

**ALLEN COUNTY DRAINAGE BOARD MINUTES  
REGULAR HEARING  
PUBLIC HEARING  
LIMA SHOAFF DRAIN**

April 24, 2008

9:00 a.m.

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PRESENT: DB: LINDA BLOOM, ROGER MOLL, WM E. BROWN, ALLAN D. FRISINGER; BOH: KATHY DOSECK; ACSO: LARRY WEBER'  
DB ATTY: CATHY SERRANO; DB SEC. SHARMAN BULTEMEIER; SEE SIGN-IN SHEET FOR OTHERS PRESENT

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**Call to Order:** Chairwoman, Linda K. Bloom

Meeting called to order - 9:10 a.m.

**Approval of Minutes:** April 10<sup>th</sup>. 2008 minutes

Bill Brown made a motion to approve minutes as submitted, second by Roger Moll. Motion carried.

**Approval of Petitions:**

1. **Doc. #08-056, Andrews Drain located in Perry Twp. Sec. 5.** Petitioner is Ronald D. McDougle. Petition for encroachment within the drainage easement for the construction and installation of a 4-inch diameter perimeter drain pipe. Installation and repair of a private septic system.

*ADF recommended approval. Bill Brown made a motion to approve, second by Roger Moll. Motion carried.*

2. **Doc. #08-057, Schoppman drain located in St. Joseph Twp. Sec. 20.** Petitioners are Julie Rothgeb and Phyllis Kochavi. Petition for encroachment within the drainage easement for the construction and installation of a 150-ft Rohn Monopole (Cell Tower).

*ADF explained to the Board that this was not only a proposal to build a Cell Tower, but also a building and a future building in an area adjacent to a drain and five feet away from the top of bank on a major waterway in St. Joe Twp. The storage facilities were built without prior Drainage Board Consent. The property owners received consent to leave their building within the drainage easement from the Drainage Board in 1982. The present owner now wants to sublease this area next to the ditch to Gencom Communications. ADF recommended deferral and he would send comments back to the petitioner that the Board would entertain the potential of a petition that would allow for the installation of the tower, but at this time no buildings in this area.*

*Roger said that he couldn't support them building the requested building. Roger made a motion to deny, seconded by Bill Brown. Motion carried – Petition was denied.*

3. **Doc. #08-058, Reichelderfer Drain located in Springfield Twp. Sec. 28.** Petitioner is Maysville Regional Water and Sewer District. Petition for encroachment within the drainage easement for the construction and installation of a ten-inch gravity sanitary sewer.

*ADF explained to the Board that this isn't really the Reichelderfer Drain, but a Natural Drain and the Board doesn't have to look at it. He will send them a letter telling them that this is a Natural Drain.  
No motion needed.*

4. **Doc. #08-059, John Rapp Branch #2 Drain located in Lake Twp. Sec. 20.** Surveyor's Report. Request for a motion to proceed to Public Hearing for reconstruction of the drain.

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*ADF read the Report into the Records. He recommended a motion to proceed. Roger Moll made a motion to proceed with a Public Hearing, seconded by Bill Brown. Motion carried.*

5. **Doc. #08-061, Cedar Spring Section I Drain located in Perry Twp. Sec. 36.** Petitioner is Max Shambaugh. Petition for encroachment within the drainage easement for the construction and installation of houses, driveways, landscaping and other improvements typical with a residential subdivision.

*ADF recommended the approval of the petition. Bill made a motion to approve, seconded by Roger. Motion carried.*

6. **Doc. #08-062, Cedar Springs Section I.** Request from D G Engineering, Inc. for approval of its Stormwater Management Plan for Cedar Spring Section 1.

*ADF recommended approval of petition as submitted. Roger made a motion to approve, seconded by Bill Brown. Motion carried.*

**OTHER BUSINESS AS NEEDED:**

*Added to agenda after posting.*

*Chris Hinkle from Foresight Consulting address 3810 New Vision Dr. represented Petitioner's St. John Chrysostom Orthodox Church*

*ADF explained to the Board that Mr. Hinkle has been working with the Surveyor's Office to come up with a Stormwater Management Plan to drain this site for the Church. (North of Eagle Lake Subdivision – Badiac Rd). The question that has been brought forward relative to the drain and the overflow for the Church's site through Eagle Lake to the detention facilities that are in Eagle Lake. We currently believe that there is an obstruction in the flow channel between two homes that is delineated as a surface drainage overflow path that would take the overflow from this site south through Eagle Lake. The issue comes if this yard area is too high; we believe it to be a foot plus or minus too high to take this flow from north to south. If that is the case, what is going to happen you are going to create a backwater affect along the homes that are on that northern line or northern top tier of Eagle Lake and potentially put water up to within inches of their first floor. Our position has been that that need to be rectified at the time of construction of the church. ForeSight Consulting is going to go out and bring all of the datum together. They will back information clarifying that that overflow channel is above, below, or at grade. Currently we believe it is above. He was bringing this to the Board is that inside the language of the subdivision of Eagle Lake. (Larry Weber said that this is a legal question for our attorney). The Covenants and Restrictions general and specifically calls out surface utilities and surface drainage easements. The way that the language is set forward in the Covenants. He read the following from Eagle Lake's Covenants Section 1, "The grade of the land in any such easement shall not be changed or altered by any Owner of any Lot, after the said grade has been established and from Section 2, Surface drainage easements as shown in the Plat are intended for either periodic or occasional use as conductors for the flow or surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the Association or a proper public authority having jurisdiction over storm drainage shall have the right to repair and maintain such easements, or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed." His interpretation is that extends that right to whoever is the authority on stormwater in that area. He believed that jurisdiction rest with the Drainage Board, because we determine the flow characteristics to the system, the allowable flow into the system. The reconstruction of the swale area, if necessary should come and dictated either by association or by the drainage authority. The only other route*

would be to have an obstruction hearing. He believed that the language in this particular Covenant allows not having to go that route.

Larry Weber asked Chris Hinkle if he thought the property owners would give consent for the surface cut through their yards.

Mr. Hinkle said that he didn't think they would be in favor.

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Roger Moll, "You are going to verify that there is a subdivision that didn't build to grade as specified in the secondary development plan?" "Because it wasn't built to standard is obstructing the proper flow from another property upstream and because it was specifically called out in the Covenants responsible authority for drainage that Drainage Board should have (?) ability to go in and make what needed to have happen in 92 happen."

ADF said that he didn't think they needed to have the obstruction hearing.

Larry Weber asked if they could have a motion to proceed with the obstruction hearing if we need to do it.

ADF told him that he thought that notification by the Board is always appropriate and they will do that at the point in time when it is determine what that grade elevation is. That can come from the Surveyor's Office to the developer who then has the right to do the grading on the site with notification to the property owners. He didn't think it was the responsibility of the Drainage Board to notify the property owners, it thought it was the developer and engineer's responsibility to notify the property owners and the association.

ADF asked the Board to make a motion that the authority to regrade this area is clearly defined in the Covenants and Restrictions as found on this day.

Roger made a motion that the Board acknowledge the Covenants that indicate that the Drainage Board has authority for that watershed inside the development, seconded by Bill Brown. Motion carried.

**PUBLIC HEARING  
LIMA SHOAFF DRAIN**

1. Public Hearing to consider the Construction of and the establishment of Periodic Maintenance for the Lima-Shoaff Drain located in Perry Township Section 7 & 18.

Linda opened the Public Hearing and asked for the Surveyor's Report.

A. Doc. # 08-060 - Surveyor's Report

ADF read the Surveyor's Report into the records (copy attached).  
Comments and letters in Favor:

B. Comments and letters in Opposition:

He referred to I.C. 36-9-27-65; we have no written objections at this point in time. Do have one written set of comments in letter form from David Laws – InSite, Inc. address 619 East Dupont Road, IN 46825-2055. He would like to have an extension of the system to service his site. ADF didn't think that it was a problem at this point of time.

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ADF explained to the Board that the advertised estimate of \$103,176.75 appears to be an erroneous estimate.

Linda asked him, "Because?"

ADF explained that it did not take into account certain aspects of construction and left out other aspects. The actual cost of construction is going to be somewhere between \$180,000 and \$190,000 dollars. He told the Board that under I.C. 36-9-27-65 subsection 5c is to take this hearing, not adjourned it, but continues it to a date certain and his suggestion was May 8<sup>th</sup>. 2008. We would take the actual design re-evaluate the cost associated with it and send out a new mailer to the property owners in the watershed affected by this drain. And have appropriate assessment levied at that time. We can hear and accept any testimony that would be appropriate for the development of their project.

The following people spoke in favor of project.

David Laws – address 10718 Country Wood Trail, Fort Wayne

Mr. Laws explained his water ponding problem along the adjoining property lines and that the construction of the new drain should probably eliminate the potential for flooding of InSite's building.

Susie Hoot – Address 2331 W. Main Huntertown.

Ms Hoot explained that their project (LST) has been on hold until they could get the drainage problem solved. She asked if they could proceed with their project. ADF recommended waiting.

Mike Devine – Address 1 ADM Pkwy Huntertown.

Mr. Devine was in favor of project and ready to work with the County.

Philip Randall – Address 16339 Lima Rd Huntertown.

Mr. Randall was in favor of project but expressed concerns regarding the capabilities of the Willow Creek Drain handling the extra water. He didn't want his property to flood in times of heavy rain fall.

ADF told him that this system should not over tax the Willow Creek Drain.

Neal Kirby – Address 2420 Almon Rd.

Mr. Kirby asked if he would be able to tap into it. He asked if there would be a fee to tap into the pipe. He was told that yes he could tap into the drain and the watershed is paying for the new drain to be constructed. Mr. Kirby also asked what kind of time frame they were looking at.

ADF told him that they have a twenty days period after hearing for comments. Mr. Kirby asked if it would be before the end of the year and was told yes.

C. Close Hearing:

ADF asked the Board to continue the meeting to May 8<sup>th</sup> 2008 at 9:00 a.m. Bill Brown made a motion to continue the meeting to May 8<sup>th</sup>, 2008, Roger Moll seconded the motion. Motion voted on and carried.

D. Board Finding and Order:

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**ALLEN COUNTY DRAINAGE BOARD**

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Linda K. Bloom, Chairperson

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Wm. E. Brown, Vice-Chairperson

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Roger Moll, Secretary

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Allan D. Frisinger, County Surveyor

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Date

Allen County does not discriminate because of disability in the admission to, treatment or employment in, its programs or activities. The Human Resources Director has been designated to coordinate compliance with nondiscrimination requirements contained in Section 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereafter, and Allen County's ADA Policy, are available from the ADA Coordinator. Requests for assistance or suggestions on how the County can better meet the needs of those persons with disabilities may be submitted to the ADA Coordinator at: Human Resources Department, Room 208, 1 East Main Street, Fort Wayne, Indiana 46802, or by telephone at 260-449-7217, TDD 260-44-7881.