

REGULAR DRAINAGE BOARD MEETING:

March 19, 2018

President, William Whitehead, called the meeting to order. Members present at the meeting were the following:

William Whitehead, President
Clarence Hensley, Vice President
Shannon Henry, Member
Dick McIntire, Member
John Landers, Member
Tom Borchers, Surveyor
Stan Willis, Inspector/Chief Deputy
Brandon Murphy, Attorney
Cindy Harty, Recording Secretary

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

APPROVAL OF MINUTES:

Mr. Whitehead entertained a motion for the approval of the February 20, 2018 Drainage Board Minutes.

Mr. Henry moved for approval. Motion seconded by Mr. Landers. Mr. Whitehead abstained due to his absence at February's meeting. **Motion passed 4-0.**

OLD BUSINESS:

Mr. Whitehead addressed Mr. Borchers and asked if he had any old business to present to the Board today.

Mr. Borchers stated that there is no old business to present.

NEW BUSINESS

Mr. Whitehead asked if there was any other business that needs to come before the Board, if so, come to the mike, state your name, your address, and your issue.

Cheryl Dawson approached and she stated she is here regarding a drainage ditch issue; it is the Schram Drainage Ditch north of Muncie. Ms. Dawson explained as follows:

“It is an issue that she had spoken with Mr. Borchers about a couple of times, and she stated that she just wanted to ask for help from Mr. Borchers and the Board to get the matter resolved. Back in December, an excavator came onto her property to clear the drainage ditch, and she was unaware of this, and was not given notice. She stated that she was upset that she was not given notice. Apparently, the excavator had been there several days, two days before she had discovered it, and many trees were cleared. She stated that hundreds had been cleared, and a lot of them were very small wild trees. She stated that she did not understand the purpose of maintaining the ditch. Furthermore she stated, “My mother owns the property, technically I do now, she just passed on three weeks ago.” This was back in early December, and I did reach out to Mr. Borchers, and we talked several times. I had also talked with the excavator at that time. His name was Brad Butler, and he was very polite and kind, and he moved down the ditch to the next farm until I could talk with Mr. Borchers. What I did not realize initially is that a lot of the work that Mr. Butler had done, the trees had fallen into the ditch, and I did not realize that the first couple of times that the Surveyor and I talked. I noticed it a few days later when my friend and I went out and looked at the ditch and we saw a lot of what had been cut had fallen in the ditch. That excavator really, really needed to come back and finish the job. There were a lot of trees that he cut that are still there now, and they are very jagged, all different heights, some of them are on the flat terrain, some are on the sloped bank of the ditch. She stated that it is very messy. There is a lot of stuff that has been cut and a lot of these trees are at different heights that are all jagged, and it just really needs to be cleaned up. Ms. Dawson stated that she wrote a letter in January about this. She said she waited the remainder of December for Brad Butler, the excavator, to return. Because the last time that he and I talked, I went to look for him down the line and I said, I see why you want to come back, it is still a lot of debris in the ditch. He stated that “Yes, I need to clean it up”. She stated that he told her he would let her know when he was headed back, but she never heard from him, and he never came back. Ms. Dawson stated she wrote a letter and took it to Mr. Borchers, and her friend came with her, and then we asked him to come and look at it with us to see it and talk about it. She stated as far as she knew, he did not come out and look, and it is not cleaned up yet. We made another visit to the Surveyor’s office in February and talked with one of the ladies who work in the office, and then after that, Mr. Borchers did leave a message for me saying that Arnold’s Excavating would come out probably in two or three weeks. At that time, she stated that she did not return his call, because he had left a message for her while she was at the hospital with her mother, who was dying at the time. But anyway, that’s been

about five weeks ago now, and the only reason I'm kind of pushing on this, it is hard to get back to area without cutting through the field, and our farmer will want to get in there, he told me probably by April 20th, so I am kind of pushing because I really would like it to be cleaned up before the farmer gets his crop in. She stated she brought pictures to show. My friend took these with his better quality camera than I have, and I do not know if you want to see them or not.

Mr. Whitehead stated, "Sure". Ms. Dawson furnished pictures to the Board for their review.

Ms. Dawson stated the top is just the field that the excavator, where the excavator parked in our driveway and cut across the field.

Mr. Hensley asked if this impeded the flow of the water.

Ms. Dawson stated that actually the (inaudible), when I wrote the letter, visited and gave the letter to the Surveyor's Office, that was in January, and the debris that was in the ditch had moved down stream and it got hung up on an old railroad trussell that's still there, well just the (inaudible), the trussell itself is gone, and we were concerned when we wrote the letter and came up to talk in January because the debris had shifted downstream. She stated that she guessed the water and wind in December had created a little bit of a dam which I have pictures of that dam over here, it is not in there. All of the pictures you have there were taken in December right after the first excavator; well the only excavator was there. Then in January, we discovered the debris had moved down stream and created a little dam, so I was concerned at that time, but this past weekend, I was planning to come to the meeting anyway, but I went out to check it this past Sunday, and I discovered that dam is gone now, it's moved. She stated she assumed the rain we had recently shifted it and so it is flowing and open now, but I decided to come anyway to this meeting because I still have some debris that is clinging to the sloped banks of the ditch, the trees that have fallen over, and then I have all of these jagged trees sticking up everywhere. I just, I feel like if I had been given notice and then had time to talk with Mr. Borchers, all of this would have been avoided and we could have talked about what was going to be done. The only trees that were left standing were the biggest ones that you can see in the pictures. I understand that the county needs the ability to get in and have access to the ditch, and it was definitely overgrown, there is no question about that. I don't think anyone had been out there to work on maintaining it for a long time, and I don't blame Mr. Borchers for that at all, but I just would have liked to have more input on what happened, because eventually I would like to take this farm, which was originally my grandparents and then my mother's, I would like to try to make it a more natural-organic farm operation, and I have talked with the current farmer about that. I want the ability to be able to talk with the Surveyor about it, because I am concerned because the excavator told me that there were plans in place to spray, and I am concerned about that, but that is a kind of different issue from getting this mess cleaned up. I think that is all of it in a nutshell."

Mr. Whitehead stated, "Thank you."

Mr. Borchers informed the Board that she is referring to the back of the ditch, where you go through and across Highway 28 on Wheeling; it is that first ditch on the right. Mr. Borchers stated the ditch runs to the east and runs into another ditch. He stated that where those two ditches connect, there were a very large amount of ash trees in that ditch and there was no way possible to get to it, or to access it from the road. He stated so what he did, was hire a contractor to come in and clear just one side, so they could gain access. Mr. Borchers stated that she admits there was no way back there when the crops are in without going through the middle of the field. Mr. Borchers stated what happened, we cleared the whole ditch, and then on her property, she told the contractor to leave and not do anymore work. Mr. Borchers stated that Ms. Dawson left the contractor a note on his truck, and called him and left messages on his voice mail . . .

Ms. Dawson . . . no I did not.

Mr. Borchers stated that the contractor played the voice mail for him.

Ms. Dawson stated that was in January though.

Mr. Borchers further stated that the contractor that was out there told him, “He did not feel comfortable going in and doing anymore work on her property”. Mr. Borchers stated that he did finish the rest of the ditch and it looked nice. He stated that he told the contractor that was fine, just pull your equipment off and they would figure it out later. Mr. Borchers stated that he was going to hire another contractor to come in and clean up what is there, which is not very much, and so he contacted him and wrote the work order up approximately five weeks ago. Furthermore, Mr. Borchers stated we have gotten a bunch of rain and it has put us behind. Mr. Borchers stated that he informed Ms. Dawson as soon as the contractor is free, he would have them out there and they will clean up what she wants. He stated the problem is, we cannot access that ditch from any road, and she wanted to pick and choose the trees that we cut down, and it still would not give us access to our right-of-way. Mr. Borchers stated the trees that were cut down, the majority of them were less than 4-feet tall, and it was brush and not trees. Mr. Borchers stated that he knew Ms. Dawson loved her deer and wildlife, but we told her we would have to clean one side so we could have access, and they would leave the other side to do whatever she wanted with it. He stated that he thought they had accomplished that, and that they could still do that, but the problem is they have been backed up, and that was explained to her. Mr. Borchers stated that as soon as they have someone available, they would finish it however she wants. He stated that he wants to work with her, and she was told that. Furthermore, he stated that they would not do any type of stump treating or spraying on her property without her consent. So that is where it is left at right now.

Mr. Whitehead stated, “So basically we need good weather to take care of the situation.”

Mr. Borchers stated, “Exactly”.

“**Ms. Dawson** stated that she disputes some of what was just said, and she thought telephone records would show that. She stated the excavator and I, he was very polite and kind to me did not have any problems at all. When I realized that a lot of the debris had fallen over in the ditch, I went and talked to him on Sunday night. I discovered him

on a Friday, December 8, and I went over and talked with him on Sunday, December 10, and then we went out and took the pictures that you have on Monday the 11th. You know the excavator and I were on good terms. He told me that he had a certain type of equipment, which this is another issue I am concerned about. I asked him about all of the trees that are at different heights and they are all jagged, and how he could get rid of that. She stated that he said he had a special piece of equipment that would cut all of that down, and I told him I see now why he wanted to come back for all of the debris and we left it he was going to call me on my cell and let me know when he was headed back, and he said it wouldn't be for a few days because he was going to continue on where he was working and then he would come back. I waited all of December and he did not come back, and I think Mr. Borchers told him not to come back. Maybe he was uncomfortable, I do not know, but if he was, he never expressed it to me. I'm concerned because the January visit, when my friend and I visited Mr. Borchers' office, I asked if Mr. Butler could be the same person who would come back because he had that special piece of equipment to cut the jagged trees, and Mr. Borchers said no it wouldn't be Mr. Butler, that there were other companies that . . .”

Mr. Borchers stated that yes, they have the same equipment, and like Mr. Butler said, he did not feel comfortable. Mr. Borchers explained that it was nothing personal, but the other contractor that he has, has the exact same equipment. The only difference will be the name on the truck.

“**Ms. Dawson** stated that she just wants to clarify that, because when we were in your office you told me you did not think they would have that kind of equipment.”

Mr. Borchers stated that they have the exact same equipment. He stated he did not know if it is name brand or the size, but for the most part they are the exact same.

“**Ms. Dawson** stated that is okay, because that was one of my concerns that there would be jagged trees sticking up everywhere.”

Mr. Whitehead stated that we are on schedule, we are waiting on weather.

Mr. Borchers stated that yes we are waiting on the weather. Mr. Borchers stated that the other issue is he could not get her to give him a straight answer whether she wanted him to go ahead and mow those trees that are jagged and not finished completely down to the ground, or leave them.

Mr. Whitehead stated that is something you and her need to get together and work out.

Mr. Borchers stated that I still cannot get her to give me a direct answer, so that is another thing.

Mr. Henry questioned Ms. Dawson, “So you want the ones sticking up cut clear down?”

“**Ms. Dawson** stated yes, and I think I was very clear, but I think that everything that Brad Butler cut, should be cleared all of the jagged trees, I mean they are going to die anyway, they are all jagged and sticking up everywhere, and there is a lot of loose debris

lying around everywhere, and then a lot of the tree tops that he cut, have fallen into the ditch. Yeah, I definitely want it all cleaned up, but before anything else is cut, I want the opportunity to communicate with Mr. Borchers on what is done, because it takes trees a long time to grow and I didn't think it was necessary to cut, some of the trees were this big around (describing with her hands), they were not just tiny trees, they were medium sized trees, and I think some of them could have been left, and still had access to get into the ditch to do it. She stated that we have woods that Brad Butler never got to, if he had continued on to the east there are woods there. A lot of that along the ditch is that honeysuckle, which I would be very happy to get rid of. Unfortunately, the area that has already been cut is the area I would have preferred to have kept some of the trees, but they are gone now. The next area is more honeysuckle, and I probably won't have as much problem in clearing that, but I still want to know what is going on, because there are trees that probably shouldn't be cut. She stated leaving them, she realized it is a cost efficiency thing, it probably was a lot more cost effective for Butler to go in and clear-cut everything, it was faster and cheaper, but it is not necessarily the best for the environment or the wildlife. Ms. Dawson stated that she is happy, my family has always paid the taxes and fees, and I would like to be able to help going forward in the future. I would like to have the opportunity to keep it clear, or at least be able to discuss that. I am going to try to be more involved with the farm. That is all. Thank you, I appreciate it."

Mr. Henry asked Mr. Borchers if the first contractor did what he was suppose to do.

Mr. Borchers informed the Board that she told them to stop and left them a note on the contractor's vehicle, and told them not to do any more work. Mr. Borchers stated he pulled the contractor off and the contractor did not charge us for that amount.

Mr. Hensley stated, "Okay".

"**Ms. Dawson** stated that she might add that was before I realized, that was the very first day I left that note, and that was before I really went out and looked at it and saw all the debris in the ditch. If you stand back from it, you cannot see all the debris and I didn't realize, and so that is why I went looking for the excavator that following Sunday, and I found him and we talked and he said he would come back."

Mr. Henry stated that when the contractor comes back, just to make it clear, they will cut those down, but it will still look like that, but be shorter.

Ms. Dawson stated that she realized that, and it will be hard for them to get at ground level.

Mr. Henry stated that they will not be able to get them at ground level, but they will get them shorter.

Ms. Dawson stated that right now, they are all different heights, and it is not only on the flat, it is on the sloped banks too.

Inspector/Chief Deputy Willis stated that is why we have been spraying to kill those trees out.

Mr. Whitehead stated with an excavator you are not going to get them done like with a whirligig or a brush . . .

Mr. Borchers stated that like he said, he did what he could with a skid-steer with an attachment on the front, and then he had the excavator, which he did not go back with that, so that is where we are at. He stated that they would try to clean it up and wait until they could free up a contractor.

Mr. Whitehead stated that when your contractor gets out there, you will try to work with Ms. Dawson.

Mr. Borchers stated absolutely.

Ms. Dawson stated that she does not want any hard feelings; I want to be able to communicate. I just felt like I have not been able to so far.

Mr. Whitehead stated that we also want to be able to maintain our ditches to a flow-ability.

Ms. Dawson stated that yes I understand that completely. I would like to help with that if I can.

Mr. Whitehead stated that they understood and thanked her.

MAINTENANCE CLAIMS:

Mr. Whitehead entertained a motion for the approval of the maintenance claims as presented.

Mr. Henry moved to approve the claims as submitted. Mr. McIntire seconded. **Motion passed 5-0.**

ADJOURNMENT:

The meeting adjourned at 2:52 p.m.

William Whitehead, President

Clarence Hensley, Vice President

Shannon Henry, Member

Dick McIntire, Member

John Landers, Member

Cindy Harty, Recording Secretary