

**ALLEN COUNTY DRAINAGE BOARD MINUTES
REGULAR HEARING**

February 26, 2009

9:00 a.m.

PRESENT: DB: LINDA K. BLOOM, WM. E. BROWN, NELSON PETERS, ALLAN D. FRISINGER; DB ATTY: CATHY SERRANO; ACSO LARRY WEBER
DB SEC. SHARMAN BULTEMEIER; SEE SIGN-IN SHEET FOR OTHERS PRESENT.

The Allen County Drainage Board convened on Thursday February 26th, 2009. Following introductory remarks Mr. Brown asked for approval of the February 12th, 2009 minutes. Mr. Peters moved for approval of the minutes as they were prepared, second by Mr. Brown. Motion carried. Linda Bloom not present for vote.

Approval of Petitions:

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

1. **Doc. #09-011, Bender #2 Drain located in Adams Twp. Section 26.** Petitioner is Marvin M. Trabel. Petition for encroachment within the drainage easement for the installation of an eight foot tank car. This will replace an existing eight foot CMP.

Following comments and general discussion by the Board, Mr. Frisinger recommended approval with inspection during installation of tank car. Mr. Peters made a motion to approve, second by Mr. Brown. Motion carried. Linda joined the meeting 9:05 am.

2. **Doc. #09-012.** Request from Donovan Engineering for approval of Stormwater Management Plan for Water's Edge located in Cedar Creek Section 33.

Following comments and general discussion by the Board, Mr. Frisinger and Greg Roberts of Donovan Engineering, Mr. Frisinger recommended approval of petition as submitted. Mr. Brown made a motion to approve petition, second by Mr. Peters. Motion carried.

3. **Doc. #09-013, Dunfee Drain located in Washington Twp. Sec. 10.** Petitioners are Louis & Joyce Lohrman. Petition for encroachment for the construction of a "Private Sewer System" and connection of the system into the Dunfee Drain.

Following comments and general discussion by the Board, Mr. Frisinger and Chris Chapin of Dickmeyer and Associates, Mr. Frisinger recommended approval with the understanding that all connections are made on the existing drains to the system and have inspection on the site and we don't terminate the flow – interconnect on the system. Mr. Peters made a motion to approve petition, second by Mr. Brown. Motion carried.

4. **Doc. #09-014,** Petition for Establishment of a new regulated drain for the new drain constructed on petition #09-013.

Following comments and general discussion by the Board, Mr. Frisinger and Chris Chapin of Dickmeyer and Associates, Mr. Frisinger recommended a motion to proceed to hearing. Mr. Peters made a motion to proceed, second by Mr. Brown. Motion carried.

5. **Doc. #09-008, Huguenard #2 Drain located in Washington Twp. Section 3.** Petitioner is INDOT. Petition to allow construction of a new cross structure enclosing the Huguenard Drain under SR 3, 170 feet of 10 Ft X 6 Ft concrete box will extend from the west side of SR 3 to the east side and outfall into the existing Huguenard Drain. The Cross section area necessary to convey the water is 10 ft x 5 ft. The box will be sumped 1 foot. Deferred from February 12th, 2009 meeting.

See Item 6.

6. **Doc. #09-009, Braun Drain located in Washington Twp. Section 15.** Petitioner is INDOT. Petition to construct a new cross structure enclosing the Braun Drain under SR 3 at Ludwig Road. Reconstruction of SR through Fort Wayne north of I-69 interchange. Deferred from February 12th, 2009 meeting.

Following comments and general discussion (see below) by the Board and Mr. Jim Earl (INDOT 100 N. Senate Ave, Indpls, IN 46204), Mr. Frisinger recommended approval of Petition 09-008 and 09-009. Mr. Brown made a motion to approve Petition 09-008 and 09-009, second by Mr. Peters. Motion carried.

Other Business:

Summary of discussion regarding 'Drainage Agreement between The Indiana Department of Transportation, Allen County, Indiana And The City of Fort Wayne Concerning Stormwater Runoff On State Road 3 between the Board and Jim Earl representative of INDOT.

Mr. Frisinger explained to the Board that Allen County will be responsible for moving the drain (Huguenard #2) with the State being responsible for payment upon completion of construction and approval and acceptance. The time schedule needs to be moved out further than the summer of 2009 to April 2010. The County needs insurance that the money coming from the State will be available. If an agreement can not be reached with the property owner of record for the relocation the County does not have the same opportunities as other entities do for condemnation. The County would have to go through Board Hearing for the relocation process.

Mr. Earl brought a revised agreement with an April 1, 2010 completion date.

Mr. Weber explained that the State's engineering plans will result with the new Portion of the Braun Drain being a foot lower than the existing Braun Drain which will result in the necessity of lowering the Braun Drain down stream from the performed work.

Mr. Earl explained that section 13 of contract exempts them from any responsible. (Section 13. Indemnification. To the extent permitted by IC 8-23-2-12.5, the CITY and the COUNTY agree to indemnify, exculpate and hold harmless the State of Indiana, its agents, officials, and employees from claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the PARTIES and/or their employees, agents, or consultants, if any, under this Agreement, including but not limited to any liability for any and all materials that may flow into Beckett's run, Braun Ditch, and/or Huguenard Ditch. INDOT shall not provide such indemnification to the COUNTY or to the CITY.)

Mr. Frisinger recommended talking to the attorney before hearing. He recommended having the agreement taken through Legislative Session for signatures.

Ms Bloom expressed concerns over having the local tax payers funding an expense because of a project being done by the state. INDOT is paying the City for their share of work being done on the Braun but not the County.

Mr. Frisinger recommended having the Commissioners sign the contract he would withhold his signature, have the attorney review it. If she approves, he would sign off and give it to the City.

Following a short discussion regarding complaints from Roger Hadley, Mr. Peters said that he would call Mr. Hadley and explain his options. The property owner can petition to construct a new regulated drain, renegotiate his lease with the property owner, or try working with Goodrich to create a swale or detention basin.

Regular meeting closed.

ALLEN COUNTY DRAINAGE BOARD

Linda K. Bloom, Chairperson

Wm. E. Brown, Vice-Chairperson

Nelson Peters, Secretary

Allan D. Frisinger, County Surveyor

Date