

DRAINAGE BOARD MEETING:

REGULAR DRAINAGE BOARD MEETING:

April 15, 2013

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

Clarence Hensley, President  
Larry Bledsoe, Member  
Charles Whitehair, Member  
Stan Willis, Chief Deputy/Inspector - 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 March 18, 2013 Drainage Board minutes. Mr. Bledsoe moved for approval. Mr. Whitehair seconded the motion. **Motion passes 3-0.**

## **OLD BUSINESS:**

### ***Dismissal of the Kern Ditch Reconstruction***

**Clarence Hensley** entertains a motion to approve the dismissal of the Kern Ditch Reconstruction. Mr. Bledsoe asked for an explanation since he missed the pre-meeting. The Board's secretary informed him that Mr. Taylor wished to dismiss the petition for reconstruction because there were only four sinkholes, and it was determined that it would cost less to fix the sinkholes rather than do a reconstruction. Mr. Bledsoe moves to dismiss the Kern Ditch Reconstruction. Mr. Whitehair seconds. **Motion passes 3-0.**

### ***Country Village/Creekwood Neighborhood Association***

**Mike Jacobs 2800 Sequoia Court in Country Village** approached the Board gave an additional review of the work completed in Country Village Addition, as follows:

Mr. Jacobs stated that approximately one and half years ago, he became involved with the neighborhood association. He stated that the association's approach has been to attend several different board meetings to ask for guidance. Mr. Jacobs informed the Board that the association has made a ton of progress through the help of the county, including the Highway Department and Angie Moyer. Mr. Jacobs further stated that the association tries not to spend any money if necessary, and at last month's Drainage Board meeting, he asked for county fill-dirt to shore-up the west end of the creek. He stated that things were in place to have that happen. Mr. Jacobs stated that however, the next day he received a call from Phil Taylor informing him that this area was a wetland, and any changes would have to be made with the State of Indiana's permission.

Mr. Jacobs stated that Mr. Taylor suggested that he contact John Eggen, who works with the compliance department at IDEM. Mr. Jacobs stated that he did contact Mr. Eggen. Mr. Jacobs explained that he questioned Mr. Eggen about the ditch and explained the county would like to dredge the creek, and that Mr. Eggen said, "You could take as much as 10-feet out of the creek if you wanted to". Furthermore, Mr. Jacobs stated that Mr. Eggen explained the county would do an early coordination of the project, submit a SEA-368 Permit, with the cost of the permit being \$200.00. Further, Mr. Jacobs stated that Mr. Eggen, informed him to get online to fill out an application for a permit. Therefore, he got online and printed out documents he might need and researched the permit procedure. Mr. Jacobs was given the name of Erin Besieger whose number is 317-234-058, whom would look into what options they have to take

care of the problem with the least amount of monies and give them some options. Mr. Jacobs stated that Ms. Besieger works through IDEM, the DNR and the Army Core of Engineers, and she coordinates everything at no charge.

Mr. Jacobs stated that he is back to ask forgiveness for trying to get things moving a little too fast, and to ask how he is to handle the information that he has obtained. He stated that he did not know whether to give it back to Mr. Taylor to follow up on, or if he should follow up on it himself. However, he stated that he would like to move forward with this, and asks for the Board's blessing.

**Mr. Hensley** asks Stan Willis if he could help Mr. Jacobs with this issue. Mr. Willis stated that he is unfamiliar with it and could not at this time.

**Mr. Bledsoe** stated that with the Surveyor's recommendation, it would be appropriate to pay for the \$200.00 permit fee from the maintenance funds, and proceed with the State's recommendations so the county can proceed with fixing the problem. Cindy Harty stated that Mr. Taylor is currently on vacation and suggested that she have Mr. Taylor contact Mr. Jacobs when he returns. Mr. Jacobs stated that he did meet with Mr. Taylor last week and Mr. Taylor informed him to go ahead and make the telephone call to the State. Mr. Bledsoe asked Mr. Jacobs if Mr. Taylor felt he could help with the ditch. Mr. Jacobs answered that Mr. Taylor stated that they could go to "Plan D" if need be, but Mr. Jacobs stated that he was not certain what "Plan D" consisted of. Mr. Bledsoe stated that Mr. Taylor, as Surveyor, should go ahead and act on it and any liable expense would be covered by the Board.

**Jake Dunnuck** stated that they should see what role they would have at this point. Mr. Bledsoe stated that it is not the Board's role, but would fall directly under Phil Taylor as Surveyor. Mr. Jacobs stated that he would contact Mr. Taylor next week.

**Mr. Willis** asked Mr. Jacobs if it helped when Harmon ran his jet-rod equipment through the drain. Mr. Jacobs stated that there are two issues, which he is concerned about, and they do not include the roads. Mr. Jacobs stated that Country Village has a leaf problem, but they have kept the leaves out of the drains, which has helped the drainage to improve. Mr. Jacobs stated the only drainage issue they have now is on Santa Barbara, which was addressed yesterday when Mr. Landers and Harmon ran the jet-rod equipment in the drain. Mr. Jacobs explained the drain is flowing properly, but they are waiting for the next rain to see how it is functioning. Furthermore, Mr. Jacobs stated they do not want to spend the county's money, but they are trying to find a reasonable solution to their problems. He further stated that it is the association's fault for ignoring the problems throughout the years. Mr. Bledsoe stated the problem is common as in Oakville and Cowan, which they have been trying to convince them to correct, but it is tough to do.

**Randall Miller CEO of Randall Miller & Associates, 333 E. Washington Street** stated that he wanted to jump up and give a comment to help Mr. Jacobs and the Drainage Board with the issue of the permit. Mr. Miller stated that Mr. Taylor asked him to look at that location for any solutions. Mr. Miller stated that he did look at the ditch, and gave Mr. Taylor several suggestions for corrections. Furthermore, Mr. Miller stated that he wanted to address the Board and state that it is a regulated drain, and before anyone can do any work, the Board must vote and give the approval for someone to work on the ditch. Mr. Miller stated that the second thing is the permit Mr. Jacobs was talking about, which is a construction of floodway permit. Mr. Miller stated that the SEA-368 review is the process for any work to be done on ditches, whether its rehabilitation through reconstruction, maintenance, abandonment or classification, but everything must go through the DNR. He further explained that the DNR is the facilitator, and then the Core of Engineers and the Fish and Wildlife would be contacted. He stated the DNR, Core of Engineers and a consultant of the county or the County Surveyor would meet at the location of the project in an informal setting. Mr. Miller stated that the parties would walk the area, and all parties would be informed what the county would like to do. Furthermore, Mr. Miller stated that this location would be easy because the area is wide open.

**Mr. Miller** further explains the process as follows: Once everyone meets then a report will be sent back to the DNR, and then it will be forwarded to the requester, with a copy being furnished to the Drainage Board. After the report, they have thirty (30) days to respond with different timelines,

**Mr. Miller** stated that the action that the Board has taken has given Mr. Taylor the authority to go ahead with the permit, and he explains that it is the action they should have taken.

**Mr. Bledsoe** stated that no vote was needed, because the Surveyor's purpose is to go out and identify any problems with drainage, and then to recommend to the Board the appropriate action to resolve the problem. Mr. Bledsoe stated that they have not had a report or recommendation from the Surveyor as of yet.

**Mr. Dunnuck** stated that he does not feel this Board would act without a report from the Surveyor. Mr. Dunnuck stated that he feels that the Surveyor would need to come to the Board and give a report, but he does not feel like they are at that stage yet. Mr. Bledsoe stated that the Drainage Statute states that the Surveyor will recommend to the Board any maintenance, reconstruction, or any new construction, and that is when the Board gets involved.

**Mr. Miller** stated that he was not sure if the Board had ever worked on the SEA-368 review, but he would be available if Mr. Jacobs needed him. Furthermore, Mr. Miller stated that he feels Angie Moyer could help guide Mr. Jacobs through the process.

### ***Update on the Truitt Ditch Reconstruction Project***

**Mr. Miller** approached the Board with an update on the reconstruction of the Tributary to the Truitt Ditch. Mr. Miller explained that in November the Board asked Miller & Associates to look at this ditch concerning a reconstruction, after which time, they had a bad winter. He stated that the Board asked them to do a preliminary estimate, have a landowners' meeting, and then bring the information and recommendations back to the Board with the costs of the project. Mr. Miller stated that they would then recommend that they have a public hearing with comments from the audience and the Board, and then the Board would make a decision on the project. Mr. Miller explains that if the project was approved the Board, then Miller & Associates would go back and do work that is more technical. Mr. Miller stated this would cut down on the costs, and stated if they did the whole thing up front and a majority of the public said "no" to the project, then they would have to wait another year to have another action on the reconstruction. Mr. Miller stated that he feels that is how this county has operated in the past. Mr. Miller further explained that they have done that, and hands the Board members documents and information showing the watershed. Furthermore, Mr. Miller stated that they had a public hearing (landowners' meeting) on January 30<sup>th</sup>. Mr. Miller stated the interesting thing about this project is the (inaudible) agreement. Mr. Miller explained the map and how the drain would flow into the original Truitt Ditch. Mr. Miller explained how his firm located the problems by using the Muncie Sanitary District's video equipment, and discovered that the drain is collapsed and needs totally replaced. He explained that the buried tile, which was approximately 8-foot below ground, has collapsed and is now an open ditch. He stated that he confirmed that it was a buried tile by the original notes when the tile was installed.

**Mr. Miller** further explained his drawings and stated that the project would include approximately five hundred acres of land, and the tile should be replaced with 24-inch pipe. Mr. Whitehair asks where Truitt Road and Centennial are on his map. Mr. Miller shows the location on the map. Mr. Bledsoe stated that Truitt runs north and south, and Centennial runs a mile north of Highway 32 and probably north of the scale on Miller's map. Mr. Miller further stated that the situation in their opinion took a little longer due to additional calculations. Mr. Miller stated that they donated all the preliminary engineering and did this because he wanted to help the project, and they did not charge for that because he is too good of a person he guesses. Mr. Miller stated that he has a report to give the Board, and they will be working with the Drainage Board Secretary if the Board approves the project to go to a public hearing. Mr. Miller stated that he recommends this cause be set for a public hearing because they can get the people in here, talk with them and answer any of their specific questions, and put some resolution to this project. Mr. Miller gives the Board the preliminary assessment roll and an estimate as to costs, whom benefits, and the acreage that would benefit. Furthermore, Mr.

Miller stated that they also have the costs broken down per section, which is broken down in three (3) sections; and points to those areas on his map.

**Mr. Bledsoe** asks if the assessment roll contains the landowners who will bear all the costs, with no separation. Mr. Miller stated that yes it does contain all landowners and involves over five hundred acres which is good because it spreads the costs out. Mr. Miller stated that they recommend it be set for a public hearing. Mr. Hensley stated that all they need is a report from the Surveyor. Mr. Bledsoe stated that they need 45-day notice for hearing and discussion is held between Mr. Bledsoe and the Board's Secretary, and they agree that June would be preferred. Mr. Bledsoe suggests that they set the public hearing for June 17, 2013. Mr. Bledsoe suggests that a light Agenda be set for that date. The public hearing on the Truitt Ditch Reconstruction project is set for **June 17, 2013 at 1:15 p.m.** Mr. Miller stated that there are approximately 150 landowners who would attend on that date.

### **NEW BUSINESS:**

**Rock Shideler/Irving Materials, Inc., 6014 N. Walnut St., Muncie, IN**, approached the Board concerning the vacation of a portion of the Hamilton Ditch. Mr. Shideler stated that in 2012, Irving Materials, Inc. purchased approximately fifty-four acres north of their original property. Mr. Shideler further stated that the Hamilton Ditch, a county regulated ditch flows, and begins on the eastside of the newly purchased property. He stated that their stripping procedure will eliminate that county tile heading to the west (shows property lines on his map). Mr. Shideler stated that Irving Materials requests permission to vacate that county tile on their property.

**Mr. Bledsoe** questions Mr. Dunnuck as to posting of said vacation. Mr. Dunnuck stated that they were discussing this matter in the Board's pre-meeting, and it is his understanding the property Irving purchased is the commencement of that tile. Mr. Dunnuck questions if they vacate that ditch, will there be any affected landowners, and will the ditch be obstructed because it will be removed. Mr. Dunnuck recognizes the Indiana Statute as to vacations of drains, which gives the Board an affirmative duty to give notice and have a hearing. Mr. Dunnuck questions who would they give notice to. Mr. Bledsoe questioned that matter also. Mr. Dunnuck stated that they would not be able to determine that there would be, and stated that for purposes of vacating it, he does not know whom they would notify. Mr. Dunnuck questions Mr. Shideler if this would affect the landowner to the west of their property. Mr. Shideler stated that it should not. Mr. Dunnuck then states that is a determination that needs to be made, and if there is not one, do we still need a public hearing. He stated that the statute presumes there will be an affected landowner, so if they determine there is not one, does that obviate the need for a public hearing. Mr. Dunnuck asks do we need to make a record at a public hearing or is it sufficient to do it here?

**Mr. Bledsoe** stated that his concern is that the Indiana Statutes mention a public hearing in a couple of places. Mr. Bledsoe asked if a month would set them back if they posted this matter for a public hearing. Mr. Shideler stated that it should be no problem. Mr. Bledsoe and Mr. Dunnuck agree that would take care of the problem of having a public hearing and it might be that there is no affected landowner but if it is a public meeting, someone might come in and the Board can address it then. Mr. Dunnuck advises that they will be making a record if the Board does it that way. Mr. Bledsoe stated preferably he would like to have a public hearing and to have the secretary publish the notice in the newspaper. Mr. Whitehair asks whether that borders County Road 400. Mr. Shideler stated that their property lines do not go to County Road 400. Mr. Whitehair then asks if any of that water would flow that way. Mr. Shideler stated that the surface water would come to the south of their property. Mr. Bledsoe then stated that they would be mining so it would not cause any problems, and Mr. Whitehair agrees. Mr. Dunnuck asks where the water would go. Mr. Shideler stated that it would go to the open ditch to the west. Mr. Whitehair stated that it would dump into the creek at approximately County Road 350, by Terry's RV. Mr. Hensley entertains a motion. Mr. Bledsoe moves to have a public hearing on the vacation of a portion of the Hamilton Ditch on May 20, 2013 at 1:00 p.m. Mr. Whitehair seconds the motion. **Motion passes 3-0.**

### **MAINTENANCE CLAIMS:**

**Mr. Hensley** entertains a motion to approve the maintenance claims as submitted. Mr. Bledsoe moves to approve the claims. Mr. Whitehair seconds the motion. **Motion passes 3-0.**

### **ADJOURNMENT:**

The meeting adjourned at 1:31 p.m.

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Clarence Hensley President

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Larry Bledsoe, Member

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Charles Whitehair, Member

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Cindy Harty, Recording Secretary