

**ALLEN COUNTY DRAINAGE BOARD MINUTES
REGULAR HEARING**

March 25, 2010

9:00 a.m.

PRESENT: WM. E. BROWN, LINDA K. BLOOM, 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 March, 25th, 2010, following introductory remarks, Mr. Brown asked for approval of the March 11th, 2010 minutes. Mr. Peters moved for approval of the minutes as they were prepared, second by Mr. Brown. Motion carried. Ms Bloom not present for vote. Ms Bloom joins meeting.

Approval of Petitions:

(The following reflects a synopsis of action taken by the Allen County Drainage Board during the Hearing. Minutes do not reflex the order the petitions were heard in.)

1. **Doc. #10-029, Revert Drain located in St. Joseph Twp. Sec. 1.** Petitioner – Bradley & Lindsey Tippmann. Petition for encroachment for the installation of a perimeter drain pipe. Residential Septic System.

Following comments and general discussion by the Board, Mr. Frisinger recommended approval subject to the receipt of Certificate of Survey showing location of the drain along with a Stormwater Management Plan. Mr. Peters made a motion to approve petition subject to receipt of the aforementioned documents and final review by the Surveyor's, second by Ms Bloom. Motion carried.

2. **Doc. #10-031, Nahrwold Drain located in Milan Twp. Sec. 25.** Petitioner – Arnold and Carolyn Rorick. Petition for encroachment for the installation of a perimeter drain pipe. Also a future installation of a 6-inch drain pipe PVC SDR 35 within the same trench for basement drain.

Following comments and general discussion by the Board, Mr. Frisinger recommended approval with an inspection of the interconnection and the outfall is armored to prevent future erosion on the site. Mr. Peters made a motion to approve petition with the Surveyor's recommendation, second by Ms Bloom. Motion carried.

3. **Doc. #10-033, Grover #2 Drain located in Jefferson Twp. Sec. 1.** Petitioner – James A. Burnham. Petition for encroachment for the installation of a 4-inch perimeter drain tile. Residential Septic system.

Following comments and general discussion by the Board, Mr. Frisinger recommended approval of the petition. Mr. Peters made a motion to approve, second by Ms Bloom. Motion carried.

Other Business:

(The following reflects a synopsis of discussion items. Actual tape recording of the proceedings is available upon request.)

Letter from Ellis McFadden regarding the Snyder Ditch
17414 Conner Rd, Fort Wayne, Indiana 46819

Mr. McFadden explained the problems which the property owners were encountering with regards to the Snyder Ditch. He presented photos to the

Board showing the areas in need of maintenance. He suggested cleaning from the four foot pipe at Conner Road up to Green Street.

Ms Bloom asked if the drain had a maintenance fund and was told no.

Mr. Brown asked the Surveyor what were the options.

Mr. Frisinger explained that they have put together a watershed, report, analysis and cost and the original thoughts were to regulate the drain all the way to the river. If there is going to be a public hearing it should be for the entire watershed. He agreed that work should be done. He suggested that they are in the position to move forward with a hearing and working on the drain once maintenance is determined.

Ralph Thiele – Address: 16624 Thiele Road

Mr. Thiele explained that the last time the ditch was worked on in the early sixties, they passed the hat got approval from the county and cleaned the ditch.

Mr. Brown asked the Surveyor if the property owners collected the needed fund and then under the supervision of the Surveyor completed the work without going to a hearing.

Mr. Frisinger explained that one problem is getting all of the property owners agreeing to pay. He recommended going to hearing. He would review the work and if there was an opportunity do the work, borrow the money and still move head with the hearing. His fear is that we move ahead and then no one is for assessments.

Don Haack – Address: 16025 Thiele Rd, Fort Wayne, Indiana 46819

Mr. Haack asked if the Board would consider doing a smaller partial project. Mr. Haack said that the four foot culvert located at Yoder and Connor Roads is under size for the drain. Culvert is located west of Connor Road right behind the Crickmore's property.

Mr. Frisinger recommended scheduling a hearing and checking out the four foot pipe. If the pipe is under size and if it does not have a permit, we can have it taken out.

Mr. Brown explained to Mr. McFadden that they would schedule a hearing, the surveyor would look at the \$18,000 fix that you are talking about, and also investigate the four foot culvert. Follow up discussion at the next meeting.

Bid opening for the WO Lake Drain.

Mr. Frisinger open and read the results into the records.

Underground Contractor is low bid without considering possible driveway damage. The Surveyor will contact Underground for cost including repairing the driveway.

CONTR COMPANY	Bid Amount	Notes
Kees' Grain Farms	49,000.00	+\$9 sf for drive
Underground Contractor	25,300.00	+ \$4500 for drive
Wisel Enterprises	33,145.00	+\$3500-\$7200 for drive
LDI	34,222.00	+\$14,040 for drive

Discussion on the following drains: Shoaff Dawson – Bandelier #3 – Argo Drain

Shoaff Dawson: Mr. Frisinger explained to the Board that he had received a call from Mike Stiffarm from the Highway Department regarding replacing a wall along side of the Johnson Road. The drain is a regulated drain and the wall needs to be replaced, but the problem is that it is also a floodway and it also has a watershed greater than a mile. You would need DNR approval and probably IDEM approval. If the Board is interested in having the Highway work on this, he would put together a plan and submit for the permits. We would either go behind the wall and drive sheeting and then pull the wall, or pull the wall and then drive sheeting. The Surveyor will report back to the Board in a couple of months with plans and cost.

Bandelier #3:

Mr. Walt Werling has been asking for us to do maintenance on the Bandelier #3 for several years. There is no Periodic Maintenance on the Drain. It is part of a unit with a total 13 branches. From 1977 to 2008 we have spent \$125,000 in maintenance for this storm system. If this drain had been assess 20 times over the last thirty years it would generate \$125,000.

Mr. Brown: When we have these hearing people need to know that it is not being decided by majority rule. It is decided by cost to benefit ratio. . . If the Highway would benefit from the work then they should help pay for it.

Mr. Frisinger explained that this bank could be a million and a half dollars.

Mr. Brown said that we should treat this like we do other capital expenses. There is a potential capital expense that is coming up that we need to identify. He asked Mr. Frisinger about the funds promise to them from the council.

Mr. Frisinger explained the deal. I can go to County Council first for their approval, and then come to this Board for your approval. This would be a loan from the Council to be paid back with interest.

Mr. Brown: The Board has to decide if we are going to set up a fund through the Highway Fund.

Ms Bloom told him that they have one. When asked she said that there is around eight hundred thousand dollars in it.

Mr. Frisinger asked how he would allocate that money. Do I call and ask for the funds, or do I do the work and present them with the bill?

Mr. Brown would like to have on the next agenda another discussion on the Highway's policy for ditch (?) by roads.

Argo Drain: Mr. Frisinger reviewed the original plans explaining that the cost per acre would have been \$1,000. It is now down to \$710 per acre. It still would not be approvable.

Ms Bloom stated that there is \$100,000 in the Argo fund and another \$40,000 in interest for future work on the Argo.

Mr. Frisinger proposal include breaking the watershed and draining towards the Bohnke Drain; raising the road and piping the water and then ditch or pipe paralleling the railroad down to the Bohnke.

Mr. Brown to Mr. Frisinger in his opinion there needs to be a comprehensive plan township by township shed by shed. . .

Mr. Frisinger reminded Mr. Brown about the Utility rate analysis that he had asked for. He explained that he had pulled one up from Georgia. They created a stormwater utility and they collect seven million a year.

Mr. Brown, If we collected .50 cent per acre county wide (16 million acres) would generate eight million per year.

Mr. Weber, You could do a few projects.

Mr. Frisinger agreed.

Mr. Brown that is how you spread the pain.

Mr. Frisinger, the problem is the way most utilities evolve on stormwater is they do it by ERU, equivalent residential unit. Example: If you have 25 homes on two acres that is one ERU per unit instead of two acres it is one ERU. If you got a platted subdivision you got one ERU per lot. A farmer with a thousand acres of farm ground how many ERU's is that, less a lot less then a dense subdivision.

Mr. Frisinger will write a letter to the Nursing Home copy to Linda Bloom.

Eagle Lake from Dale Meyer regarding the Roy #2 Drain.

Mr. Frisinger we have excavated on either side of his house, put in inspection ports, televised the line under his house upstream and downstream to see what was going on. It would appear from the video that the upstream is full of gravel but it is still going to leach water. The downstream is free flowing, but he is getting water from somewhere. He would like us to bulkhead the downstream and fill it with concrete. His issue and he had asked Cathy about the waiver of liability. He didn't want to fill that pipe with concrete and have him (Mr. Meyer) come back and say, "I am burning up three pumps a year." He is thinking of telling him, "You fill it with concrete and submit an invoice and we will pay for it."

Mr. Peters asked why couldn't they divert around his house and reconnect on the other side.

Mr. Frisinger told him that it would cost as much.

Ms Bloom asked how much it would cost to fill the drain with concrete. She was told a couple thousand dollars.

Mr. Brown asked if the bill could be cap at a couple thousand dollars so we don't get a bill for eighty-thousand. He was told yes.

Ms Bloom so he would have to do it and then invoice us so we wouldn't be liable?

Mr. Frisinger he thought that might take them out of the liability situation.

Mr. Peters asked if Ms Serrano can get him to write a letter of indemnification

Ms Serrano said that she has already talked to Larry about it. He will probably be afraid to sign it. She is going to have to put some language in there that is fairly strongly worded. That he understand he is assuming any and all liability for all future damages etc.

Mr. Frisinger Lets put together an indemnification and give it to him and say yes we will do it, but you sign this first.

Ms Serrano it will quote drainage law, open clear no room for doubt.

Mr. Frisinger it then takes us out of it.

Doug Sorrell even if he signs this documentation tomorrow and we fill it and his house settling may still come back and bite us.

Mr. Frisinger the reason that house is settling is they filled the site by five feet. It was the low spot.

Mr. Weber his basement may be on poor soil.

Mr. Brown is this an unregulated drain? He was told that it is a regulated drain. How does he build a house of a regulated drain and we are responsible.

Mr. Weber it should had been vacated.

Ms Serrano this indemnity agreement that I am going to draft is going to say that technically we have the right to bulldoze your house.

Mr. Frisinger the proposal at the time was here is our development plan inside that development plan is we are going to have storm sewers installed to drain this subdivision. Well there is still this regulated drain coming out of the pond – one note on the plan says they are going to crush, plug or do something with it. Now removal is the language you want. We will remove that tile. We know that they didn't and we know the Board at that time did not vacate the drain. We know that the pipe is still there. It is a viable – it would be arguable that the easement is still there.

Ms Bloom if I was him and we signed anything or we wrote him a letter that we were going to pay for it, I would be suing us.

Mr. Brown asked if this could wait for two weeks.

Mr. Frisinger said that it could wait if the Board – If the Boards wishes are to tell him that he can fill it with concrete and go on.

Ms Bloom we can give him –

Mr. Frisinger you are probably right Linda, extending ourselves out there twenty-five hundred and saying we will pay for it that might

Ms Serrano the Drainage Board never approved him building on that regulated drain so why should you pay for his mistake.

Mr. Frisinger we have gone over and above what we should do anyway.

Mr. Brown asked for adjournment. Meeting adjourned.