

## MINUTES OF THE DEKALB COUNTY DRAINAGE BOARD MEETING OF AUGUST 8, 2019

Chairman Randall J. Deetz called the regular meeting of the DeKalb County Drainage Board to order at 8:30 a.m., Thursday August 8<sup>th</sup>, 2019. Answering roll call was Randall J. Deetz, Michael E. Krehl; Donald D. Grogg; Jacqueline R. Rowan and William 'Bill' Hartman.

ALSO PRESENT: Drainage Board Attorney Shannon E. Kruse; Administrative Assistant Brenda Myers; Surveyor Mike Kline and staff member Philip Bremer.

IN ATTENDANCE: Chris Gaumer; Jeremy Henney; Joe Herendeen

**APPROVAL OF MINUTES:** A motion was made by Don Grogg to approve the Minutes of August 1<sup>st</sup>, 2019 as standard minutes taken by the DeKalb County Drainage Board, seconded by Jacqueline Rowan, motion carried.

**APPROVAL OF CLAIMS FOR AUGUST:** A motion was made by Jacqueline Rowan to approve the claims as presented, seconded by Bill Hartman, motion carried.

➤ Attorney Fees month of August	\$1,294.92
➤ Amazon Capital Services, Inc.	<u>25.49</u>
TOTAL	\$1,320.41

**LETTER – TORT CLAIM:** Drainage Board Attorney Shannon Kruse read into record the letter of response to Christopher C. Meyers who is the Attorney for Jon Shook regarding the *Butler City Drain Number 200-00-0*.

**RECONSTRUCTION LIST – TIMELINE:** Mike Kline said he is wanting to get the *Eric Morris Drain Number 416-00-0* completed by the end of 2019, the City of Auburn will be helping to determine where the city utilities are located to see if we can jack and bore across or if we have to adjust our line in order to get through their sewer and water lines. The *Marvin Walker Drain Number 403-00-0* Rory Walker is wanting to make sure there is capacity for Bungee's so he will talk to them and present the costs; they may be able to dump directly into our tile but if we go deeper Mike said he told him that he would expect them to pay the additional costs associated with that and Rory said that wouldn't be a problem. Rory wanted to talk to the landowners involved to see about raising the funds to do this project without going through a public hearing, according to Mike. Mike said he shows a public hearing date of possibly October but maybe sooner depending on the outcome with the landowners. The spreadsheet shows \$120.00 cost and when questioned Mike said there are no good numbers (replacement costs) on the spreadsheet, to disregard the amounts shown.

Chairman Deetz stated concerns with dropping down to an 18" tile, and keeping a 36" bucket maybe they could go to a 24" but both Randy and Rory agreed that these are only preliminary discussions and that can be figured out.

Mike Kline said the *William Bickel Drain Number 133-00-0* should be put together so a public hearing could be held in mid-October if that needs to go to a hearing and still get it done by the end of 2019. Mike Krehl said this could possibly be done by a C&W but that can't be determined until the actual numbers for the project are given. Mike Kline said he's been wanting Philip to work on this but he hasn't been shown how to do the LIDAR profiles and Mike can't show him how to do it, so this will have to wait until Nate is back in the office.

The *Guy Platter Drain Number 112-00-0* has just been finished up and a public hearing could be held by mid-November 2019 and if a contractor were free it could be done by the end of 2019 because it won't be hard to do according to Mike.

Bill Hartman stated that Mary Yoder has requested a copy of these minutes with the commitment of the timeline of when this is going to be done.

Mike Krehl questioned if everything is done and this is ready to go to public hearing why we can't have a hearing sooner.

Mike Kline said that the only thing he has yet to do on this is for him to get to Fort Wayne to talk to the State Highway because they will pave the crossing and there are a couple of structures that need replaced on their right-of-way, so he needs their approval and design and he plans on doing that next week.

The *Ora Bohler Drain Number 54-00-0* Mike said he is looking to have that ready for a public hearing by January 2020 that would allow for work to be done in the early spring. Mike said these are the top five on his list, there are some small enough they could be bumped in but he wants to concentrate on what is being proposed at this time.

Mike said he did add one more to the end of the list, on the *A. L. Ober Lateral 6 Spur 2 Drain Number 24-06-2* that is causing flooding on County Road 11. The Highway Department has put a lot of stone along the road and he is concerned that back in 2015 he received approval from Army Corp of Engineers to put an equalizer pipe under the road and from what the Highway has done, it looks like they could very easily have damaged or plugged that pipe. Mike said his office will go up there next week to try to figure out where that is. Mike said we need to seriously think about redoing this tile on this project to alleviate the safety concerns on County Road 11. Mike said he would bring (them) a petition for reconstruction and present it to the Board.

Chairman Deetz recommended that Mike do a little more research and at that time they can look at the criteria to leap frog this if warranted. Randy said he wasn't hearing a recommendation from Mike at this time to leap frog. Mike said he told (them) that it would be a while and that he would present it once he gets the petition.

Chairman Deetz said at this time we've heard the recommendation of the surveyor so the Board can now hold discussion and then he would entertain a motion at the completion of discussion of either approving or making changes.

Don Grogg said he had no problem with the first five (5) drains presented. Don said he was concerned with the *John Ketcham Drain Number 334-00-0* and *Levi Dennison Drain Number 317-00-0* since they were both requested in 2012 and 2013 not even being on the radar as far as numbering.

Chairman Deetz asked if at this time any Board Member had a desire to a) change the order, or b) to bump one into the top five, kicking one out.

Mike Krehl said to leave the top five as is moving those through the hearing process and then adding another; it's getting them done that is of importance, that and staying within the timeline presented. If there are issues with safety and roads, those become a priority and should take some precedence and everyone agreed.

Bill Hartman moved to accept the Surveyor's report with the timeframe and process of the top five as presented on the reconstruction list, seconded by Jacqueline Rowan, motion carried.

Chairman Deetz said he would entertain a general discussion of anything that we, as a Board, feel should be a priority; not so the surveyor does anything with it at this time

other than putting it on his radar so when he gets one and two done, he can move down on the list of what the Board thinks needs to come next and what he may think needs to come next. Randy said if the one Mike discussed last being the County Road issue and if he thinks that needs to be leap-frogged, now would be the opportunity for a sales pitch so to speak. Randy asked Mike Kline's thoughts on the next two or three.

Mike Kline said what he is doing on the *A. L. Ober Lateral 6 Drain Number 24-06-0* is he will do research and work on that before he brings it back to the Board, that way when he brings the petition in the Board can then discuss it. On the *John Ketcham Drain Number 334-00-0* he has talked to the City of Auburn and we are going to be doing a request for proposals from Engineering firms to do that because it will be a huge project; Mike will need to cross State Road 8 but he also wants to get down to the *Auburn Industrial Park Drain Number 256-00-0* and look seriously at replacing what is currently under the Kroger parking lot. Mike said he wants that all included when doing this project. Mike said he has talked to two engineers with both promising to get him the request for proposal documents and he hasn't heard from either one, once the proposals are back in this won't take much once a contractor/consultant is chosen. Mike said he can get these all put together but we still are going to face a problem with funding.

Mike Krehl stated that there needs to be several criteria in place in determining priority such as 1) are there safety issues, such as with roads; 2) date of request; 3) the acreage of the shed of each one, the greater the shed the greater the impact by fixing that ditch.

Chairman Deetz said a prime example is the *E. P. Griffin Drain Number 224-00-0*, we have safety issues with landowners being made promises of relief.

Mike Kline said he has been trying to get his consultant to sit down with him so they can get that lift-station designed and installed but everyone is busy.

Mike said he will use the criteria in putting some future drain timelines together.

**HILKEY CARNAHAN DRAIN NUMBER 12-00-0:** Mike Kline said this drain needs an amended periodic maintenance hearing, this drain is in extremely bad shape. Philip is trying to get a SHAPE file of all of the watersheds in Allen County so he can put a total watershed together and come up with all of the work we need to do and the cost in what they think would be a reasonable amount they could charge for amended maintenance. This is high on Mike's priority list as he said he wants to get this done before the end of 2019.

**CONSENT AND WAIVER TO RECONSTRUCT THE DELBERT MCBRIDE DRAIN NUMBER 66-00-0:** Mike Kline presented the Consent and Waiver to reconstruct 1740 linear feet to twelve (12") inch dual wall tile from the existing eight (8") inch as indicated on the map (County Road 40, Steel Dynamics Inc.) that was attached to the document signed July 31<sup>st</sup>, 2109 by:

Michael Morris, Authorized Representative of Steel Dynamics, Inc.; John Lengacher and Nicholas Mack who are the affected landowners involved.

Mike said that I&M is pushing hard to pay for this because SDI (Steel Dynamics, Inc.) wants it done.

Don Grogg moved to accept and sign the Consent and Waiver to reconstruct the Delbert McBride Drain Number 66-00-0 to be paid in full by American Electric Power (I&M), seconded by Bill Hartman, motion carried.

**DEKALB COUNTY DRAINAGE BOARD FINDINGS OF FACT FOR  
RECONSTRUCTION OF A DRAIN BY CONSENT AND WAIVER**

NAME OF DRAIN: Delbert McBride

NUMBER: 66-00-0

THE BOARD MAKES THE FOLLOWING FINDINGS OF FACT FOR THE RECONSTRUCTION OF A DRAIN:

These are the proposed findings, which are not final until adopted by the Board:

1. The petition previously filed for this drain is admitted into evidence.
2. The drain has been classified and previously placed on the priority list of the long-range plan of the Board.
3. There are no damages to any landowner.
4. None of the following benefit factors of Section 112 of the Indiana County Drainage Board Code are excluded:
  - (1) The watershed affected by the drain to be maintained.
  - (2) The number of acres in each tract.
  - (3) The total volume of water draining into or through the drain to be reconstructed, and the amount of water contributed by each landowner.
  - (4) The land use.
  - (5) The increased value accruing to each tract of land from the reconstruction.
  - (6) Whether the various tracts are adjacent, upland, upstream, or downstream in relation to the main trunk of the drain.
  - (7) Elimination or reduction of damage from floods.
  - (8) The soil types; and
  - (9) Any other factors affecting the reconstruction.
5. That consent to the reconstruction of the drain and a waiver of the public hearing has been signed by the affected landowners and is hereby admitted into evidence.
6. That the Surveyor's report with maps and drawings to the Board is received as evidence and approved by the Board, and the facts therein are found to be true.
7. That all lands included in the watershed are assessed.
8. That no lands outside the watershed are assessed.
9. That none of the benefits assessed against any landowner are excessively applied.
10. That no further evidence is required for the Board to make a decision.
11. That the Board has jurisdiction of this drain under the Indiana County Drainage Board Code.
12. That the drain is in need of periodic maintenance after the reconstruction.
13. That there has been no evidence that a combination of drains is required.
14. That the drain cannot be made to perform the function for which it was designed and constructed and cannot be made to properly drain all affected land under current conditions.
15. That the work proposed by the Surveyor to be performed on this drain do the following: (Check the items that apply)
  - A. ☐ Converts all or part of an open drain to a tiled drain.
  - B. ☐ Converts all or part of a tiled drain to an open drain.
  - C. ☐ Adds an open drain to a tile drain.
  - D. ☐ Adds a tiled drain to an open drain.
  - E. ☒ Increases the size of a tile, if any.
  - F. ☐ Deepens an open drain, if any.

- G. ☐ Widens an open drain, if any.
  - H. ☐ Extends the length of the drain.
  - I. ☐ Changes the course of the drain.
  - J. ☐ Includes construction of a drainage detention basin.
  - K. ☐ Includes construction of a drainage control dam.
  - L. ☐ Provides for an erosion control structure.
  - M. ☐ Provides for grade stabilization structure, and;
  - N. ☐ Makes any major changes to a drainage system that would be of public utility.
16. That the proposed improvement will result in the benefits to the watershed in excess of the costs of reconstruction in that it will:
- A. ☐ Result in reclamation of approximately  acres of agricultural land.
  - B. ☒ Result in increased safety on public highways in or near said watershed.
  - C. ☒ Result in longer life and fewer repairs of public highways in or near said watershed.
  - D. ☐ Decrease the threat of insects, pests and their related diseases.
  - E. ☐ Increase yields of farm crops from land within the watershed.
  - F. ☐ Increase the values of land within the watershed.
  - G. ☒ Reduce damage from flooding.
  - H. ☐ Other (Specify) .
17. That there has been no evidence that the drain has been abandoned by the Board.
18. That all relevant documentation in the files of the Surveyor and the Board regarding this drain are received into evidence by the Board.
19. That the schedule of assessments as originally filed are adopted by the Board.
20. That the Administrative Assistant of the Board shall publish notice of the Board's Final Order as required by the Indiana Drainage Board Code.
21. That the Final Order form of the Board is approved for this drain, and is adopted to the extent it can be made consistent with these Findings and the Final Order of the Board.
22. The costs, damages, and expenses of the reconstruction do not exceed the benefits that result to the owners of all land benefited.
23. The damages assessed by the Board, if any, are adequate.
24. The damages assessed by the Board, if any, are only against land in the watershed.
25. The costs, damages and expenses of the reconstruction are less than the benefits accruing to the owners of the land benefited by the reconstruction.
26. That the cost of reconstruction shall be apportioned to American Electric Power a/k/a I&M and in the amount of 100% of the said reconstruction.

Don Grogg moved that the Board approve the Findings of Fact, numbers 1 through 26, as submitted, seconded by Bill Hartman, motion carried. Motion was then made by Don Grogg to adopt the Petition for Reconstruction of said drain, seconded by Bill Hartman, motion carried.

FINAL ORDER OF RECONSTRUCTION OF DELBERT MCBRIDE DRAIN  
NUMBER 66-00-0 UNDER SECTION 32-9-27-52.5

The DeKalb County, Indiana Drainage Board (hereinafter referred to as “Board”) based upon its Findings of Fact now renders its Final Order on the petition for reconstruction of the Delbert McBride drain, the same being Number 66-00-0 in the records of the Surveyor of DeKalb County, IN. After due consideration of all reports, evidence, testimony and other information presented through the course of this public meeting and the Findings of Fact of the Board, the Board now enters its FINDINGS:

1. Date of Consent & Waiver. No petition was filed. The Surveyor of DeKalb County (hereinafter referred to as “Surveyor”) received a request by American Electric Power for the construction of a regulated drain solely on the lands of the landowners listed with the entire cost being paid by American Electric Power 100%, and proceeded to prepare the reconstruction report for this drain under Drainage Code Section 32-9-27-52.5 on or about July 31<sup>st</sup>, 2019. The landowners who signed the Consent & Waiver were as follows: Michael Morris, Authorized Representative of Steel Dynamics, Inc.; John Lengacher; Nicholas Mack
2. Jurisdiction. That the existing drain is a regulated drain, and is within the jurisdiction of this Board, pursuant to I.C. 36-9-27-15.
3. Report of Surveyor. That the Board requested the Surveyor to report pursuant to I.C. 36-9-27-52.5, which report was filed and presented to the Board on August 8<sup>th</sup>, 2019, in the Derald D. Kruse Commissioner’s Court, 2<sup>nd</sup> Floor DeKalb County Courthouse, Auburn, IN., at a public meeting of the Board.
4. Schedule of Assessments. The landowners requesting the reconstruction of the regulated drain have agreed that American Electric Power shall pay the entire costs of the reconstruction 100%.
5. Consent and Waiver. That consent to the reconstruction of the drain and a waiver of the public hearing has been signed by the affected landowners and is hereby admitted into evidence.
6. Legal Notice of Hearing. No special legal notice of hearing was required under Drainage Code Section 52.5.
7. Mailed Notice of Hearing. No mailed notice was required under Drainage Code Section 52.5.
8. Department of Natural Resources. No notice was required to be sent to the Indiana Department of Natural Resources under Drainage Code 52.5.
9. Objections Filed. The Board heard no objections.
10. Evidence Concerning Objections. No objections were received.
11. Hearing. Notice and public hearing were not required under Drainage Code Section 52.5 but the Board at a public meeting heard the reconstruction request.
12. Disposition of Objection. No objections were received.
13. Amendments to Surveyor’s Report. Upon the record developed, the Board made no amendments to the report of the Surveyor, except as may be shown in the Minutes Book of the Board.
14. Periodic Maintenance. Said improvement is in need of periodic maintenance and currently is on maintenance.
15. Reconstruction. That the present drain is in need of reconstruction.
16. Type of Improvement. That the proposed improvement is a reconstruction within the meaning of I.C. 36-9-27-34(a).

17. Improvement Justification. Pursuant to I.C. 36-9-27-52(I), the Board finds that the proposed improvement will result in benefits to the watershed in excess of the costs of reconstruction.
18. Special Assessments. None.
19. Damage Awards. None.
20. Reduced Benefits. None.
21. FINDINGS OF FACT. After hearing all the evidence presented at the hearing, for and against, the Board made the findings required by Drainage Code Section 52.5 as reported in the Minutes Book of the Drainage Board.

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

- A. The Board adopts the Findings as true and accurate for this proceeding.
- B. The report of the Surveyor and the reconstruction of the regulated drain at the costs of American Electric Power as provided under Drainage Code Section 52.5 is hereby approved and adopted by the Board and the improvement established; and
- C. A periodic maintenance fund has been established for the periodic maintenance of the improvement; and
- D. Public announcement of said order is hereby made at the said public meeting on this improvement; 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, IN., which notice shall identify the drainage reconstruction 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. 36-9-27-52(I); 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 36-9-27-109(a) 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 to reconstruct the improvement according to law.

Dated at Auburn, Indiana, this 8<sup>th</sup> day of August, 2019.

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Randall J. Deetz, Chairman

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Michael E. Krehl, Vice-Chairman

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Donald D. Grogg, Member

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Jacqueline R. Rowan, Member

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William L. Hartman, Member

**QUOTES DELBERT MCBRIDE DRAIN NUMBER 66-00-0:** Mike Kline presented and opened quotes for the reconstruction of the Delbert McBride drain in order to get a price to I&M for the project as follows:

(Engineer's estimate \$17,725.40 as the material cost)

Crawford Excavating	\$ 5,575.00 (bottom dipping @ \$5.00 ft.)
	\$17,900.00 (installation of pipe @ \$10.00 ft.)
	<u>\$ 2,500.00</u> (Road crossing \$50.00 ft.)
TOTAL BID	\$25,975.00

Clifford Excavating	\$ 1,226.50 (bottom dipping cost @ \$1.10 ft.)
	\$10,292.50 (installation of pipe @ \$5.75 ft.)
	<u>\$ 2,000.00</u> (road crossing \$40 ft.)
TOTAL BID	\$13,519.00

Mike Kline stated that he will take the cost of installation plus the cost of the materials sending that to I&M to inform them of the cost.

As was discussed at the Drainage Board meeting of July 25<sup>th</sup>, 2019, it was the consensus of the Board to pay damage in the amount of \$500.00 as reimbursement for crops to the landowner and that will be added in to the final cost to I&M.

Bill Hartman moved that the Board award the Reconstruction Contract for the Delbert McBride Drain Number 66-00-0 to Clifford Excavating in the amount of \$13,519.00, seconded by Don Grogg, motion carried.

**PLAN COMMISSION STONEBRIDGE ESTATES:** Present is Joe Herendeen, Sauer Land Surveying stated that they took this week to get some better numbers together to make sure drainage will work in order to move forward and make the August Plan Commission meeting.

Chairman Deetz asked if they had worked with the existing 'association' to be able to use the existing pond and Joe said they are still working on that.

Mike Kline said they did talk about what had to be done but he has not seen anything on that, so he needs to know what the numbers are, basically how this is going to get done, along the edge of the drain there were retention ponds and he wasn't sure that was a good idea; there was talk of directing/discharging at least some of the water off of the site.

Herous Manoukian, who is a subcontractor with Sauer Land Surveying stated that he looked at this and did the calculations to the watershed with and without the detention pond and the numbers came up better than previously.

Mike Kline said he thinks this is doable but he has to actually see the numbers and design and therefore he is not prepared today to give a report.

Drainage Board Attorney Shannon Kruse stated that the Board, at this preliminary stage, would need to give some type of nod that they are going to allow the detention in the right of way; that is a threshold decision because if they aren't going to allow that, the drawing being presented isn't going to work.

Mike Kline said the developer will have to get a variance for the drain right-of-way; he doesn't have the final numbers but that may be reduced based upon the final numbers and what they can discharge, but that is something the Board would consider. Mike said he doesn't have the plan to look at with calculations and drains being shown but if they get that to him he could have his report ready for the Board next week.

Chairman Deetz stated that he would like for the calculations to be given to the surveyor and if the Board is agreeable in moving forward, we can continue the process and



actually approve it if it meets everyone's requirements at the next meeting of the Board with a written report of the Surveyor. Randy said he has zero problem with the concept but a report of the Surveyor is needed and he does not have what he needs in order to give that report, so at this point, there is no guarantee of a report next week.

**COMPLETION AFFIDAVIT – G. B. COLLINS LATERAL 4 DRAIN NUMBER 87-04-0:**

Mike Kline presented a Completion Affidavit for Crawford Excavating LLC, signed by Glen Crawford. Mike said the project is now complete and asked that the Board accept the affidavit to begin the sixty (60) day waiting period for final payment.

Don Grogg moved that the Board receive the report of the Surveyor and approve the Close-out of the contract on the G. B. Collins Lateral 4 Drain Number 87-04-0, seconded by Mike Krehl, motion carried.

**STRAUSS BROTHERS DRAIN NUMBER 23-00-0:** Mike Kline stated that he received a request from Lonnie and Teresa Brown to change their assessment amount. Mike said his office shows them as having 7.56 acres and sent the assessment notices in March 2019 with their assessment amount of \$4,592.65. The Brown's were not happy with that being labeled as residential but that is being taken from the Assessor's designation of the land Mike said. The Brown's have spoken to the Assessor and had this changed to one (1) acre for the home-site and 1.77 acres for additional home-site property, 4.9 acres as farmland. This was done in April after the assessment was received, so now they want Mike to recalculate this with the changes in farmland but Mike said he had to use what was official at the time it was generated but they are demanding it be done now. Mike said if we were to change this the residential rate is \$607.49 an acre for an amount of \$1,682.75; the 4.9 acres would be at \$303.75 so that total would be \$3,171.13 instead of \$4,592.65 for a savings to them of \$1,421.52, but that money would then have to come from somewhere.

Drainage Board Shannon Kruse stated that the Minutes of this hearing of 2017 need to be reviewed prior to making a decision, you cannot redo a reconstruction hearing so depending on an objection and how that was handled, that can be a determining factor.

**CREAGER/COBURN DISPUTE:** Mike Kline said that he has not had time to put a letter together, Bud was in his office wanting to know the Findings and wanting a new tile put in. Mike told him that he filed a petition for an obstruction of the drain, the obstruction was removed and that is all that he can do. Mike told Bud that he can petition the Board that he pays into the open drain but doesn't have access to it to see if the Board would do anything on that, so Bud is going to talk to Grates and come to the Board to discuss this. It was noted that Bud Creager has an appointment with the Board at their next meeting. Kevin Likes will be notified of this meeting since he represents Coburn.

It was discussed if money left in the fund should be returned since Creager/Grate put \$2,000.00 in the fund for Jim Dunn to do the work with the actual cost being lower than that.

Drainage Board Attorney Shannon Kruse stated that this is a private drainage dispute item so the money needs to be kept in line with that, if the obstruction is gone, the money should be refunded and this project complete. If there is something more moving forward that would be a new claim.

**INFORMATIONAL:** Mike Krehl asked about the Kent Hunter situation (*Fred T. Miller Drain Number 91-00-0*) and Mike Kline said this would be put together when Nate gets back.

**INFORMATIONAL:** Don Grogg said that the Highway went south and west behind the Soul's Harbor Church and it was clear (*ref. Drainage Board Minutes July 25<sup>th</sup>, 2019*).

**INFORMATIONAL:** It was noted that a Cedar Creek meeting will be scheduled soon for a round table discussion on working together to get things moving.

There being no further business meeting adjourned.

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Randall J. Deetz, Chairman

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Brenda F. Myers, Administrative Assistant