

MINUTES OF THE DEKALB COUNTY DRAINAGE BOARD MEETING OF SEPTEMBER 26, 2019

Chairman Randall J. Deetz called the regular meeting of the DeKalb County Drainage Board to order at 8:30 a.m. Thursday September 26, 2019. Answering roll call was Randall J. Deetz; Michael E. Krehl; Jacqueline R. Rowan and William Hartman.

Don Grogg was absent.

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

IN ATTENDANCE: Jim Deetz; David Wolf

APPROVAL OF MINUTES: A motion was made by Mike Krehl to approve the Minutes of September 19th, 2019 as standard minutes taken by the DeKalb County Drainage Board, seconded by Jacqueline Rowan, motion carried.

SCHEDULE OF CLAIMS SURVEYORS OFFICE: The claims for the Surveyors office were presented and reviewed. No action was necessary by the Drainage Board.

COMPLETION AFFIDAVIT: Nate Frye said he was trying to have a completion affidavit signed by Tri-County Excavating who completed the Matson at the beginning of August, Nate questioned being able to 'back date' that to when he was actually done because that comes into play when taking into consideration paying out the retainage. Nate said he should have that next week, he got it (the affidavit) to him (Tri-County Excavating) at the beginning of the week once he realized he hadn't sent it yet.

Drainage Board Attorney Shannon Kruse replied that according to the Indiana Drainage Board Code, it points to:

- a) When the work was done, and
- b) When it was accepted by the surveyor.

The date of the actual affidavit of completion isn't as worrisome as when that sixty (60) day clock starts ticking, and it is pretty clear that the money is held back for that sixty days after the completion of the work, so in the form it should say that on September 1st they completed the work and the surveyor accepted the work on _(blank)_ and therefore the sixty days ran and is done and pay them. That way there is no back-dating anything but reciting that the sixty days was completed and accepted by the Surveyors office.

Nate said he should have it next week.

INFORMATIONAL: Nate Frye said he talked with State Board of Accounts regarding balancing practices and while they didn't have any issues, according to him, he saw some opportunities to refine some things. Nate said he has them (State Board) working on that and in the process he has been looking at some old drains. On the Noah Smith Drain Nate said that he found the materials for the tile replacement that they did in the spring/late winter where the contractor fee from Cassleman Excavating were all billed to the open drain and should have been billed to the tile. That was a total of 6 claims from Hixson and Cassleman for a total of \$9,998.85. Nate asked the Drainage Board to allow those funds to be transferred from the *Noah Smith Tile Drain Number 97-20-0* which should have paid for the work, to the *Noah Smith Open Drain Number 97-00-0*.

A motion was made by Bill Hartman to authorize the transfer of \$9,998.85 from the Noah Smith Tile Drain Number 97-20-0 drain fund to be placed in the Noah Smith Open Drain Number 97-00-0 drain fund, seconded by Mike Krehl, motion carried.

Nate said the second part of this and why he was looking at this specific account is that when they started talking about replacing that section of the tile in the open drain, the landowners agreed to pay for half of the cost of replacement after the work was done.

The total cost of the installation of that portion was \$15,118.85 making half of it \$7,559.42 presenting the question that since the agreement involved five farms, we need to talk to those landowners as to how that is going to get paid for the upsizing and replacing of a failed pipe.

Chairman Deetz said he would want to see an itemized bill but Mike Krehl thought that should be between the Surveyors office and the landowners, he saw no reason that the Drainage Board needed to be involved in this.

WILLIAM BICKEL DRAIN NUMBER 133-00-0: Surveyor Mike Kline stated that he and Philip have been on-site with Jim Deetz and Mike Krehl, they have dug some holes and taken some shots in trying to reduce the cost of that project. Mike said they were just about done but he needs one more area dug up; it appears where they shot the existing pipe where the lateral comes in, he will be about a half a foot higher than where the existing bottom of that tile is now. Mike said once he has that dug up and he gets his final design done he would be able to sit down with Jim and all of his neighbors to explain this in detail. This will still be around \$300.00 an acre but it will work.

Jim Deetz said at this point in time we need to have a hearing so everyone can hear the same thing and be assured they are going to finish this thing.

It was asked if we could set this for hearing today and Drainage Board Attorney Shannon Kruse stated that the assessments would have to be presented to the Board, they would then have to approve those assessments and at that time a hearing can be scheduled.

Chairman Deetz stated that he assumed that we performed the task that was passed and approved at the hearing in 1995 but Jim Deetz stated that has yet to happen, there are two to three thousand feet of tile that has never been addressed. Chairman Deetz requested that the Administrative Assistant find those minutes and email those to him.

Jim said that at that time they couldn't afford to do the whole thing and that is why it was to be done in sections; they all paid \$20 an acre for he didn't know how many years so there was cash to start the project.

PLAN COMMISSION PETITION – DELEGRANGE ACRES: Present is Dave Wolf, Midwest Land Surveying in Avilla who is the consulting firm representing Stanley L. and Mary Naomi Delegrange for this one-lot plat consisting of just over twenty acres in size. This property is located in the southwest corner of Spencer Township. This twenty acre tract will have a single family residential dwelling and they need to plat it and obtain approval of the Drainage Board. The northeast corner of the tract does touch on the John Means drain and that is an open drain with the easement being shown on the plat.

Surveyor Mike Kline reported that this plat is in the watershed of the *John Means Regulated Open Drain Number 363-00-0*. The plat does not appear to exceed the threshold as set by the Drainage Board for additional drainage improvements. This development shall not block off-site drainage across the site and storm water 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.

Mike informed Dave Wolf that the regulated drainage covenants will need to be on the plat.

A motion was made by Mike Krehl to accept the report of the Surveyor concerning the drainage, subject to any new evidence presented at the Plan Commission meeting and requests the Administrative Assistant to pass this decision of the Drainage Board to the Plan Commission, seconded by Bill Hartman, motion carried.

BUTLER CITY DRAIN NUMBER 200-00-0: Surveyor Mike Kline stated that he is to have all seeding done by the end of this month and he is running out of time, if he doesn't get on the property to get this done by mid-October it will have to wait until spring. Mike said he needs to do the final billing to the city of Butler in the amount of \$250,000.00; they agreed to pay the overage that the railroad didn't want to pay, plus the railroad billed for almost \$100,000.00 in inspection fees and changed the crossing from 100' to 140' with additional engineering.

Drainage Board Attorney Shannon Kruse recommended that the surveyor not enter the property especially since she cannot get the landowners attorney to agree to that. Shannon will follow up with the attorney advising that if the county cannot get in within the next week that this will wait until spring of 2020.

ED F. HAYNES LATERAL 1 DRAIN NUMBER 8-01-0: Mike said he has not had time to go look at this and the only thing that they can provide on clear and convincing evidence of vacation is the document that was from the court, they have found nothing since then. Between the time the drain was vacated and the time they put together the card file that outline the drains, there was less than six months difference so they may not have picked up the vacation; when they did the regulated drains on the GIS map they pulled the cards and followed the information according to those. Mike said he thinks it's an error but he cannot prove that.

Chairman Deetz stated that the information provided is inconclusive so now we need to make a decision with guidance from the Drainage Board Attorney. This drain has been assumed to be a regulated drain and is according to our records.

Drainage Board Attorney Shannon Kruse stated that the county can defend that because the county acted as if it were a county regulated drain and there is nothing conclusive that we are confident that this was vacated back then. A hearing can be held either way, to verify it is vacated or put it on maintenance; an informational meeting may be the best course of action in order to inform landowners. Shannon stated that the drain would have to fit under the vacation requirements in order to vacate or assume as a county drain.

Mike was asked if he was prepared for an informational meeting and he asked to have a little time to walk the drain and put together a report.

Once Mike gives his report, this will be scheduled for an informational meeting.

GUY PLATTER DRAIN NUMBER 112-00-0: Bill Hartman stated that this drain is on the priority list to have a hearing in November 2019 and be completed by the end of 2019; could that hearing be held in October.

It was stated that with the timeframe for holding a hearing the earliest it could be held would be mid-November at this point.

Mike Kline said he is running out of time, they are crossing State Road 8 but the State is not wanting them to do anything because the asphalt plants will be shutting down before they can get construction started. A hearing could be held but the work wouldn't get done until the asphalt plants open back up and the State allows a cut in State Road 8.

Chairman Deetz asked that Mike talk to the State about doing the jack and bore and then also, holding hearings ahead is risky with the change of increase in prices but one of the main reasons we had that priority list of what we 'could' do was the fact that we could give landowners a definitive timetable to hold ourselves accountable for, so he would like to push a little harder.

There being no further business, meeting adjourned.

Randall J. Deetz, Chairman

Brenda F. Myers, Administrative Assistant