

# DRAINAGE BOARD MEETING:

December 16, 2013

President Clarence Hensley called the meeting to order. Present at the meeting were the following:

Clarence Hensley, President  
John Landers, Vice President  
Larry Bledsoe, Member  
Charles Whitehair, Member  
William Whitehead, Member  
Phil Taylor, County Surveyor  
Stan Willis, Chief Deputy-County Surveyor  
Jake Dunnuck, Board Attorney  
Cindy Harty, Recording Secretary

Mr. Hensley opened the meeting by welcoming the audience and inviting them to participate in the pledge of allegiance.

## APPROVAL OF THE MINUTES:

Mr. Hensley entertains a motion for the approval of the November 18, 2013 Drainage Board minutes. Mr. Whitehead moved for approval. Mr. Bledsoe seconded the motion. **Motion passes 5-0.**

## OLD BUSINESS:

### *Contract on the Pate-Shoemaker Reconstruction*

Mr. Taylor informed the Board that at last month's meeting he had introduced the Pate-Shoemaker Reconstruction and Christopher Burke's Engineering's proposal for engineering fees. Mr. Taylor stated that all members had reviewed Burke's Contract, and Mr. Taylor recommends that the Board approve the Contract. Mr. Taylor stated that the engineering costs on this reconstruction are \$29,700.00. Furthermore, Mr. Taylor stated that the ditch is in bad shape and

in need of reconstruction. He recommended that they proceed with the project.

**Mr. Bledsoe** asked Jake Dunnuck if he has had a chance to look over the agreement as presented. Mr. Dunnuck stated that he does not know anything about the project or the condition of the ditch, but he had looked at the Contract prior to the meeting, and it seems legitimate. Mr. Dunnuck stated it is a question whether the Board wants to incur those costs.

**Mr. Bledsoe** stated that the projected costs are in the sum of \$29,700.00, and anything over that amount would have to be further approved by the Board. Mr. Dunnuck stated that the agreement does show the estimated costs. Mr. Bledsoe asked if anyone has any questions or concerns.

**Mr. Taylor** stated they have been to this ditch, which is located from a half-mile south of Highway 67 and running to Highway 67, several times. Mr. Taylor stated that the ditch is in bad shape and it does need reconstructed. Mr. Taylor stated that as he informed the Board during their pre-meeting, there have been ponds built which he believes have something to do with the problems in that area. Mr. Taylor stated that they had a crew at that location and they replaced approximately 3 to 4 sticks, and once they hit it, it just kept flowing so the contractor could not do anymore work. Furthermore, Mr. Taylor stated that the ditch flows under Highway 67 and then goes northwest towards Daleville. He informed the Board there is no problem north of Highway 67. Mr. Bledsoe asked Mr. Taylor if there had been any work further north. Mr. Taylor stated not to his knowledge. Mr. Bledsoe asked if Chris Burke Engineering would do the pre-meetings with landowners as has been done in the past. Mr. Taylor stated that it would be better than the last reconstruction. Mr. Taylor stated the only thing he saw in the contract is that the county has to, as done in the past, is send out the notices to the landowners. Mr. Taylor stated he feels Burke Engineering will be hands-on, because they assured Stan Willis, James King and himself, they would be there on-site keeping an eye on things.

**Mr. Hensley** asked for any further discussion. With no further discussion held, Mr. Bledsoe moves for approval of the Contract between the Delaware County Drainage Board and Christopher B. Burke Engineering as presented. Mr. Landers seconded. **Motion passes 5-0.**

#### ***Easement on the Hamilton-Miller Ditch***

**Travis Gaither/HWC Engineering** approached the Board and stated that at last month's meeting, the parties had discussed how to handle their construction inside the legal drainage easement. Mr. Gaither stated that at that time, they decided to have an agreement signed by the Muncie Sanitary District for the MSD to maintain the creek edge, or they could move the road to be 20-feet or more from the bank of the ditch. Mr. Gaither stated that they analyzed the truck turning movements, and they were able to move the road. He stated the original plan has been revised and now the closest edge of pavement should be 20-foot or more away from the top of the bank of the ditch as was requested by the Surveyor. Furthermore, Mr. Gaither stated that those revised plans were furnished to Mr. Taylor and the Surveyor's Office last week. He stated that he has a few copies in his possession if anyone would like to review those.

**Mr. Taylor** stated that he thinks the revised drawings are in the Board member's packets and he has no problem with the revised drawings. Mr. Taylor stated the only thing he would suggest, is when the work begins, he would like to come out and look at the project. Mr. Taylor requested that Mr. Gaither telephone him when they get started. Mr. Gaither asked if a 48-hour in advance would be all right with him. Mr. Taylor stated that when they get the road staked off, then call him, because he wants to make sure they are doing what is in the agreement. Mr. Gaither stated that he does not know when they are planning to start the work.

No further discussion is held.

**Mr. Hensley** entertains a motion to approve the revised drawings. **Mr. Whitehead** so moves. Mr. Whitehair seconds. **Motion passes 5-0.**

## **NEW BUSINESS:**

### **Approval of the Amended Drainage Board Meeting Schedule for 2014**

**Mr. Hensley** entertains a motion to approve the Amended Drainage Board Schedule for the following year, and stated that a couple of the dates on the original schedule were incorrect. Mr. Whitehead moves to approve the amended schedule as submitted. Mr. Bledsoe seconds the motion. **Motion passes 5-0.**

### **Amended Schedule is approved as follows:**

**Meetings are at 1:00 p.m. in the Commissioners Courtroom  
(Pre-meetings held at 12:30 p.m. for Board Members Only)**

<b>Tuesday</b>	January 21, 2014
Monday	February 18, 2014
Monday	March 17, 2014
Monday	April 21, 2014
Monday	May 19, 2014
Monday	June 16, 2014
Monday	July 21, 2014
Monday	August 18, 2014
Monday	September 15, 2014
Monday	October 20, 2014
Monday	November 17, 2014
Monday	December 15, 2014

**Steve Robb** approached the Board and stated that he resides by I-69 and 332. Mr. Robb stated that approximately 15-years ago during the construction of Park One, when the Tschuor family owned the property; they had taken a natural water flow and had filled it in. He stated that they placed a 30-inch concrete pipe, which they were going to leave open for farm drainage, but they sealed up the pipe and concreted it in. Mr. Robb further stated that any surface water flowing through the natural drain flow would go to the holding pond in Park One, which he believes is owned by Delaware County. Furthermore, he stated the problems began 15-years ago. Mr. Robb stated he dealt with Dick Thornburg at that time, who was in discussion with the Tschuors to get the ditch opened back up; of course, Mr. Thornburg was dealing with other problems with the Federal Government at the time. Mr. Robb stated that they have got into development with the railroad by building the spur, which has caused more problems with his drainage. Mr. Robb explained that he had spoken with Mr. Taylor, and he really was not able to do anything to solve the problem. He stated that after speaking with Mr. Taylor, he contacted Angie Moyer, who furnished him with legislative codes that allowed Mr. Robb to petition the Drainage Board, even though it is a mutual drain. Mr. Robb stated that Brevini did not cause the problem they only inherited the problem.

**Mr. Hensley** informed Mr. Robb that Mr. Taylor had brought them up-to-speed on the problem in their pre-meeting and asked Mr. Taylor if he would like to speak on the matter.

**Mr. Taylor** stated that when they were out at the location two or three weeks ago, he did not get a good look at the problem, but feels maybe they need to go back out and look at it again. Mr. Taylor asked Mr. Robb about his response from Brevini. Mr. Robb stated that on December 1, 2013 he went to Brevini and spoke with two employees, because the owner was not there at that time. Mr. Robb stated the employees were going to confer with the owner, but since that date, has not heard back from Brevini. Mr. Robb stated he felt that Brevini would be more apt to deal with Economic Development, the Commissioners, the Drainage Board, or someone they know, instead of an individual like himself. Furthermore, Mr. Robb stated that all he asked was for permission to be on Brevini's ground, because he is 10-feet over on their property.

**Mr. Robb** stated he is not asking the Board for money, but seeking their input on how he can get the matter corrected. Mr. Taylor asked who the contact person was at Brevini. Mr. Robb stated he was uncertain. Mr. Bledsoe stated that Dr. Tozzi is no longer at Brevini, and he has not met the new person yet. Mr. Bledsoe stated he would need to approach Brevini, but before they can act on this matter, a written report from the Surveyor defining the issues, area, legal drains, etc., is needed. Furthermore, Mr. Bledsoe stated the Board could not do anything without that report. Mr. Bledsoe suggested that Mr. Taylor and Angie Moyer get together and come up with a written report with the exact location and they could present that to Brevini, along with the appropriate statutes if needed.

**Mr. Robb** stated it will not be a real easy fix because they are into AT & T, sewer lines, and gas lines. Mr. Robb informed the Board that Yorktown has control of all of the utilities in that area,

and Yorktown has no prints or drawings to know where any lines are in that area. Furthermore, Mr. Robb stated that Yorktown definitely wants to help him as far as the on-site location, but there will be several surprises and it will not be an easy fix because they have changed the lay of the land with the railroad spur. He stated that with the railroad spur, they are dealing with channeled water on both sides as far as the natural flow of water. Mr. Bledsoe stated that he will not dispute that, and stated there has been standing water in those areas throughout the years. Mr. Bledsoe stated that can be verified by aerial photos in the county's GIS Department. Mr. Bledsoe stated that is typical for most areas of the county, whether there is development or no development in the areas. Furthermore, Mr. Bledsoe stated if he could get something to take to Brevini, Brevini would work with them because they have always been willing to explore an opportunity to help. Mr. Bledsoe stated he could not speak for Brevini, but he does not see they would have an issue with this problem.

**Mr. Taylor** stated that sometime next week; he will try to get with Angie Moyer and Brad Bookout to sit down and address this matter. Mr. Taylor stated that all three were out at that location approximately three weeks ago with another problem Mr. Robb had. Mr. Taylor stated that maybe Mr. Bookout has an insight on Brevini, he will get some more maps and they all can look at the problem, and go from there. Mr. Bledsoe stated that as Board members, they need to know the exact location, whether it is a legal drain or not, tributary or not a tributary, mutual drain or not, whether it is the county's problem or not. Furthermore, Mr. Bledsoe stated the Board needs to know those specific factors as they do with any drainage issue, because that determines whether money can or cannot be spent. Mr. Bledsoe stated he would like to have all of that before he calls Brevini so he would have something to show them. Mr. Taylor stated they would try to do that before the meeting next month.

**Angie Moyer** stated that maybe they should contact GIS and get an aerial for Mr. Robb, and then Mr. Robb can draw where he believes the water is draining when it was functioning properly, and they can go from there. Mr. Taylor stated that would be fine and they will get together concerning this matter.

**Mr. Robb** stated that some of it will be that this water goes into a holding pond, which he believes belongs to Delaware County. Mr. Bledsoe stated he does not know if this is the county's pond or not, and does not believe it is the county's. Mr. Bledsoe stated that if it was county property, there would be minutes stating it was county property. Mr. Robb stated that he is not saying it is Brevini's problem, but Brevini did inherit the problems, and it is not really their problem to solve it, but is his problem to solve. Mr. Robb reiterated he is not here asking for a hand out, he is just asking for some directions because he does not want to go ahead with anything, because he is afraid of being sued by Brevini. Ms. Moyer stated it would help if Mr. Robb would write a description of how the ditch functioned before, and what it has done to him since, and then they could present this package to Brevini.

**Mr. Dunnuck** stated it might be clearer if Mr. Robb would make a written request. Mr. Dunnuck asked if Mr. Robb is filing a verbal petition with the Board. Mr. Bledsoe stated that it has been a while since he has read that part of the drainage statute pertaining to mutual drains. Drainage Board Secretary informed the Board that a copy of the statute is in their personal file/packet.

Mr. Dunnuck stated that he is trying to figure out whether a written petition should be filed.

**Mr. Bledsoe** stated that what he understands from what Mr. Robb is saying, but feels it should be in writing. Mr. Robb stated all he needs is some guidance and that is the main thing, because he has always dealt with “it is not a legal drain”, so the Drainage Board and/or Surveyor do not really have anything over the drain, but the way the statute is written, they could have the authority over it. Mr. Robb stated that is why he went to Brevini and tried to speak with them thinking he could get it solved or approved.

**Mr. Taylor** stated he thought Ms. Moyer had a good idea about getting with GIS to get Mr. Robb an aerial view, and then he can draw on the map. Mr. Taylor stated then Angie Moyer, Brad Bookout and himself could get together and prepare a report to bring back to the Board to show them. Furthermore, Mr. Taylor stated on the report they can inform the Board where there is an obstruction, and they can go from there. Mr. Taylor stated that hopefully they can get something resolved on the matter.

**Mr. Bledsoe** stated that Mr. Conrad is Brevini’s attorney and he knows he can get access to him quickly. Mr. Bledsoe stated that the matter could probably be worked out prior to next month’s meeting. Furthermore, Mr. Bledsoe stated that he thinks they could work this out internally between a few parties. Mr. Bledsoe stated that Brevini is a good neighbor and knowing the people of Brevini, they are very conscientious about their neighbors. Angie Moyer asked Mr. Robb if he wants permission to enter upon their property to make the necessary repairs. Mr. Robb answered yes and stated he did not ask them for any input or costs, because it is his problem, and stated that Brevini inherited the problem. Mr. Bledsoe stated that it should not be an issue and feels they can get it completed. Ms. Moyer asked if she should send an e-mail to Mr. Conrad. Mr. Bledsoe stated he could have Mr. Bookout do that. Ms. Moyer stated that if Mr. Bledsoe wants, she can give Mr. Bookout a call if that is how they want her to proceed. Mr. Bledsoe stated that he would as soon as the meeting was over.

**Mr. Hensley** thanked Mr. Robb and stated that they have a plan. Mr. Robb thanked the Board.

### **MAINTENANCE CLAIMS:**

**Mr. Hensley** entertains a motion to approve the maintenance claims as submitted. Mr. Bledsoe so moves. Mr. Landers seconds the motion. **Motion passes 5-0.**

### **ADJOURNMENT:**

The meeting adjourned at 1:20 p.m.

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Clarence Hensley, President

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John Landers, Vice President

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Larry Bledsoe, Member

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Charles Whitehair, Member

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William Whitehead, Member

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Cindy Harty, Recording Secretary