

REGULAR DRAINAGE BOARD MEETING and PUBLIC HEARING ON PETITION FOR RECONSTRUCTION OF THE APPLGATE DITCH:

January 21, 2014

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 December 16, 2013 Drainage Board minutes. Mr. Whitehead moved for approval. Mr. Bledsoe seconded the motion. **Motion passes 5-0.**

OLD BUSINESS:

Public Hearing on Petition for Reconstruction of the Applegate Ditch

Mr. Taylor informed the Board that they have determined that there is approximately seventeen hundred (1,700) feet of pipe which needs replaced on the Applegate Ditch, for a cost of

\$230,000.00. Mr. Taylor stated that the reconstruction needs done, but he does not feel they should put that amount of money on the property owners for the reconstruction. Mr. Taylor suggested, as previously discussed with Mr. Whitehair that they could go back out to the location of the drain and figure out how to solve the problems for less money. Mr. Taylor stated that it is his opinion that they can solve the problems for less money if they do not have to get in a tug of war with the railroad. Furthermore, Mr. Taylor stated he knows that Miller & Associates have spent a lot of money dealing with the railroad. He stated that his Inspector, Stan Willis, has already walked the ditch and they both feel the problems could be solved for less than \$230,000.00.

Mr. Hensley questioned the audience as to how many people are here today that oppose the project and how many favor the project. **(The entire audience was against the project, except for one (1) couple).**

Mr. Bledsoe stated that for the record it shows that 165 notices were mailed; five were returned; there were 66 objections filed; 64 objections are confirmed as non-duplicate affected landowners; and the percentage is higher for those opposing the reconstruction. Mr. Bledsoe calls on Mr. Taylor for his input. Mr. Taylor stated the total amount of the project would be \$229,955.28. Mr. Bledsoe stated that for the record, he has had several telephone calls from persons objecting to the assessments they would be charged.

Mr. Hensley entertains a motion. Mr. Dunnuck questions Mr. Hensley as to what the motion would be. Mr. Hensley stated it would be to vote in favor of or against the reconstruction. Mr. Dunnuck asked if the Board is so inclined to vote at this time, and stated that it seems the overwhelming majority of the people in the audience, have objected. Mr. Bledsoe stated that he knows from the past and being on this Board for several years, that when they have these public hearings, they wind up having a large group of persons opposing the project due to the costs. Furthermore, Mr. Bledsoe stated that Mr. Taylor and Stan seem to think there is an alternate fix to the problems on the ditch, and stated with the question of how long ago this ditch has been reconstructed he has a problem with voting in favor of the project. Mr. Bledsoe stated that he could not vote in support of the reconstruction because of the possibility of having alternate ways to fix the problems to provide relief, and in turn saving substantial costs. Mr. Bledsoe moves the reconstruction of the Applegate Ditch be denied at this point, with further review and recommendations from the Surveyor's Office as to a remedy, which could possibly be done under a different funding mechanism. Mr. Landers seconds the motion. **Motion passes 5-0.**

Mr. Hensley informed the audience that the reconstruction is off and dismissed.

Mr. Bledsoe addressed the audience with a little history about some of things that are going on, and stated that these hearings are done for every reconstruction, but these hearings are what the law constitutes as to what the Drainage Board can or cannot do. Mr. Bledsoe informed the audience that after the petition is filed, the mailings are done, and the engineering procedures are completed, then they have a public hearing as was held today. Mr. Bledsoe stated that some of the old drains in the county are somewhere between 60 to 100-years-old and they are failing, but this is the proper way, according to law, that the Board needs to proceed. Mr. Bledsoe stated that

he does not agree with it personally, and he thinks the legislators need to look at the Drainage Law and look at other ways to do a reconstruction, so it is not a burden on the people. Mr. Bledsoe stated that they are failing drains in our community that are going to continue to fail and they will need to be repaired. Furthermore, Mr. Bledsoe stated that at some point, our legislators need to look at increasing assessments and increasing them to more than \$10.00. Mr. Bledsoe stated that Delaware County brings in approximately one-half million dollars in maintenance assessments, which is used for the maintenance of drains. He stated when you start replacing a thousand feet or more of pipe the monies go quickly.

COMMENTS FROM THE AUDIENCE:

Russell H. Goodman, approached the Board and stated that he lives on Cornbread Road, and he has been paying on the Applegate Ditch since 1978, and wanted to know what happened to all of that money. He stated that now they have raised it to where a cleanout tax has been put on him. Mr. Taylor asked what he meant by “a cleanout tax”. Mr. Hensley stated that he believed Mr. Goodman was speaking of stormwater. Mr. Goodman stated a clean out for a storm drain. Furthermore, Mr. Goodman stated there is a large tile running down on the north side of the railroad track, but it needs cleaned out, and he thought the notice was for that. He asked again, what happened to all the money I have paid since 1978. Mr. Taylor stated that he is talking about two different entities, and if it is stormwater, that is a different situation than what we are doing here today. Mr. Taylor stated this hearing is on a reconstruction of the tile of the Applegate Ditch. Mr. Goodman asked many times what had happened to the funds he had paid in since 1978.

Mr. Goodman stated that at the last meeting, someone said they gave the money away to some other thing. Mr. Bledsoe stated that if he is referring to a ditch assessment, that goes into the watershed fund for the particular area of the county. Mr. Bledsoe informed Mr. Goodman that is the money the Surveyor uses to repair a sinkhole, a short run of pipe, clean debris from a drain, or to get the drain back in working order. Mr. Bledsoe stated that it could be any drain within that watershed and the Surveyor has maps of the watersheds if Mr. Goodman is interested in seeing them. Mr. Goodman asked, “So me paying into that ditch, that goes to wherever you want to send it?” Mr. Bledsoe stated that it is not the Board that wants to send it; it is determined by Indiana State Law. Mr. Bledsoe explained that the money collected from the people for ditch assessments goes for the repair of the drains in that particular watershed, or for any benefiting person in that watershed. Mr. Bledsoe stated that it could be the next legal drain in that watershed that needs repair or maintenance. Mr. Goodman stated that they have put a pipe across his field and he did not charge the county anything for that to drain the curve when they redone the road. Mr. Bledsoe stated he did not understand or know what Mr. Goodman was talking about. Mr. Goodman stated when they straightened Cornbread Road out at the old curve, they needed a drain for it, so they put it across his field, and he did not charge them anything for doing that. Mr. Whitehead asked when that was done. Mr. Goodman stated that it was several years back.

Someone speaks from the audience and could not be picked up by the recorder.

Mr. Goodman stated that the only maintenance that he has seen them do, is where they got on the other side of the railroad track and pulled a tree out of that drain going underneath the railroad track. Mr. Bledsoe informed Mr. Goodman that is what that money is to be used for. Mr. Goodman stated that until they did that, his field flooded and he had a pond. Mr. Bledsoe stated that Mr. Goodman must understand the hearing today is a reconstruction hearing, which means the drain has failed beyond repair, and the only recourse for the Drainage Board is to have a public hearing for the reconstruction of that drain. Furthermore, Mr. Bledsoe explained that Mr. Taylor will try to go back out to the location to find out if there is something the county can do under maintenance to repair the drain and use those ditch maintenance monies to cover the cost to repair.

Mr. Goodman stated his main concern is they have been paying in since 1978 on that drainage ditch and then it comes up that you need to completely put in a new pipe in there. Furthermore, Mr. Goodman stated that we were told we did not have any money for that ditch and we would have to pay for it out of our pockets. Mr. Bledsoe stated that is how the Drainage Boards in Indiana are set-up by the Drainage Laws. Mr. Goodman again questioned why he is paying into a fund that they can give away. Mr. Bledsoe suggested that Mr. Goodman contact his state legislator to help make some changes to the Drainage Law. Mr. Bledsoe again stated that the money the county collects for assessments, is approximately one-half million dollars per year and it is used to maintain those ditches, such as getting trees from a legal drain, debrushing, etc., but not to reconstruct a drain. Mr. Goodman asked if his money was used for all the drains in the county. Mr. Bledsoe stated there are four main watersheds, and each watershed can only spend money within its own watershed. Mr. Goodman asked which watershed he was located in. The Board Secretary informed him his drain was located in the Southwest watershed. Mr. Goodman asked if his money stays in that watershed or if the county even has money in that watershed. Mr. Bledsoe stated that there is money in the Southwest watershed, but that money could not be used for reconstructing a ditch, even if the county wanted too. Mr. Hensley informed Mr. Goodman that is for sinkholes and for maintenance. Mr. Bledsoe stated it is for maintenance of that drain, not a total replacement of the drain. Furthermore, Mr. Bledsoe stated that if the Surveyor can fix the ditch for less monies from the maintenance funds according to the law, then that is where the \$10.00 you have been paying since 1978 would come from. Mr. Goodman asked if it is more expensive to put in a new pipe or to clean one out. Mr. Bledsoe stated that is a rhetorical question, but the Surveyor is bound by law same as the Board, on how maintenance monies are spent. Mr. Goodman thanked the Board.

Julie Bering, 7120 W. Cornbread, approached and stated that her family would have been assessed \$24,000.00 if the reconstruction would have passed. Ms. Bering stated that her main concern is that the landowners in that area keep apprised as to what is going on with the drain and be informed as to the Surveyor's findings. Furthermore, Ms. Bering stated there are many farm people in that area and an awful lot of people that would be able to help if they are allowed to be involved in the process. Mr. Taylor stated that she could be notified by calling his office periodically to find out what is being done with the

drain. Mr. Taylor stated that since this has been denied, the Surveyor's Office will get back out there and walk the ditch, and get this thing fixed through the maintenance funds with no cost to the taxpayers. Furthermore, Mr. Taylor explained that the estimated costs on the reconstruction would have been approximately \$230,000.00 and if the county can fix the drain for \$20,000.00 from the maintenance funds, it would save everyone a lot of money. Mr. Taylor stated the only problem he saw is possibly dealing with railroad. Mr. Taylor informed Ms. Bering that the county will be back out once the weather breaks and informed her to call his office so she can find out what has been found and how the problems might be solved in that area.

David Fallis, 2212 S. Webster Drive, Yorktown, IN, approached the Board and stated that he has information that he feels others are unaware of, and stated he feels it might be helpful in solving the problems with the ditch. Mr. Hensley informed Mr. Fallis that he should speak with Mr. Taylor. Mr. Taylor and Mr. Fallis agree to meet after the meeting today. Mr. Fallis stated he had some other questions, but feels the Board has already answered most of them.

Mr. Hensley asked if anyone has anything under new business. Mr. Bledsoe stated that the Board passed a reduction of right-of-way on a regulated drain at their last meeting. Furthermore, Mr. Bledsoe explained that the attorney for the Muncie Sanitary District, Mr. Murphy, had to add who would be responsible for the non-enforcement of the right-of-way and who would take care of angles of it because it had not be included in the original paperwork. Mr. Bledsoe stated that would be the only change on the document, and recommended that the Board adopt this reduction of right-of-way as prepared and presented. Mr. Bledsoe stated that is his motion. Mr. Landers seconded the motion. **Motion passes 5-0.**

NEW BUSINESS:

There is no new business presented to the Board this date.

MAINTENANCE CLAIMS:

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

ADJOURNMENT:

The meeting adjourned at 1:18 p.m.

Clarence Hensley, President

John Landers, Vice President

Larry Bledsoe, Member

Charles Whitehair, Member

William Whitehead, Member

Cindy Harty, Recording Secretary