other person, had questions to ask the Surveyor about the technical aspects of the Surveyor's Report. There were no questions for the Surveyor.

Mr. Bell then asked Mr. Lanning if all lands within the watershed were assessed. Mr. Lanning replied they were.

Mr. Bell asked the Surveyor to report to the Board any person who filed a timely-written objection of record, stating that the Board would consider each one separately and make a decision on the objection. Mr. Lanning stated that there were no timely-written objections.

Mr. Bell asked if there were any persons in favor of the project who wished to speak. It was noted that Rory Walker had already spoken. There was no one else in attendance at the public hearing, therefore there was no one else to speak for or against the project.

Mr. Bell asked if there were any further questions or comments from any person present. There were none.

Mr. Bell then announced that the Board would begin the decision-making process.

Mr. Bell asked if the schedule of periodic maintenance assessments presented should be changed. The Board members replied no they should not be changed.

Mr. Bell asked if the Surveyor's Report should be approved as finally presented. The Board members replied that it should be approved.

Mr. Bell asked if any Board member desired further evidence in order to make a decision. The Board members replied that they did not need further evidence to make a decision.

Mr. Bell asked if the hearing should be adjourned or recessed and reconvened at a later date. The Board members replied that the hearing did not need to be adjourned or recessed.

Mr. Bell then asked the attorney to review the proposed Findings of Facts for the Board to consider. Ms. Kruse asked if the Board would for her to read the Findings of Fact or since they were all familiar with them if they were good to just reviewing and moving forward with the hearing. The Board members replied that they were good to review and move forward.

FINDINGS OF FACT FOR PERIODIC MAINTENANCE

NAME OF DRAIN: GEORGE SHONER

DRAIN NUMBER: 356-00-0

The Board makes the following Findings of Fact for periodic maintenance:

1. The public hearing has been and is being recorded in digital form.
2. The petitions, if any, previously filed for this drain are admitted into evidence.
3. The Surveyor's fact sheet shall be accepted as part of the evidence and the facts thereon are true.
4. The drain has been classified, and previously placed on the priority list of the long-range plan of the Board.
5. There are no damages to any landowner.
6. None of the benefit factors of Section 112 of the Indiana County Drainage Board Code are excluded:
 - A. The watershed affected by the drain to be maintained.
 - B. The number of acres in each tract.
 - C. The total volume of water draining into or through the drain to be maintained, and the amount of water contributed by each landowner.
 - D. The land use.

- E. The increased value accruing to each tract of land from the maintenance.
 - F. Whether the various tracts are adjacent, upland, upstream, or downstream in relation to the main trunk of the drain.
 - G. Elimination or reduction of damage from floods.
 - H. The soil type; and
 - I. Any other factors affecting the maintenance.
7. All landowners, who were sent notices of the proposed assessment, have lands within the watershed.
 8. Notices by mail and by newspaper have been properly and timely made as required by the Indiana Drainage Code for public hearings.
 9. That any assessment against a railroad should be and is three times the base rate per acre, and any assessment against a county and/or state highway should be and is two times the base rate per acre.
 10. That the Surveyor's report to the Board with maps and drawings is received as evidence, approved by the Board, and the facts therein are found to be true.
 11. That all of the lands included in the watershed are assessed.
 12. That no lands outside the watershed are assessed.
 13. That none of the benefits assessed against any landowner are excessive.
 14. That no further evidence is required for the Board to make a decision.
 15. That all persons desiring to speak, in person or by counsel, have been permitted to present their evidence orally or in writing.
 16. That all timely objections, if any, have been heard, discussed, replied to by the Surveyor, and ruled on by the Board.
 17. That all persons present have been given adequate opportunity to ask questions of the Surveyor, the Board, or other persons present.
 18. That no person has objected to the procedure of the Board during the public hearing.
 19. That the Board has jurisdiction over this drain under the Indiana County Drainage Board Code.
 20. That the drain requires periodic maintenance.
 21. That any drains combined into one unit in the public hearing are done so in accordance with the following requirements:
 - A. That the drains are all tiled or all open or in the alternative, are a combination of tile and open.
 - B. That there is uniformity of topography and soil types throughout the unit.
 - C. That the entire unit represents substantially the same maintenance problem throughout.
 - D. That the drains in said unit can be kept in proper repair at a cost sufficiently uniform as to constitute no substantial inequity for any owner included in the unit.
 - E. That the creation of said unit is economically favorable and feasible with due regard to the expense of maintaining separate records for each drain if no unit were established.
 22. That this drain can be made to:
 - A. Perform the function for which it was designed and constructed.
 - B. To properly drain all affected land under current conditions, by periodically:
 1. Cleaning it.
 2. Spraying it.
 3. Removing obstructions from it, and
 4. Making minor repairs to it.
 23. That the work proposed by the Surveyor to be performed on this drain:
 - A. Does not convert all or part of an open drain to a tiled drain.
 - B. Does not convert all or part of a tiled drain to an open drain.

- C. Does not add an open drain to a tile drain.
 - D. Does not add a tiled drain to an open drain.
 - E. Does not increase the size of a tile, if any.
 - F. Does not deepen an open drain, if any.
 - G. Does not widen an open drain, if any.
 - H. Does not extend the length of the drain.
 - I. Does not change the course of the drain.
 - J. Does not include construction of a drainage detention basin.
 - K. Does not include construction of a drainage control dam.
 - L. Does not provide for an extensive erosion control structure.
 - M. Does not provide for extensive grade stabilization structure, and
 - N. Does not make any major change to a drainage system that would be of public utility.
24. That there has been no credible evidence presented to the Board to vacate the drain.
 25. That there has been no evidence that the Board has abandoned the drain.
 26. That the Board receives all relevant documentation in the files of the Surveyor and the Board regarding this drain into evidence.
 27. That the Board adopts the schedules of assessments as filed.
 28. That the Administrative Assistant of the Board shall publish notice of the Board's Final Order as required by the Indiana County Drainage Board Code.
 29. That the Final Order form of the Board is approved for this drain.

Mike Watson moved that the Board approve the Findings of Fact numbers 1 through 29, the motion was seconded by Bill Hartman, and the motion carried.

FINAL ORDER OF PERIODIC MAINTENANCE OF THE GEORGE SHONER DRAIN NUMBER 356-00-0

The DeKalb County, Indiana Drainage Board (hereinafter referred to as "Board") now renders its Final Order for periodic maintenance of the George Shoner Drain, the same being Number 356-00-0 in the records of the Surveyor of DeKalb County, Indiana. After due consideration of all the reports, evidence, testimony, and other information presented through the course of this proceeding, the Board now enters its FINDINGS:

1. Date of Filing. That the petition herein was filed with the Surveyor of DeKalb County (hereinafter referred to as "Surveyor") pursuant to I.C. 36-9-27-109, on December 14, 2023, and was signed by the following landowners: Rory Walker, President of M & P Walker Family Corp., owners of 16.50% of the watershed.
2. Jurisdiction. That the existing drain is regulated and within the jurisdiction of this Board, pursuant to I.C. 36-9-27-15.
3. Report of Surveyor. That the Board referred the George Shoner drain herein to the Surveyor to prepare a report pursuant to I.C. 36-9-27-38, which report was filed and presented to this Board on December 21, 2023, in the Derald D. Kruse Commissioner's Court, 2nd Floor DeKalb County Courthouse, Auburn, Indiana.
4. Combination of Regulated Drains for Assessment Purposes. George Shoner Drain No. 356-00-0 and George Shoner Lateral 1 Drain No. 356-01-0.
5. Schedule of Assessments. The Board then prepared a schedule of assessments and damages pursuant to I.C. 36-9-27-39, naming each landowner benefited or damaged, his address, percent of the total cost to be assessed against each tract of land based upon benefit received, showing the nature of the work to be performed and frequency thereof, and showing the amount of each

owner's annual assessment based on the total estimated cost of periodically maintaining said drain.

- 5A. Prior maintenance assessments, if any, on this drain are amended by the new maintenance assessments.
6. Legal Notice of Hearing. Legal notice of hearing was published pursuant to I.C. 36-9-27-40 as follows:

In the Star, a newspaper of general circulation in DeKalb County, Indiana, on February 8, 2024, and a corrected notice on February 15, 2024, which date was not less than ten (10) days before the date of said hearing.

Copies of said published notices are on file in the office of the DeKalb County Surveyor, and made a part hereof by this reference.
7. Mailed Notice of Hearing. Notice of hearing was sent on January 12, 2024, by First Class United States mail in a five-day return envelope to each owner of record named in the Surveyor's report and schedule of assessments, which notice was mailed not less than thirty (30) days, nor more than forty (40) days, prior to said hearing date, all in accordance with I.C. 36-9-27-40.
8. Objections Filed. At least five (5) days prior to said hearing, the following objections to the proposed (amended) periodic maintenance were received: No objections were filed.
9. Evidence Concerning Objections. Pursuant to I.C. 36-9-27-40(e) at the final hearing the Surveyor caused written evidence to be filed concerning the objections timely filed herein, which evidence was considered and is on file in the office of the Surveyor. No objections were filed.
10. Hearing. A hearing in connection with said improvement was held pursuant to notice on February 22, 2024, at 9:00 a.m., in the Derald D. Kruse Commissioner's Court, 2nd Floor of the DeKalb County Courthouse, Auburn, Indiana, at which hearing the objections were heard and discussed, evidence was heard and considered, the proposed periodic maintenance was explained, and certain landowners were present.
- 10A. Any surplus or deficit in the drain maintenance accounts now existing, if any, for any drain that is subject to this Order shall carry over and become a part of the periodic maintenance account that this hearing established.
11. Disposition of Objection. Upon hearing and pursuant to I.C. 36-9-27-40(f) the following dispositions were made of the objections filed: No objections were filed.
12. Amendments to Surveyor's Report. Upon the record developed, no amendments were made by the Board to the report of the Surveyor and/or schedule of assessments.
13. Periodic Maintenance. Said improvement requires periodic maintenance and the estimated cost of periodically maintaining said drain is \$3,291.00 per year
14. Type of Improvement. Said drain requires periodic maintenance within the meaning of I.C. 36-9-27-34(a) in that by periodically cleaning out, spraying, removing obstructions, and making minor repairs, the drain will perform the function for which it was designed and constructed and will be adequate to properly drain all lands affected thereby under existing conditions.
15. Special Assessments. That pursuant to I.C. 36-9-27-112: None.
16. Damage Awards. That the following landowners will be specially damaged as a result of said periodic maintenance: None.
17. Reduced Benefits. That the following landowners who are within the watershed of the proposed periodic maintenance obtain no benefit or less benefit than other landowners: None.
18. Combination of Regulated Drains for Assessment Purposes. That pursuant to I.C. 36-9-27-41: There were no combinations made.
19. FINDINGS OF FACT. After hearing all the evidence presented at the hearing, for and against, the Board made the following findings:

Findings of Fact listed on Pages 283 of the Drainage Board Minutes Book Number 17.

NOW, THEREFORE, IT IS ORDERED by the Drainage Board of DeKalb County that:

- a. The Findings of Fact are adopted by the Board as true and accurate for this proceeding.
- b. The report of the Surveyor and the schedules filed herein (including revisions) shall be adopted and the periodic maintenance assessments established. Copies of same shall be attached hereto and made a part hereof by this reference; and
- c. A periodic maintenance fund be established under the terms and conditions set forth in the report of the Surveyor (including revisions); and
- d. Public announcement of said order is hereby made at the said hearing on this periodic maintenance assessment; and
- e. The Administrative Assistant of the Board is directed to cause notice of this action to be published immediately in a newspaper of general circulation throughout DeKalb County, Indiana, which notice shall identify the drainage proceedings and state that the Findings and Order of the Board have been filed and are available for inspection in the office of the Surveyor of DeKalb County, all in accordance with and pursuant to I.C. 36-9-27-40(f); and
- f. If judicial review of the Findings and Order of the Board is not requested pursuant to I.C. 36-9-27-106(a) through 36-9-27-108 within twenty (20) days from the date of publication of the aforesaid notice, the Findings and Order shall become conclusive and the Surveyor shall proceed according to law; and

Sandy Harrison moved to adopt the Surveyor’s report and order the periodic maintenance of said drain, subject to the jurisdiction of the Board, the motion was seconded by Mike Watson, and the motion carried.

Dated at Auburn, Indiana, this 22nd day of February 2024

DEKALB COUNTY DRAINAGE BOARD

Bruce Bell, II, Bruce Bell, II, Chairman

ABSENT, James A. Miller, Vice-Chairman

W L Hartman, William L. Hartman, Member

Michael V. Watson, Michael V. Watson, Member

Sandra M. Harrison, Sandra M. Harrison, Member

There being no further business, the public hearing adjourned at 9:14 a.m.

Bruce Bell, II
Bruce Bell, II, Chairman

Michelle Lassiter
Michelle Lassiter, Secretary

DISCUSSION

Mr. Bell asked if there were any other items for discussion.

Mrs. Harrison stated that she was willing to work with the Rineholds to help them have their property platted and rezoned. Mrs. Harrison also stated that Mr. Mayer had been to visit her. He was very happy with the work on the culvert under County Road 61 by US Highway 6 in Butler. Mr. Mayer also liked Kevin Aldrich, the contractor whom the Surveyor hired to do the work of opening up the blocked culvert. Mr. Lanning stated that the water level was down considerably and that Mr. Aldrich had a challenge in opening up the culvert.

There being no further business or discussion, Mr. Bell thanked everyone for attending the meeting and declared the meeting adjourned at 9:20 a.m.


Bruce Bell, II, Chairman


Michelle Lassiter, Secretary