

MINUTES OF THE DEKALB COUNTY DRAINAGE BOARD MEETING OF MARCH 19, 2020

Chairman Randall J. Deetz called the regular meeting of the DeKalb County Drainage Board to order at 8:30 a.m., Thursday March 19, 2020. Answering roll call was Randall J. Deetz; Michael E. Krehl; Jacqueline R. Rowan and William ‘Bill’ Hartman. Board member Donald D. 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: Dana Cuney

APPROVAL OF MINUTES: A motion was made by Bill Hartman to approve the Minutes of March 12th, 2020 as standard minutes taken by the DeKalb County Drainage Board, seconded by Jacqueline Rowan, motion carried.

APPROVAL OF CLAIMS: A motion was made by Mike Krehl to approve paying the two claims as presented in the amount of \$9.46, seconded by Bill Hartman, motion carried.

- Claims
 - KPC news – Joint DeKalb-Noble \$4.73
 - STAR news - Joint DeKalb-Noble \$4.73
 - TOTAL \$9.46

DRAIN VARIANCE – THOMAS HARWOOD DRAIN NUMBER 17-00-0: Present is Dana Cuney who is buying 20.4 acres on County Road 53, a mile south of U.S. Highway 6 just outside of Butler Indiana. They are building a home on this property and are wanting access across the county drain by putting in a culvert pipe.

Chairman Deetz asked if Mr. Cuney was made aware that if at any time there are circumstances that require additional cost to cleaning the drain, that it would be Mr. Cuney’s responsibility for the additional cost.

Mr. Cuney stated that yes he is aware of that.

Surveyor Kline stated that he would have to size the culvert and do a cross section in that area to see if Mr. Cuney can do a round type or oval and let him know. Mike said he is just now hearing about this.

Nate Frye said when Mr. Cuney came in to talk to him about this he handed it off to the field crew who were taking a look at it. Nate said that since he is going to develop the property Nate wanted to make sure that if there needed to be any dipping done on the drain that it be done now.

Jacqueline Rowan moved that based upon the facts stated and the recommendation of the Surveyor, that the Board approve executing a variance for a culvert pipe sized by the surveyor to be within the Thomas Harwood Drain Number 17-00-0, seconded by Mike Krehl, motion carried.

CHANGE ORDER – ERIC MORRIS DRAIN NUMBER 416-00-0: Surveyor Mike Kline presented the change order for Fleming’s for the jack n’ bore on the Eric Morris drain under CR 427 signed by Greg Fleming who is the President of Fleming Excavating. An invoice was also received in the amount of \$8,842.00 and that will be submitted for payment with the claims.

Bill Hartman moved that the Board approve this as a Change Order and/or Addenda to terminate the contract on the Eric Morris Drain Number 416-00-0, and to pay

the final invoice in the amount of \$8,842.00, seconded by Jacqueline Rowan, motion carried.

CITY OF AUBURN PLAN COMMISSION PETITION – CHIP SUBDIVISION: Mike Kline presented this petition on behalf of Chip Larue who is getting three acres around the existing buildings and the City of Auburn is requiring that to be a plat.

Surveyor Mike Kline reported that this plat is in the watershed of the *Cliff Metcalf Lateral 1 Tile Drain Number 83-01-0*. 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. 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 City of Auburn Plan Commission hearing.

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 City of Auburn Plan Commission, seconded by Jacqueline Rowan, motion carried.

BUTLER CITY DRAIN NUMBER 200-00-0: Mike Kline stated that he requested on Tuesday that the Treasurer of DeKalb County send an assessment in the amount of \$323,054.83 for the Butler City drain. There is money set aside in the maintenance fund which currently stands at \$55,724.98 so 75% of that can be used to finish up on the Shook property once approval is given.

Bill Hartman moved to approve the request in the assessment amount of \$323,054.83 as a final draw with the exception of adjustments as needed with the Railroad, seconded by Mike Krehl, motion carried.

INFORMATIONAL – VIAN PRIVATE DISPUTE: Mike Kline said that Mr. Vian is upset and wants to know if the county is going to do anything or if he needs to file a lawsuit; the Plan Commission hasn't followed through on their requirements that when the subdivision went in, to not block off-site water and Mr. Vian feels that they have; Plan Commission has told Mike that is a drainage problem and they are not getting involved, there is nothing in their minutes that state this, but Mike said it has been in the their recommendation for a long time. Mike said his problem is, when looking at the whole picture, Mr. Frost will not let anyone on his property and Mike said he has not been in the mood to start a big fight with this neighborhood.

Chairman Deetz stated that the county has taken this as a formal dispute by taking Mr. Vian's fee to file; we need to follow the procedure of a private drainage dispute. Randy stated that no one would even have to go on anyone's property in order to declare that there is a blockage, be it intentional or unintentional may be harder to determine but obviously there is a blockage of some sort. Randy instructed the surveyor to do what has been required by filing a private dispute in filing his report and bringing that to the Board to either accept or deny said report.

Mike Kline said under the code they are supposed to show him where the blockage is but no one knows where it is and he has to get onto Mr. Frost's property because it starts up here in Mr. Vian's field and comes all the way down through another area and then exits over into another area somewhere according to Mr. Vian, and discharges into the low area. Mike said he will have to dig and run a roter up and he didn't know who would

pay for that. Mike said the only option he is going to have is to take a sheriff deputy with him so no one gets hurt due to threats being made by Mr. Frost.

Drainage Board Attorney Shannon Kruse stated that if with checking the topography and everything done with LIDAR, if these are going to take more than the \$500 fee, maybe we need to hold a private drain hearing to allow both landowners give testimony so both are aware of the issue and cost involved and both know they will both be assessed to cover the costs associated with it.

Mike said that Mr. Vian has already approached Mr. Frost and told him that he would pay for a new tile all the way across his property if he would just allow him to be onsite; Mr. Frost denied access.

Chairman Deetz stated that there are issues both south and north of County Road 20, so the best long-term solution would be to have Mr. Vian petition for a new drain to be put in.

Drainage Board Attorney Shannon Kruse stated that if Mr. Vian were to file a petition for construction of a new county regulated drain, a notice would then be sent out to all the landowners of an informational meeting to explain the process.

Mike said he can take a standard petition to Mr. Vian and have him sign it making this request.

Randy said to encourage Mr. Vian yet at the same time, inform him that this is not a quick procedure, even retroacting the signature of the original private dispute request.

INFORMATIONAL: In regards to the Joint DeKalb-Noble meeting at 10:00 a.m., Mike Krehl made a motion to reappoint Randy Deetz to the panel since he is available today and to remove Jacqueline Rowan with her resignation, seconded by Jacqueline Rowan, motion carried.

RESOLUTION REVISED: Drainage Board Attorney Shannon Kruse stated that the Resolution that was put into place regarding the \$1.4 million dollar loan, she met with Don Stuckey and Jan Bauman yesterday and based on the ordinance that Don Stuckey has prepared, there were a couple of tweaks and therefore, Shannon presented a 'revised' resolution. The biggest change is that the Council will be advised NOT to charge interest on the loan; there will be interest charged towards reconstruction projects that are not paid in the first year, so that was taken out of the document. ALSO: where the document stated 'a fund', that word would be changed by the request of the Auditor to say 'account'. The document is noted with "REVISED" at the top. Shannon stated that the code itself says the loan has to be paid back within six years; the code says reconstructions have to be paid back within five years; should something happen with a project under this loan where we have started a project and for whatever reason it stops for a long period of time so we would butt up against the six years for the loan, we will deal with that in the moment.

The Bickel drain Resolution has a 'not to exceed \$250,000.00' and that is only for reconstruction.

Bill Hartman moved to approve and sign the 'REVISED' version to remove the 'interest' noted in the original Resolution, and the change in wording from 'fund' to now state 'account', seconded by Jacqueline Rowan, motion carried.

OZRO FREEMAN DRAIN NUMBER 175-00-0: The question was raised as to the Consent and Waiver being prepared.

Mike Kline stated that the paperwork is ready, he is waiting on Nathan to finish the map that he started so Mr. Prosser can show everyone the watershed with drain lines; those drain lines all go to the tile, so those are the people that he picked up and listed, so it is ready for him but he still has some work to do on the plans; until he can get the plans finished up, he plans on doing the bottom dipping and culvert lowering so that as soon as the plans are finished they can get the tile ready to go.

It was questioned when the landowner can pick up the consent and map and it was decided that Monday morning this would be ready. The administrative assistant was asked to contact Mr. Prosser and advise him of the timeframe.

Chairman Deetz stated that with getting this done in the spring, if an estimate is given under the \$75,000.00 threshold, he would want to reconsider the fact that since Mr. Prosser is paying for this of going through the bidding process, with the understanding that his contractor would answer directly to the Surveyors Office.

Mike Kline said that he was told that it would be done as in the past with obtaining two or three quotes, taking the lowest quote.

Randy said that is fine to do it that way but he does not want this dragging out to where Mr. Prosser is in here April/May feeling he could have had this project done.

Mike said he will work with Mr. Prosser on getting this done.

There being no further business, meeting adjourned.

Randall J. Deetz, Chairman

Brenda F. Myers, Administrative Assistant