

**MINUTES OF THE DEKALB COUNTY DRAINAGE BOARD MEETING OF JANUARY 14, 2021**

Chairman Randall J. Deetz called the regular meeting of the DeKalb County Drainage Board to order at 8:30 a.m., Thursday January 14<sup>th</sup>, 2021. Answering roll call was Randall J. Deetz; Michael E. Krehl; William L. Hartman; Mike Watson and Bruce Bell II.

**ALSO PRESENT:** Drainage Board Attorney Shannon E. Kruse; Administrative Assistant Brenda Myers and surveyor staff members Nate Frye and Michelle Lassiter. Surveyor Mike Kline was not in attendance.

**IN ATTENDANCE:** Dr. Joseph L. Smith; Brain Wilcoxson; James K. Deetz; Susan Sleeper; Joe Herendeen; Chris Gaumer; Herous Manoukian

**APPROVAL OF MINUTES:** December 17<sup>th</sup>, 2020 and January 7<sup>th</sup>, 2021, there was clarification needed before approval of the December 17<sup>th</sup> minutes and Nate Frye stated that the Minutes as they read are correct, the transfer is from the maintenance account to the reconstruction in the amounts stated.

It was clarified that this transfer is being done because the maintenance fund is buying the tile from the reconstruction fund and then the Surveyors office will resell that asset until they can use it on one of the other crossing projects. Nate said at that time they will then transfer the money from that project to this maintenance fund.

With the clarification, a motion was made by Mike Watson to approve the Minutes of December 17<sup>th</sup>, 2020 and the Minutes of January 7<sup>th</sup>, 2021 as standard minutes taken by the DeKalb County Drainage Board, seconded by Bruce Bell II, motion carried.

**DRAIN VARIANCE – DANIEL MAGGINNIS LATERAL 1 DRAIN NUMBER 286-01-0:** Nate Frye stated that he has revised the variance to include the two barns to the south of the James Holbrook property and the variance is ready for signatures. Each structure has been addressed individually on the permit, there are three buildings within the right-of-way and it also references a concrete pad and bins.

It was discussed at a meeting earlier this week due to the fact that the landowner failed to obtain a building permit. Mr. Holbrook had expressed to the Plan Administrator that the Drainage Board told him it would be okay for him to begin his project, which was true but the assumption was, by Randy telling him that, was that he assumed he already had his building permit in place and was waiting for this variance to be approved. Chairman Deetz stated that somewhere along the line, we need to do be doing a better job of relaying the fact that **all** necessary procedures need to be in place prior to bringing these to the Board for approval.

Mike Krehl moved that the Board, on the recommendation of the Surveyor's office, approve and sign the Permit Agreement and Consent for Variance to Build a Permanent Structure within the Right of Way of the Daniel Magginnis Lateral 1 Regulated Drain Number 286-01-0, seconded by Mike Watson, motion carried.

**TRANSFER FUNDS OZRO FREEMAN DRAIN NUMBER 175-00-0:** Nate Frye stated that funds were invoiced to the maintenance account and need to be transferred to the reconstruction; there were two invoices #970140 and #970143 to Clifford Excavating totaling \$32,465.00 for the majority of the labor on the Ozro Freeman drain reconstruction.

A motion was made by Bill Hartman to authorize the transfer of \$32,465.00 from the Ozro Freeman Drain Number 175-00-0 maintenance drain fund to be placed in the

reconstruction drain fund of the Ozro Freeman Drain Number 175-00-0, seconded by Bruce Bell II, motion carried.

**CERTIFICATION OF DRAIN:** Nate Frye presented certification on the following drain to be collected in 2021:

DRAIN	NUMBER	COLLECTION
Marvin Walker	403-00-0	Reconstruction

Mike Watson moved that the Board accept the report of Nate Frye on behalf of the Surveyor on the collection thereof for the reconstruction of the drain and for the Chairman to sign, seconded by Bruce Bell II, motion carried.

Mike Krehl moved to certify the assessment for the Reconstruction of the listed drain and for all five (5) Drainage Board Members to sign the transmittal letter, seconded by Bruce Bell II, motion carried.

**AUDITORS OFFICE - STATE BOARD OF ACCOUNTS – UNCLAIMED ACCOUNT:**

*(Reference Drainage Board Minute Book #15, pages 230, 319, 325 and Minute Book #16, pages 8, 10, 14 and 16)* Present is Susan Sleeper First Deputy Auditors Office, with an updated report and some history of the ‘unclaimed account’. The history: the drainage funds have not balanced for many years. The Auditor’s office had an ARC, which is a repeat finding during their yearly audits to resolve. Deputy Susan Sleeper researched and recreated ledgers for ALL drains in both Drain Maintenance and Reconstruction from 2007 to current. There was \$178,109.90 in the Drain Maintenance Fund that could not be accounted toward any drain. After the research and with the approval of the State Board of Accounts, many errors were found in the prior drain bookkeeping, including error in entries, entire settlements not accounted for in the bookkeeping, claims paid from the wrong fund, etc. This resulted in the unaccounted for balance ending up as a negative (-\$16,297.56). It was determined that it had been an overpayment to Allen and Steuben Counties in the amount of \$7,977.63. In October 2020, approval from the Drainage Board was given to pay \$8,319.93 from the GDI Fund Advanced by County monies. Since that time, more research has had to be done and with the help of Bill Akey with the State Board of Accounts collecting data from both Steuben County and DeKalb County, it is determined that DeKalb County owes Steuben County \$9,073.82 for three (3) payments that were never sent to Steuben County in 2010, 2011 and 2012. Both Allen County and Steuben County have concurred with the determination of what is owed. There may be a separate issue that will need to be resolved internally with reconstruction and that will be determined by State Board of Accounts.

Susan is seeking approval to pay Steuben County the \$9,073.82 from the GDI Advanced by County monies. Susan is also seeking approval to pay DeKalb County Drain Maintenance Fund in the amount of \$7,977.63 in order to zero out the ‘unaccounted for drain \$ account’ since there wasn’t actually an overpayment to either Allen County or Steuben County.

A motion was made by Mike Krehl to approve payment by the DeKalb County Auditor to pay Steuben County \$9,073.82 from the GDI Advanced by County monies, seconded by Mike Watson.

A motion was made by Bill Hartman to approve payment by the DeKalb County Auditor to the DeKalb County Drain Maintenance Fund in the amount of \$7,977.63 in order to zero out the unaccounted for drain account, seconded by Bruce Bell II, motion carried.

**PLAN COMMISSION PETITION – COPPER RIDGE ESTATES:** Present is Joe Herendeen and Herous Manoukian with Sauer Land Surveying, LLC regarding a six lot subdivision on County Road 27, north of County Road 64. The county regulated drain involved is the *James Ferguson Drain Number 86-00-0*.

Nate Frye stated that it had been proposed by Joe Herendeen to use a different form of drainage control as opposed to a typical multi-lot subdivision. According to Nate the surveyor has concerns with the covenants and restrictions and therefore will need to review those prior to signing off of the design by giving his report.

Joe Herendeen stated that since the last time this was presented on December 17<sup>th</sup>, 2020, they have developed a drainage plan for this site to better pick up any developed water and everything is being directed to the west to the culvert under County Road 27.

Chris Gaumer, DeKalb County Plan Commission Zoning Administrator stated that at the plat meeting the plat committee put conditions on the approval of the plat stating that the plat cannot be recorded until the Drainage Board has approved the Drainage Plan and covenants and restrictions *if required* are on the plat.

Dr. Joseph Smith owns twenty-five acres at 6448 County Road 29 and he has no reservations about developing but does not want his property adversely affected. The back of his property has some water standing and he does not want this to affect habitat, etcetera; does not want more water and does not want less water. There is standing water at his north property line and it has holes in it but it was determined that the drain in question is a private drain in that area and will need to be repaired at his discretion.

Joe Herendeen stated that his client would need to consult with an attorney to get the covenants and restrictions prepared before this will be ready.

Chairman Deetz stated that he has a couple of concerns, 1) a concern with flooding at County Road 64 and County Road 27, and 2) a concern for Dr. Smith if there is increased water, and that the association will work with Dr. Smith on that issue.

The consensus of the Drainage Board is that they are ok with the concept however, until they see in writing on a plat what the covenants are, a report of approval will not be given or forwarded on.

**WILLIAM BICKEL DRAIN NUMBER 133-00-0:** Present is James K. Deetz inquiring about the 830' of 24" tile that was left onsite and he is hearing that tile is going to be put in the ground; is that tile even paid for.

Nate Frye stated that the tile was paid for and is owned by the Bickel maintenance fund. It hasn't been decided if this will be done through a maintenance or a reconstruction, Mike Kline is working on a design for the upper system and they have done a site investigation on the condition of the upper system; the plan is to present those findings at a Joint DeKalb-Noble Board meeting and at that point the decision as to a second reconstruction hearing, or continue working under the maintenance fund will then be determined.

Jim asked if the surveyors' office has inspected all of that drain.

Nate said he could not answer that as Mike Kline has been managing that and he is working on his questions as to the condition of the upper portion; as to where digging has been done (on the upper system) he could not answer. Nate said he is under the impression that some work has been done up there.

Mike Krehl said no, there has not been anything done.

Jim said his concern is that this is being worked up and what the thought is on doing this.

Chairman Deetz stated that they are either going to continue investigating or begin to investigate for the first time up through Noble County; once the surveyor determines what the best plan is, that plan will be taken to the Joint Board who will at that time discuss if this should be set for a reconstruction hearing or if installing the 830' with maintenance money is adequate to address the problem. The Joint Board will make that decision which has been the masterplan from day one.

Mike Krehl said the first thing that needs to happen is for Mike Kline to come up with a plan and we have not heard of any plans from Mike.

Nate said he is not the one actually working on this project, Mike is doing the design and Troy is doing the design. Nate said he saw GPS shots in the systems that led him to believe they had done excavator work on the upper system.

Mike Krehl said that Bill has been out there 'looking' at the system but nothing has been done.

Jim said the approach is good but we are spending an awful lot of time investigating something that is underneath the ground, he has volunteered his time to go with anybody they want to send out there, he and Bill Hartman know more about that (drain) than anybody else. They are searching for where these tiles start and stop, and they know where that's at. Jim said they have a pretty good chunk of maintenance money in this ditch already and it looks with what is going to collect this spring and next fall, that there would be enough money to do everything on the upper end of this ditch, but Nate disagreed.

It was stated that no tile will go in until this goes to the Joint Board but Chairman Deetz stated that isn't entirely true because if this is done through maintenance, the surveyor controls the maintenance so if he said he was going to put this in with maintenance money, this Board would most likely discourage that and would hope the surveyor would respect that, but he cannot absolutely tell Jim Deetz that nothing's going to be done because they arguably could take that 830' across Kenny Hartman's property and put it in the ground if they feel that fixes the problem. Without having the proper information it is hard to determine a masterplan on this.

Mike Krehl said the bottom line is we need the surveyor here to tell us (the Board) what is going on with this drain.

Attorney Shannon Kruse asked if it was fair to say that Jim's actual request is to not only get an update on what is going on with the Surveyors' Office investigation, but 2) a request to meet with both Jim and a couple of other landowners, the inspector at least, so there is input into the investigation.

Jim said that is exactly what he is asking, and Randy felt that is what is taking place. Jim said he is present today to try to preserve as much of that maintenance money as is possible because this drain cannot withstand a complete reconstruction cost. This whole ditch up to his property has been installed with maintenance money, the 3,500' is the only portion that was done with reconstruction.

In later discussion it was stated by Nate that he needed to eat crow in that there was an error made on the original cost estimates and quantity estimates, perhaps due to the fact they replaced sections of tile and not the overall system; when the quantity estimates were put together it was done going from the top end of the system to the bottom end of the system, so that 830' was the tile that would have gone in where they didn't actually replace it and Mike didn't catch that when he reviewed the design, so that

is where that 830' of tile came from. Nate said since they have to be able to close out and invoice a reconstruction project, the drain maintenance fund is basically 'holding' and 'owning' that tile until we figure out where it needs to go in the ground.

The pipe could have been returned at a cost, or since knowing this remaining project was going to take place in six months to a year that was going to be used with that; or, if it is decided the upper end does not need to be addressed that may solve the whole problem, but that is up to Noble County to decide in making sure that their concerns are addressed and met.

**INFORMATIONAL – DRAIN BALANCES:** Nate reported that the Auditor has finalized their data (the end of the year) and are showing the final balance in the maintenance fund is \$4,822,000.00 and the General Drain Fund is setting at \$395,000.00.

**GUY PLATTER DRAIN NUMBER 112-00-0:** Mike Krehl stated that at the last meeting Nate had stated that this was going to be sent out for quotes this week and asked if quotes had been sent.

Nate Frye stated he has not sent this out for bid yet because Mike has not reviewed the documents.

It was stated that things have got to get done. Nate said he has made that argument several times over the years because every time 'we' shuffle the deck it adds extra time to these projects as others get moved to the side, when this Board is pressured to change priorities on things, things move, for example the Ketcham drain and Groscup drains with the City of Auburn. It was stated that the Ketcham has been turned over to an outside resource for the study but Nate said they are still doing the in-house on the Groscup. Nate said when priorities shift, things get set aside; there were issues with permitting on the Guy Platter, the Ora Bohler has gone back and forth several times, the Levi Dennison there were complaints about a year ago and then the Ozro Freeman got shoved up to the top of the list and that required design time and field investigation to get it done.

Chairman Deetz stopped the conversation at the Ozro Freeman comments and stated that when Prosser came in to the Board, the Board wanted to keep that on the list where it was and the Surveyor said it was not a big project and that could be done in ten days because most of the engineering had already been done, and that is the *only* reason that drain was moved on the list. A process was put into place with outside engineering as a solution to getting things done. Randy said blaming the Board for other projects not getting done is not appreciated and Nate apologized for his comment.

Nate said that things are getting done but Randy said with not holding hearings for over a year, things are not getting done.

Attorney Shannon Kruse stated that the reconstruction priority list (especially for our new members) with what the goals are for this year, would be helpful.

There being no further business, meeting adjourned.

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Randall J. Deetz, Chairman

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Brenda F. Myers, Administrative Assistant