

**ALLEN COUNTY DRAINAGE BOARD MINUTES
REGULAR HEARING
OBSTRUCTION HEARING
EUGENE AND LAURA JOHNSON**

August 28, 2008

9:00 a.m.

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

The Allen County Drainage Board convened on Thursday 28 August 2008. Following introductory remarks Mr. Brown asked for approval of the August 14th 2008 minutes. Mr. Moll made motion to approve minutes as submitted, second by Mr. Brow. Motion carried. Linda absent for vote.

Approval of Petitions:

(The following reflects a synopsis of action taken by the Drainage Board. Actual tape recordings of the proceedings are available upon request.)

1. **Doc. #08-112**, Request for Approval of the Stormwater Management Plan for a project on Doty Road by Karst Surveying.

Following comments and general discussion by the Board, Mr. Frisinger recommended approval subject to receipt of erosion control plan, submittal of a Notice of Intent(NOI) on the stormwater quality issue, ingress, egress, legal descriptions, the easements for 2.190 acre track, the fifty foot easement and the twenty foot easement along with payment of fees. Roger Moll made a motion to approve subject to submission of all supporting documents that are required and requested by the Surveyor, second by Bill Brown. Linda joined the meeting and asked for a vote. Motion carried.

2. **Doc. #08-113, Grice #2 Drain located in Milan Twp. Sec. 7.** Petitioner is Jeff Carteaux. Petition for the installation of a perimeter drain outlet into the Grice #2 Drain.

Following comments and general discussion by the Board, Mr. Frisinger recommended approval subject to receipt of payment of fees as stipulated by ordinance, NOI with an erosion control plan, the easement exhibit that has been supplied should be submitted in full scale, certified by the Surveyor, stormwater management plan. Bill Brown made a motion to approve subject to the Surveyor's recommendations, second by Roger Moll. Motion carried.

3. **Doc. #08-114, Frederick, G. Drain located in Madison Twp. Sec. 5.** Petitioner is Richard Rodenbeck. Petition for encroachment within the drainage easement for the construction of a house, septic system, perimeter drain tile, also encroachment of an existing farm garage.

Richard Rodenbeck address 13431 Rohrbach Rd.
John Bracht from Servant Design Inc.

Following comments and general discussion by the Board, Mr. Frisinger recommended approval subject to the following: excavation of the tile prior to construction for determination of location, elevation, and its overall working life or what it's capacity is today. He suggested that they open it up a minimum of two locations on this site and then go downstream to the outfall on the Hoffman Ditch and make a location with the engineer so that we're not holding the responsibility here of all the workload.

Mr. Rodenbeck asked to speak to the Board: He told the Board that there is an existing catch basin downstream from the proposed absorption field and another two at the road interception.

Following a discussion between the Board, Mr. Rodenbeck and Mr. Frisinger, Mr. Frisinger made the following recommendations: Approval subject to review of the drain, payment of the fees and inspection during installation.

Larry Weber expressed concerns regarding the location and depth of the invert.

Mr. Bracht told the Board that he could raise the dosing line to provide a six inch clearance.

Mr. Moll made a motion to approve subject to the Surveyor's review as he described, second by Mr. Brown. Motion carried.

4. **Doc. #08-115.** Contract for the construction of the Lima-Shoaff Drain located in Perry Twp. Sec. 18 between the County and Underground Contractors for \$211,979.63. For signature only.

Contract was signed by the Board.

5. **Doc. #08-116, Willaminia Ringwalt Drain located in Perry Twp. Sec. 5.** Petitioner is Gregory P. Byman. Petition for encroachment for the construction and installation of a replacement septic system and perimeter drain tile.

Gregory Byman address 18110 Faylor Dr.

Mr. Byman explained to the Board that their septic system was failing and the Health Department is requiring them to replace their system.

Following comments and general discussion between the Board, Mr. Byman and Cathy Doseck from the Board of Health Mr. Moll recommended approval subject to an engineering survey showing the encroachment. Mr. Frisinger told Mr. Byman that he would need to have a surveyor locate the facilities after construction, submit it back to the Board.

Mr. Moll moved for approval of the construction and installation of the replacement septic system with perimeter drain tile. The owner understanding that he stays tight within the location, seconded by Mr. Brown. Motion carried. Mr. Frisinger added to Mr. Byman on your outfall to the drain we will need some type of erosion control and an as-built.

6. **Doc. 08-117, Scar Tile located in Madison Twp.** Approval by the Board for a Public Hearing for September 25, 2008.

*Mr. Frisinger asked due to his being out of town on September 25th if the date could be changed to October 9th, 2008.
See below.*

7. **Doc. #08-119, Houk Br. #3 Tile located in Madison Twp. Sec. 29.** Approval by the Board for a Public Hearing for September 25, 2008.

Mr. Moll made a motion to move Public Hearings for Doc. #08-117 and 08-119 to October 9th, 2008 seconded by Mr. Brown. Motion carried.

8. **Doc. #08-095, Westchester Glens located in Aboite Twp.** Approval by the Board for an Obstruction Hearing for October 23, 2008.

Mr. Brown made a motion to approve the Obstruction Hearing date, seconded by Mr. Moll. Motion carried.

9. **Doc. #08-118, Swank Drain located in Pleasant Twp. Sec. 30.** Petitioners are Melvin Schwartz, Jeremy and Sandra Sessions. Petition for encroachment

within the drainage easement for the construction and installation of a 4-inch perimeter drain tile. Private Septic System.

Following comments and general discussion by the Board Mr. Frisinger recommended approval subject to receipt of Stormwater Management Plan from the owner and NOI plus fees. Mr. Brown made a motion to approve subject to receipt of Stormwater Management Plan, NOI and fees, seconded by Mr. Moll. Motion carried.

10. **Doc. #08-120, Shambaugh Drain located in Cedar Creek Twp. Sec. 11.**
Motion to proceed to hearing for reconstruction and periodic maintenance.

Following comments and general discussion by the Board Mr. Moll made a motion to proceed to hearing seconded by Mr. Brown. Motion carried.

Other Business:

As needed. Next meeting scheduled for September 25, 2008.
The September 25 meeting was rescheduled for September 18, 2008 at 9:00 am. Mr. Moll will not be available for the meeting.

Dennis #2 Drain Report

Mr. Frisinger reviewed his finding with the Board. The report shows that the drain was constructed in 1901, 5,920 feet long, since 2000 some sections of the tile has been rebuilt for new homes downstream of this area. Maintenance Fund is with the Joe Dennis Drain. The Tile across the Monson-Chapel Church is gone; the upstream property that has come to us does not have an outfall to the Regulated Drain. There is a structure with an outfall underneath a concrete pavement about ten feet deep. Cost for replacement would be a lot. At this time nothing will happen on the adjacent property until the portion across the Monson-Chapel is reconstructed. He will not have an outfall. We talked about an open channel or a pipe section. In 1999 the property owner to the north got an easement from church to tap into the tile. The house sat vacant for twelve months and the new owner can not move in because of this situation. The tile needs rebuilt across the Monson-Chapel Church property. We could rebuild it and assess the watershed, rebuild the whole downstream portion excluding the part that already been rebuilt. There was a house that came through that was required to rebuild a portion of the drain. This would need to go to hearing. Mr. Frisinger suggest developing a plan and go to hearing for reconstruction for the whole drain. Unless we go back to the church and tell them that they destroyed the tile during your construction.

Bill Brown made a motion to move forward towards a reconstruction hearing, seconded by Roger Moll. Motion carried.

Mr. Frisinger introduced Matt Jarrett, from the Surveyor's Office, to the Board.

Mr. Jarrett reviewed with the Board the NOI application from Livestock Engineering for the facility operations. They have already been given an IDEM permit for their animal feeding operation. Al explained to the Board that our Ordinance does not exclude them nor does Rule 5 excludes them from presenting a Stormwater Management Permit for the establishment of this operation.

Following comments and general discussion by the Board, Mr. Frisinger said that they would be notifying the property owner of the NOI and additional requirements required under the Stormwater Ordinance and he wanted the Board to be aware of what the operation was going to look like.

Regular Hearing Closed

OBSTRUCTION HEARING:

Linda opens the Obstruction Hearing

(The following reflects a synopsis of action taken by the Drainage Board. Actual tape recordings of the proceedings are available upon request.)

Petition to remove obstruction in a mutual drain or natural surface water course. Petitioner Eugene and Laura Johnson address 12024 Aboite Center Road Respondent Keith and Linda Robinson address: 3808 Eggeman Road and Richard and Tammy Williams address: 3902 Eggeman Road.

Surveyor's Report

Mr. Frisinger read the Petition and the Surveyor's Report into the records.

Letter from Keith and Linda Robinson

Mr. Frisinger read the letter into the records.

Mr. Frisinger presented to the Board the site plan for the Robinson and Williams properties as submitted in 2002 showing an that an 18-inch pipe was to be installed. It never was.

All involved parties had a chance to present their position on who was responsible for the flooding problems. (Complete tape testimony available upon request.)

After all involved parties spoke, the Drainage Board proceeded to the findings of fact and order on the petition.

Allen County Drainage Board findings of fact and order on petition to remove obstruction pursuant to I.C. 36-9-27, 4-1 through 25.

Item 1. Bill Brown made a motion that YES the obstruction exists, second Roger Moll – Motion carried – Linda absent for vote.

Item 2. Bill Brown made a motion that YES the removal of the obstruction will promote better drainage, second by Roger Moll – Motion carried – Linda absent for vote.

Item 3, Bill Brown made a motion that YES the removal of the obstruction will not cause unreasonable damage to the land of the respondents, second by Roger Moll – Motion carried – Linda absent for vote.

Item 4, Bill Brown made a motion that YES the obstruction was created intentionally by one or more of the respondents, second by Roger Moll – Motion carried – Linda absent for vote.

Item 5 Roger Moll made a motion for (a) to have the respondents to remove the obstruction at their expense, second by Bill Brown – Motion carried – Linda absent for vote.

Bill Brown asked for a 15 minutes recess to the hearing.

Meeting restarted 12:19

Mr. Moll after listening to Keith Robinson and the Williams changed his decision for item 5. He made a new motion to change item 5 from (a) to (b) the county

surveyor to remove the obstruction at the expense of the respondents, second by Bill Brown – Motion carried.

Mr. Frisinger told the Board that they would have to go to item 11.

Mr. Moll made a motion to choose item (b). the Board will advance funds from the general drain improvement fund for the payment of the costs of the removal work and said advance will be reimbursed by one or more persons subject to the order, second by Mr. Brown. Motion carried.

The ACSO will come up with a plan and bid the project out. The respondent will be invoiced for both the engineering and construction.

Meeting adjourned.

ALLEN COUNTY DRAINAGE BOARD

Linda K. Bloom, Chairperson

Wm. E. Brown, Vice-Chairperson

Roger Moll, Secretary

Allan D. Frisinger, County Surveyor

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.