

REGULAR DRAINAGE BOARD MEETING:

June 17, 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, Delaware County Surveyor
Stan Willis, Chief Deputy/Inspection - 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 May 20, 2013 Drainage Board minutes. Mr. Bledsoe moved for approval. Mr. Landers seconded the motion. **Motion passes 5-0.**

NEW BUSINESS:

Request to Tie-In to Charles Fuson Drain

Phil Taylor, Delaware County Surveyor, informed the Board that Michael Mullins, 2601 N. Rolling Hills Drive, Yorktown, Indiana, came to his office wanting to tie-in to the Charles Fuson Ditch because of standing water on his property. Mr. Taylor informed the Board that Mr. Mullins is to install breathers and run an eight-inch tile into the ditch, with the work being completed by Mr. Mullins. Furthermore, Mr. Taylor stated that he and his inspector inspected the area and reports that the Charles Fuson Ditch will be able to handle the additional water. Mr. Taylor further stated that no Work Order has been completed since the work will be paid for and performed by Mr. Mullins. Mr. Taylor recommends that the Board approve Mr. Mullins' request. The Board approves Mr. Mullins' request without a motion or a second.

2014 Drainage Board Proposed Budget

Mr. Hensley entertains a motion to approve the proposed 2014 Drainage Board Budget as presented. Mr. Bledsoe questions the Drainage Board Secretary about any changes from 2013 Budget, and is informed that the Budget is the same as 2013. Mr. Bledsoe moves for approval. Mr. Whitehair seconds the motion. **Motion passes 5-0.**

OLD BUSINESS:

Public Hearing on the Reconstruction of the Tributary to the Truitt Ditch

Mr. Hensley introduces the matter of the Reconstruction of the Tributary to the Truitt Ditch. Mr. Hensley requested the engineer give an explanation, the purpose for the reconstruction, and his recommendations.

Tyler Comstock with Randall Miller & Associates stated that at the April Drainage Board meeting their findings were presented to the Board and the public hearing on the reconstruction was scheduled for today's date. Mr. Comstock stated that based on their

findings, it was discovered that the Dujmovich's property at State Road 32 and Cook Road, is being flooded during any rainfall. Mr. Comstock further stated that in their observations they found evidence of numerous crushed pipes. Mr. Comstock explained that their research started in one section on Highway 32 all the way to Piccadilly and then south to the railroad. Further, he stated that they found that area needed work; however, they found that south of the railroad the pipe was of insignificant size and would not handle the water, so they would have to go further downstream which increased the costs of the project. Mr. Comstock informed the Board that once all of their investigation was completed, letters were sent to the residents with the costs of the project, and each person's part of the total costs and informing each of today's hearing. Mr. Comstock stated that he recommends the Board would vote in favor of the reconstruction, but advises the Board they should hear from the landowners in attendance to determine if their arguments and assessments outweigh the damages.

Mr. Hensley asked if any of the Board members have questions or concerns. Mr. Bledsoe stated that he knows the water collects at the Dujmovich's home at Cook Road, but stated that water also stands west of the A-frame home on Highway 32, which creates a problem for property damage.

Mr. Comstock stated that they witnessed flooding in the section from Highway 32 to Piccadilly and then to the railroad, but what he saw is not as extreme as the Dujmovich property. Further, he stated that eventually the water in that section would dissipate and evaporate. Mr. Comstock stated that the Dujmovich's property is the extreme and the water was getting into their crawlspace, and they used that property as the control for this project. Mr. Comstock stated that several times he and his crew went out to the A-frame home on the J.D. Truitt Ditch, and south and west of County Road 400 East where water stood. He explained that the water would dissipate in those areas, but not the Dujmovich property.

POLL OF AUDIENCE:

Mr. Hensley requested by a show of hands who was in favor of the reconstruction and those who opposed it. **Let the record show:** That four (4) persons approved the project and the rest (numerous parties) opposed the project.

Mr. Bledsoe stated that he would like to get more on the record before they begin with public comment. Mr. Bledsoe stated that they have done public hearings in the past, and he would

hope that everyone understands why they are here. Mr. Bledsoe explained that all is being done according to state statute, and not based on anyone's opinion. He stated that a substantial amount of water was reported resting in a particular watershed to the Delaware County Surveyor, who has followed state statute to the point of the public hearing. Mr. Bledsoe stated that the costs for this project are high and he stated that in the seven years he has been on the Board, he has never seen costs so high, but figured it was because of the labor-intensive work, as well as involving many homes in the area. Furthermore, Mr. Bledsoe stated that he wants everyone to know that this matter has not been decided as of yet, but they are there to look at all opinions. Mr. Bledsoe asks the audience to speak the facts and not be repetitive, and stated that he appreciates each person's opinion.

Mr. Hensley instructs each person to go to the podium and state their names and addresses.

PUBLIC OPINION:

Jay Keller approached and stated that he lives on County Road 400 East beside Melba Slaven, who attends this date. He stated that he knows they are going to bore a 24-inch pipe underneath Highway 32, Cunningham and all of that, but stated that their water does not flow that direction. Mr. Keller stated that they could get 10 feet of water on Highway 32 and it would not affect their properties. Further, Mr. Keller asked if there are any state or federal funds available for this project, or is it all property-owner based. Mr. Keller stated that the assessment roll shows that he would be responsible for 2 percent of the total costs, which is in the sum of \$6,000.00, and he reiterates, 1.8 percent of it is his responsibility. Mr. Keller stated that Highway 32 could flood over and it would not affect his property.

Mr. Bledsoe explained it is bearer bound for people in the watershed. Mr. Bledsoe stated the preliminary engineering role is done with our engineer working with Delaware County's GIS Department on a 2-foot topography level, and that is what determines which way the water flows. He stated that if this were to be approved, there would be a more defined study and engineering process.

Mr. Keller stated that he has seen the neighborhood when it is flooded and something needs done, but he does not feel it is fair that he has to foot \$6,000.00 of the bill, since there is no funding and it is property-owner based. Mr. Keller questions whether there is funding available for the watershed on Highway 32 from the State of Indiana. Mr. Keller further stated that the

State of Indiana was on Highway 32 a couple of months ago cutting ditches down to the swale.

Mr. Bledsoe stated that there is no funding available and explained how the county operates it's funding. Mr. Bledsoe stated that ditch maintenance fees are paid yearly and goes for maintenance of the legal drains in the watershed. Mr. Bledsoe stated that it is defined in the drainage statute, and explains the size of the written law, which he stated is boring and needs to be updated. Furthermore, Mr. Bledsoe stated that the watersheds are broke down for the Surveyor and Drainage Board to manage their legal drains. Mr. Bledsoe explained that they work to move and direct water off the road and then there are legal drains that actually drain mass areas, which is under the prevue of the Surveyor. Mr. Bledsoe stated that it is confusing to him after doing this for six to seven years, but the law is set up to work this way. Mr. Bledsoe explained that Mr. Taylor, as Surveyor, has pushed the boundaries of maintenance before pushing a reconstruction project on the property owners. Furthermore, he stated that they are constantly checking with the State Board of Accounts trying to do the work a little cheaper, but they are prohibited under the law to do the work as maintenance.

Mr. Keller asks how many acres this project would benefit. Mr. Keller further stated that he has nine and half acres and is responsible on the assessment for 1.8 percent of the project, which is less than 600 acres. He stated that \$330,000.00 benefiting 600 acres sounds like an awful lot of money.

Mr. Comstock stated that the total benefited acreage in this assessment area is 524 acres. Mr. Keller stated that it sounds like an awful expensive project. Mr. Bledsoe agreed and stated yes it does sound very expensive for trying to help one landowner with flooding problems.

Mr. Comstock explained as he stated earlier, the project began with them looking from Highway 32 to the railroad and south, and then the project grew. He stated in order to fix the problem upstream the water would get faster downstream, which would flood the persons downstream, but once they would fix a section the water would flow downstream faster and would continue to be a burden on persons downstream. Mr. Comstock refers to his map and stated that as you can see at the fork, we have an 18-inch pipe and it is old and broken down. Furthermore, he stated if they fix the property to the north from Highway 32 to the railroad, then the water will flow to that pipe and then it will flood the properties at the pipe. Mr. Comstock further stated that after they investigated that area, they figured out that to the west to the J.D. Truitt, the pipe was running slow and was broken down, so then they would have to

repair that area. He stated that they did not want to fix this little section and then flood persons downstream, which would cause them to have to repair another section. Mr. Comstock further stated to clarify because of all misconceptions on the project, as Mr. Keller stated, if Highway 32 got flooded and if it rained for days, his property would not be affected. He further stated the way the assessment area is based on the contours, if the water from his property would reach a height to be reconstructed, then Mr. Keller's property would be "benefited". Mr. Comstock explained "benefited acreage" as follows: On a large scale for the State of Indiana, if the Mississippi River was a pipe and our water gets to the Mississippi River, we would then be benefited. He further stated if the Colorado River was being reconstructed, our water would not get there and we would not benefit.

Mr. Keller stated that he has 10 acres, in which his home sits on, and he makes no money from his property. He asks again how he can be responsible for 1.8 percent of the total project.

Mr. Comstock stated that unfortunately it is assessed by acreage and not by useable land.

Melba Slaven, 1000 South County Road 400 East, approached and questioned whether the reconstruction is necessary due to poor construction or broken down pipes in the addition and on Highway 32. She asks if everyone is supposed to take responsibility for having someone else's mess fixed. Mr. Comstock stated that they had Muncie Sanitary District's camera truck to look at the county drain and they found the line is a 15-inch running from Highway 32 to Piccadilly. The pipe was found to be crushed so the capacity of the flow of the water is reduced, which could have been caused by settlement of the pipe also. Ms. Slaven questions Mr. Comstock how the pipe was crushed. He stated that it could be from running machinery over it or it could be from earth settlement. Ms. Slaven stated the repairs should be the responsibility of the persons crushing the pipe. Ms. Slaven further stated that if she had a crushed pipe on her land she would be responsible for fixing it. Furthermore, she stated that she is on Social Security Disability and what they are asking her for is over one-third of her yearly income, and she does not have \$1,000.00 for a five-year plan. Ms. Slaven stated that it takes every dime she has and then some, and she does not have the then some, she makes due with what she has. She further stated that she does not want to repair or fix the drainage for an addition that is mile away from her home.

Mr. Hensley stated that he understands and stated there are many people in the same boat as her. Ms. Slaven stated that she cannot pay that assessment, that you can't bleed out of a

turnip, and she is a turnip.

Russell O'Neal, 6709 Piccadilly Lane, approached and stated that he has lived at that location for approximately fourteen years. Mr. O'Neal stated that they do have a drainage problem, but would like to go back to the very beginning of the project. Mr. O'Neal refers to the drain on the north side of 32 and wonders why the water is diverted to the location to the north. He stated that on occasions, three or four feet of water is in his backyard, that over two-thirds of his property, at times and for a week, is useless to him. Mr. O'Neal stated that it is a documented fact that this has been discussed several times in the past fourteen years since he has been coming to the Drainage Board meetings, and the truth of the matter is that no one wants to pay for this project because each time it has been a substantial amount of money. Mr. O'Neal asks why they cannot ask the State of Indiana, "Are you going to rebuild this highway like you purposed in the past". He stated that at that time why couldn't they look at the whole process and drain the water away from this area. He stated that he believes this matter will never be resolved because it comes down to too much money. Mr. O'Neal stated that the State needs to get involved, and needs to redirect that water west, but he does not believe anything they do or what pipe is installed will resolve the issue, short of putting in culverts. Mr. O'Neal further stated that it has not happened in the fourteen years he has lived there, and believes he could come back to a meeting fourteen years from now, and everything would be the same. Furthermore, he stated that unless there is some commitment with drastic amounts of money, nothing will be benefiting anyone.

Carline Wright, 6909 Piccadilly, approached the Board and stated that she believes they have her letter she sent prior to this meeting. She stated that she is very concerned about this project. Ms. Wright stated that to begin with it seems to her that they are talking about reconstruction of this problem. Ms. Wright stated that if you look at Section 51, it says in the end of it, "That the owner or owners necessitating the reconstruction shall be assessed accordingly". She wondered why the people that live east of this area and have no water problems, are being included. She stated that we do not necessitate this because they do not need it and they will not benefit from it. Furthermore, she stated that they have no problem with water now, and wonders why retirees living on a fixed income should have to pay for the project. Ms. Wright stated that it does not make sense. She informed the Board they should look at the regulation she is reading. She asks if there is anyone that differs from it saying, "Owner or owners necessitating the reconstruction shall be assessed accordingly". She stated again that does not include the parties with no water problem.

Mr. Hensley stated that they have heard from three people opposed to the project, and would like to hear from anyone that is for it.

Rick Driskill and his wife attend the meeting and stated that they live at 6300, 6204, 6208, 6212 and 6300 East Jackson Street. He stated that his biggest concern is that they did not receive a letter informing them of the meeting today. The Board Secretary informed Mr. Driskill that his properties are not involved with this reconstruction. Mr. Driskill asks, "Isn't the Truitt north of 32"? Ms. Harty asks Mr. Comstock to explain the two parts of the ditch in which the reconstruction is involved.

Mr. Comstock shows his map to Mr. Driskill explaining the Tributary of the Truitt Ditch and the J.D. Truitt Ditch (conversation inaudible). Mr. Comstock stated that the ditch Mr. Driskill is referring to is the J.D. Truitt that runs north and south and crosses Highway 32. He explained the section that the county is currently working as the Tributary to the Truitt Ditch. Mr. Comstock stated that the Tributary runs from Jackson Street south and west to the J.D. Truitt Ditch. Furthermore, Mr. Comstock stated that actually the J.D. Truitt runs south, so Mr. Driskill is north of this section and his property is part of the mainline of the Truitt Ditch and not the Tributary. He further explained that it is a completely different reconstruction project. Mr. Comstock stated that is why Mr. Driskill did not receive a letter for today's hearing. Mr. Comstock further explained that Mr. Taylor has been in touch with Miller & Associates concerning the J.D. Truitt reconstruction. Mr. Comstock stated that they have looked at the ditch, and Mr. Vannatta, former inspector of the Surveyor's Office, informed Mr. Comstock that it was nothing but sinkholes. Mr. Comstock stated that if the J.D. Truitt Ditch, not the Tributary, is nothing but crushed pipe, he recommends the county rip up and replace the pipe. Mr. Comstock stated that he would hate to charge the Board and the landowners an engineering fee when they could correct the problem with rip up and replacement.

Mr. Driskill asked if he can submit DVD's and pictures of the sinkholes, since he is aware it is not the main topic at today's meeting. Mr. Driskill furnishes DVD's and pictures to the Board's Secretary. Ms. Harty stated that she does have additional pictures, which have been submitted to the Surveyor's Office.

Mr. Hensley asks the audience if anyone else wants to speak in favor of the project.

Dave Crabtree, 6701 E. Piccadilly, approached and started that anytime they get a rain, he is surrounded by water and has a moat. He stated that the water gets in his garage, under his house and crawlspace, and stated that the drain that is there cannot handle the water. Mr. Crabtree further stated that it has killed the value of his house and land, and if he wanted to sell that, he have to nip that problem first. He stated that he lives next door to Ross, and the water comes around his house and into his backyard and just sits. Mr. Crabtree advises that there are not enough drains to get across and down to the railroad tracks. Furthermore, he stated that the railroad tracks are blocking the water. Mr. Crabtree stated that when you run a drain normally it goes from small to larger, but he stated it was explained to him by a construction man working on the drains, the drain that comes through 32 (can't comprehend) and down further on Piccadilly, is backwards. Furthermore, Mr. Crabtree stated there is a plugged drain right now in front of his house, and the highway has known about it for over a year. He stated that the highway department marked the road, and they have not been back or touched it. Mr. Crabtree stated that they are 4-inch drains, which wouldn't help much. He stated that in the wintertime, it is nothing but a skating rink on the corner of Lafayette and Piccadilly. Mr. Crabtree further stated that he fought for two years to get a ditch put in with the Drainage Board, and stated it has helped, but not much. He further stated it seems like before they were helping the farmers not the (inaudible). Mr. Crabtree thanked the Board.

Mr. Hensley stated that he thought that was enough input for the Board to make a decision. Mr. Hensley further stated that they have had people talking in favor of the reconstruction and some talking against it. Mr. Hensley informed the audience that the Board is cutting off further public input and the Board will entertain a motion to approve or disapprove this project.

Mr. Bledsoe stated that there are some high dollar assessments on the assessment roll. Mr. Bledsoe further stated that it is unusual for them as a Board because they have never had such high assessments. Furthermore, Mr. Bledsoe stated that he disagrees with some of the comments that the water does not affect him. Mr. Bledsoe stated that in doing this work for a few years, he has seen many of the older additions continue to have problems, because those drains are 60 to a 100-years-of-age. He stated that it is no one's fault the drains have just outlived their life. Mr. Bledsoe further commented on the subject as follows: When we get a large rain, you will see an area such as this or in the middle of a field somewhere, and people will think that does not affect me because it is not on my land. I know as a Commissioner and knowing some of the problems we have with our highways, what you see is that water keeps backing up and the hydraulic pressure creates pressure on these old drains. You might not be

able to see the problem, but what is happening is the pressure on the drain and that water sitting there is actually blowing and bubbling up, and when the water comes down, it sucks in the dirt and then the pipe caves in. Mr. Bledsoe explained that they are seeing more of that happen because the drains are so old. He stated that one house might be the only one bothered and twenty may not be, but in due time when nothing is done to correct the problems, there will be issues with that drain. **There is a question from the audience that cannot be heard.**

Mr. Bledsoe stated that he will cut straight to the point, the State is not going to give any money for these problems. Mr. Bledsoe stated that is why the State set up the Drainage Code to put the bearer of the cost to the people and not the State. Furthermore, he stated that if they would pay close attention to the State Legislature, they would find that the burden of many things is being placed on counties. Mr. Bledsoe stated that the county brings in approximately a half million dollars per year as assessments for maintenance money for the drains. He stated that the Surveyor uses this money for maintenance of county drains and not reconstructions, because it would be against state statute. **Discussion from the audience, which cannot be heard.** Mr. Bledsoe stated that the Drainage Law was set up back in the good old days when you had brand new drains. Mr. Bledsoe further stated that these laws were set up in approximately 1966 or 1967, and they are not updated frequently. Again, Mr. Bledsoe stated that he has a concern for the amount of the reconstruction project. Mr. Bledsoe questioned Mr. Comstock and asked if there is any way to look at maneuvering some of the water at the Dujmovich property at Highway 32 and Cook Road to the northeast and a different watershed.

Mr. Comstock stated that he does not have that answer at this time. He stated that they have looked at taking in the side ditch along 32 and taking it west to the J.D. Truitt Ditch, but informed the Board that is not a cheap option. Mr. Comstock stated that they would have to run the water uphill or pipe it. He stated that if the ditch is piped, they would be dealing with INDOT and that would get very expensive. Again, Mr. Bledsoe asked about going northeast of Highway 32. Mr. Comstock stated that without having a contour map in front of him and with the Dujmovich property sitting so low, to get the water to run northeast would be difficult because the northeast section would be somewhat higher. Mr. Comstock stated that if they would run it a little further, they might be able to find it to be low enough, and it is something that they could look into.

Melba Slaven approached the Board again and stated that she had one more question. She stated that she would like to know if this project is approved, what would happen if she cannot pay. Mr. Hensley informed her that her property would be assessed and then a lien would be placed on her property. Ms. Slaven stated that is wrong and she would sell her property first. Furthermore, she asked why they pay State and County taxes, and asked if everyone else in Delaware County pay for drainage or not. The Board members assured her that they do. Again Mr. Bledsoe explained to her about Drainage Law and how the Board is doing everything by that law. Mr. Bledsoe stated that they did not create it and they cannot change it, but she should contact her State Senator and/or State Representative to change the law. Mr. Bledsoe informed Ms. Slaven if the reconstruction billing is not paid within five years, that the lien would be placed on her property. Mr. Hensley informed Ms. Slaven that he has gone through this process, he just goes ahead and pays the reconstruction off. Ms. Slaven stated that she does not have the money to pay it off. Mr. Hensley stated that the Board had heard enough discussion and they need to vote on the matter. The Board agreed to hear from two (2) more persons in the audience.

Roger Dytmire, 6901 E. Piccadilly, approached and stated that he was at that location when they put the old drain in approximately mid 1980's. Mr. Dytmire stated that the problem is they followed the old line around his house. He stated that the drain has collapsed in his yard and has collapsed at the home of the Phelps, who live in the A-frame home. Mr. Dytmire stated this is the location the county needs to work and fix the problem. He stated instead of charging everyone hundreds or thousands of dollars, he asked why they do not fix what they have and leave it alone. He stated that is all he has to say.

Mr. Bledsoe stated that he thought Mr. Comstock had explained that if they would fix that, then there would be a potential that they would create problems down the line, and that's only if the reconstruction is approved. Mr. Dytmire stated that there is an 18-inch tile from the railroad to Highway 32, and he knows there have been two breaks in it over the last twenty-something years; one in his yard and one in the Phelps' yard. Mr. Dytmire further stated that now they are asking them to bring all that additional water across the highway and he wants to know if they are going to pay for damages to his yard if it does not work.

Mr. Bledsoe stated he would like to clarify one item in that they are not asking anyone to do that. Mr. Bledsoe understands that the drain has been there for a while, and that they are in charge of the maintenance of the drains. Mr. Dytmire stated just fix the old drain, that's all.

Ms. Wright stated from the audience that they pay \$10.00 per year for drainage. Mr. Bledsoe asked Ms. Wright if the \$10.00 would pay to fix a \$300,000.00 drain problem. Mr. Dytmire stated that many people cannot afford this project. Mr. Bledsoe explained that is why they are here and asked the Board for any recommendation. No recommendations are heard.

Mr. Bledsoe moves to deny the drainage reconstruction of the Tributary to the Truitt Ditch. Mr. Whitehair seconds the motion. **Motion passes 5-0.**

Mr. Bledsoe recommends that Mr. Taylor get with Mr. Comstock of Miller & Associates about the Cook Road problem and to see about diverting the water to the northeast. Mr. Bledsoe stated that we have county property to the east to divert some of that water. Mr. Bledsoe further stated that this is the second request for a reconstruction in that area, so they need not worry about another reconstruction hearing for that area. Mr. Bledsoe recommends that Mr. Taylor write a Work Order based on that information in that particular area. Mr. Bledsoe informed the audience that the petition for reconstruction has been dismissed and there would be no reconstruction. Furthermore, Mr. Bledsoe stated that the public is welcome to check out the Drainage Laws, because they were acting well within the law. Ms. Wright stated that is what she was reading from.

MAINTENANCE CLAIMS:

Mr. Hensley entertains a motion to approve the maintenance claims as submitted. Mr. Bledsoe moves for payment of the maintenance claims. Mr. Whitehead seconds the motion. **Motion passes 5-0.**

ADJOURNMENT:

The meeting adjourned at 1:41 p.m.

Clarence Hensley, President

John Landers, Vice President

Larry Bledsoe, Member

William Whitehead, Member

Charles Whitehair, Member

Cindy Harty, Recording Secretary