

GRANT COUNTY DRAINAGE BOARD

401 SOUTH ADAMS STREET
MARION, INDIANA 46953

The Grant County Drainage Board meeting was held April 30, 2019 in the Grant County Council Chambers. Gordon Gough, Vice-Chairman, called the meeting to order at 11:02 a.m. Other members present were Gordon Gough, Kenny Cates, Richard Cox and Grant County Surveyor Jim Todd. Mark Bardsley and Pat Pinkerton were not in attendance.

APPROVAL OF MINUTES:

Kenny Cates made a motion to approve the April 9, 2019 minutes as presented. Seconded by Richard Cox; motion carried with support 3-0.

APPROVAL OF CLAIMS:

Jim Todd presented the claims as follows:

Drewry Simmons Vornehm \$725.00 Hummel; \$92,997.27 in the red

Kenny Cates made a motion to approve the Drewry Simmons Vornehm claim as presented; Seconded by Gordon Gough. Motion carried 2-0 with Richard Cox abstaining due to having land in the Hummel Creek water shed.

Grant County Treasurer \$205.11 Maintenance repayment to GDIF
Cut Above Tree Service \$600.00 Back Creek; \$109,230.22 in the fund
Redman Excavating \$6,262.50 Pipe Creek; \$106,125.33 in the fund

Kenny Cates made a motion to pay the claims as presented; Seconded by Richard Cox. Motion carried with support 3-0.

OLD BUSINESS:

Little Crane Pond – Approval of resolution
There is nothing new to report.

Hummel Creek

Jim Todd explained to the Board that they have a copy of the communications through email between Mary Weesner, Drainage Board secretary and Joseph Leone, Attorney regarding Hummel Creek. Jim said that the attorney would like to proceed on going to court, showing the judge to take bids on the easy access of using the lane that goes right to the problem and also take bids if we need to make a road through the wetlands to get to this problem. Jim added that this will mean that there will be a need for additional engineering from Matt Meade of Christopher Burke Engineering; but Mr. Leone feels that we need to do this in order to prove our case. Regardless, we need to have a bid on the easy access because we have a lane that goes right to the problem.

Swartz Ditch – revised plans

Jim Todd showed the Board the revised plans for the Swartz Ditch that was submitted by Sandra Endlich of Er-Con Technologies. In the plans there are three 8" culverts; Gordon Gough stated that will get clogged up. Gordon recommended an oval box culvert and that wouldn't plug as easy. Jim Todd added that he thought these would be capped until the ditch was excavated and then they would be opened up, Richard Cox agreed. Jim Todd stated that he could have Mary Weesner report to them that the Board did not agree with their revised plans and that the Board would prefer the oval pipe (elliptical) instead of the three individual pipes. Richard Cox reiterated that it is the pipe line where they want to put a blanket over it, but he Drainage Board wants to put pipes under it, so in case they made a dam, they could open them up and let the water go under them. Gordon Gough stated that he has talked with Presnall and stated that the pipe line company bought back

20-25 acres that they would not let him farm because the pipe line is not deep enough. The 8" culverts that they are installing aren't even being used; they are installing and then capping them. Gordon asked the Board if we want to tell them that we don't like the idea of three pipes and they need to come back with an elliptical with the same square inches. Richard Cox made a motion that they need to return with a drawing including the elliptical pipe of the same square inches as the three 8" pipes. Seconded by Kenny Cates; motion carried with support 3-0.

Crane Pond Sub-Division - Deborah Keefe –Drainage issue

Jim Todd informed the Board that he has invited Deborah Keefe to the meeting today to ask the Board for advice. She has tried to get the city to help her. There is a drainage easement that exists around her house that does not show on the recorded plat. Jim told the Board that in their packet for today's meeting is the minutes for the original meeting in 1997; the Board took a minute to read the minutes provided (a copy of these minutes are included with the minutes from today's meeting in the Drainage Board office). Jim reviewed those minutes, stating that they were told by the city that they were going to annex this property and take it over. Jim Todd added that Randy Miller stood before the Drainage Board asking for drainage approval on this sub-division, stating that he (Mr. Miller) had met with Jim Todd and that Jim had looked at the plans. Jim added that at the time, the plans were all that existed besides bare ground. He added that anything that was within a quarter of a mile of the city limits, a variance is required through the Area Plan Commission that they meet the standards of the Marion Utilities Service Board. Mr. Miller added that they have done this and have their preliminary ok. In the minutes, as Jim Todd continued to read, Mr. Miller stated that what they are essentially doing is that they have calculated the post development rate for run off and they are storing the difference so that no additional water will be entering into the actual Crane Ponds themselves that are now on the north side (this is now the open ditch the land owners

pay a tax into). Jim added that Walter Wood, Drainage Board chairman at the time, asked Mr. Miller if all this water would be going into the detention pond; Mr. Miller responded to his question stating that yes, all of it will go to the pond and that the amount of water coming out is actually less than what it is at the present time. Therefore, the Drainage Board members voted to approve the plans that were submitted by Mr. Randall Miller. Jim explained that Ms. Keefe has been here before and has been told that the County does not have the money to fix this problem; she could petition for a county drain. Jim added that he has had David White out there and he did agree to do the road work at his expense, she stated Mike Graft agreed to do that. She has estimates from Dick Bragg to catch this water. Jim Todd went on to explain that it is the water from the back of certain lots (Jim showed the Board on a map) and the farm acreage and then to around her house, in a well-defined drainage ditch that does not show on the plat. Since then, there had been some people (8 lots) that had a water problem, but the city has come in and fixed it; six of the lots cost-shared it and the other two lots did not have to pay anything. Richard Cox asked if this has been annexed by the city; Jim Todd stated it was already in the plans for Marion Utilities Service Board; they had approved the preliminary plan because they were going to annex this and did. Kenny Cates asked Jim if this is an open ditch and where is it located; Jim showed him where it is between the two ponds. Richard Cox asked Jim if they had put a new pipe through the road; Jim replied they had not. He added that after Ms. Keefe made her request to the city, they denied it, but they did go in and fix eight lots, Ms. Keefe stated that she had an email where six of the lots had to pay four-hundred some dollars and the city covered the rest. She added that two of the houses did not have to pay anything. Jim added that Ms. Keefe has offered to pay half. Gordon Gough asked the cost for this work; she told him that she has three estimates. She has estimates from Dick Bragg, Rogers Farm Drainage and another in which was (*inaudible*). The amounts of these estimates given by Ms. Keefe were (*inaudible*) except that Dick Bragg was \$14,164.00 and one of the other two, again

(inaudible), was \$16,925.00. Jim Todd stated that Dick Bragg had the lowest of the three prices. Gordon Gough remembers something about this, something about how originally, there was not supposed to be a house placed where they put it; Jim Todd agreed, adding that until Gordon had him looking at a water problem, he didn't know they had put a house on the fill. Ms. Keefe stated that this was the first lot that Sally Jenks put in (inaudible words) then something about they knew water was coming in and a farm house and a farmer moved out due to water. Again, (inaudible).... Then Drooks moved into lot #2 saying the water has always been there and got worse and worse, eroding all the property, adding that there is a massive amount of water. Jim Todd stated that if nobody wants to help with this and it is not a platted drainage easement; what is stopping her from filling all this in, creating a berm and making all the water go to the county road, and then the County Highway Department would have to do something about it. Gordon Gough stated that in the plans it said that there was going to be a detention pond; where is it? It was pointed out to Gordon, Jim added that there is a pile of dirt before the pond, diverting her water; Richard Cox stated that the water does not get to that detention pond because it would create a dam. Jim Todd added that he does not know why that pile of dirt was put where it is. Kenny Cates asked if there is any tiling going to the retention pond; Jim stated that there is no tiling. Jim feels that the new tiling that they put in the sub-division goes to it, now it might over load the pond and the road. Jim Todd said that since it is a public utility easement, he asked Pat Pinkerton. Kenny Cates asked if that is a public utility easement that goes right behind her house, Jim said that it is and that is where the water runs. Ms. Keefe stated that she wonders why she lives in Crane Pond sub-division and is in the city while the farmers named (inaudible) Carmichael next to her are in the county. All that water is coming off of the county, she wonders why she would have to pay this massive amount of money to put drains on county property to keep water off her property and this was here before she bought the house. She added that nobody disclosed this issue to her prior to

Purchasing home, so why is the burden on her because it was poorly designed. Kenny Cates asked Ms. Keefe if she was the first owner of this house; she informed Kenny that Sally Jenks was the original owner and sold it to her. Kenny then inquired as to what year this house was built, Ms. Keefe told him June 1997. She told Kenny that she bought it in the winter time and didn't know until the snow started melting and nobody disclosed anything. She said Sally Jenks did not disclose this and (*inaudible*) she had six years to go back on her and didn't know. Jim Todd stated that Ms. Keefe had asked him to write a letter to the attorney for an affidavit; Jim added that he does not feel comfortable doing this, so he told Ms. Keefe to come to the meeting and he had no problem answering any questions and talking about why we're in this situation. Jim went on to say that if her attorney wants to call him, that fine. Ms. Keefe said she has a video of the water and then stated more *inaudible* and then something about a transformer and she called Indiana Michigan Power Company (more *inaudible*) something about the transformer burnt up from all the water running around it; this was in February. In August they put in a new transformer and did not give her notice that they were replacing it. Water stood for four days and she is afraid of diseases and stuff and mosquitos. Gordon Gough asked her if the house to the east of her has the same problem; she stated they get her water on the east side of her property to their west side of the property, and then it flows to the front of theirs on the north and they have a drain on the end. The water flows between the two houses. This water comes back over the road. Jim Todd reiterated that Mr. Miller said that they met the standards of the Marion Service Utility Board and that they have their preliminary ok; Jim said that they were preliminary oking the plat that clearly didn't show the drainage problem. Ms. Keefe stated that she spoke to Mr. Lewis, an attorney and he denied her case, but then she got a letter in the mail. In this letter, he stated that he is declining to represent her in connection with this case, encouraging her to seek other council as soon as possible. Ms. Keefe is not asking for any help fixing any of the damage caused, she wants help getting the problem solved and fixed. She stated

that when her foundation cracked due to all this water coming in on the west side, she decided not to (*inaudible*). She was advised by her attorney to contact the county surveyor and city utilities. She stated that she called her attorney back and informed him of what is going on; he asked her what she wants to do. She told her attorney that she does not want to sue anyone, she just wants the problem fixed, but it has dragged out for four years now. She said her sump pump runs for four days in a row, coming on every couple of minutes, it's not getting better, it is getting worse.

Kenny Cates asked her if there is a house south of her and are they having water problems; she stated that they are sitting higher and his water drains into Ms. Keefe's back yard. Jim Todd asked her how long was it after talking to the city that they came in and fixed her neighbors; she said she was advised to talk to the Mayor. She stated that it took her awhile to get in to see the Mayor since Mike Graft did not want her to speak to the Mayor, telling her that the Mayor is not familiar with all this. She finally got in to see him about a year later, and when she went in, David White and Mike Graft were sitting there. Ms. Keefe said that the first words that the Mayor said to her was asking her if she planned on suing, she told him no and all she is doing is asking people to help her but nobody will help. Ms. Keefe said that it seemed like right after she went to the Mayor's office, the neighbors work was done. Her attorney told her that the city will only do work that will help the economy, they are eight people and she is only one. She has video of her neighbor's yard, there is hardly any water. Kenny Cates asked why the city doesn't come across the back of it and drain it, Jim Todd thinks that may be the way it was but it couldn't handle it and that is why there is that pile of dirt back there and then it was routed around her house; he added that this is just his speculation. Gordon Gough stated that while the Board can tell her that she has a problem, they do not have jurisdiction in this. Kenny Cates said that according to a letter, Mr. Keefe is to get use of the pond. [There are several conversations taking place, cannot differentiate them]. Richard Cox said that there is too much water for what they put in.

Jim Todd stated that the only way they could solve this problem would be to put in a county drain. Kenny Cates wanted to know where you would start for a county drain; Ms. Keefe stated the Danny Carmichael gave Dick Bragg permission and Lee Smith gave his permission to take this water from her southwest corner, where it is coming from the farmer's property and run it from Danny Carmichael's property to the west side of hers but cannot put on her property because of the public utility easement. Dick Bragg suggested running diagonal due to more fall. Richard Cox added that sounds like the way to do but was unsure who would pay for it; Ms. Keefe stated that she is willing to pay half. Gordon Gough stated that he understands her problem, but doesn't know how the Drainage Board can help her; her response was inaudible due to several conversations taking place between Board members. Kenny Cates asked who is representing her, she replied Mr. Boyer of Fort Wayne because she could not find an attorney in Marion that would assist her, and Herb Spitzer is representing the city of Marion. She added that Randy Miller needs to help her fix the problem, adding that everyone makes mistakes. She stated that she will even pay part to help fix it, she needs it fixed, she can't deal with this anymore or live with it anymore, it needs fixed. Gordon Gough asked Jim Todd what we as a Board can do, adding that the Drainage Board does not have any jurisdiction here, Gordon added that we know she has a problem; Jim stated that the city will not work with her. Ms. Keefe stated that her attorney said that it doesn't go back on the builder, it goes back on the developer, and they are the ones that put the drainage in place. Jim Todd added that the city approved the plans; it was installed under the city's direction. Richard Cox stated that to him the way she will get anywhere would be to sue the city; she added that her attorney informed her that was the next step. Jim added that she has a drainage easement that isn't even on the plat. She stated that she needs affidavits. Ms. Keefe is speaking to Kenny Cates and is inaudible, there are several Board members having a discussion by recorder. Richard Cox stated that there definitely is a problem; Jim Todd responded that it is a bad design. Ms. Keefe will have these

minutes for her attorney once they are approved by the Board.

Ms. Keefe stated that she asked her attorney if they felt she had a good case or should she just buck up and accept it as her problem, or was something done wrong and someone should be helping her; she stated that she has a good case, they should take care of it, but then again you have to fight city hall. Jim Todd stated that he feels since they were out there fixing problems of people with water in their yard, they should have fixed hers too. Ms. Keefe stated that when they put the pond in, they put something across the road and it is starting to deteriorate.

Kenny Cates asked Ms. Keefe if the county is participating with anything; she stated that David White said he would pay to have the road paved and Mike Graft said he would pay to have the pipe ran across the road. Jim Todd asked her if anyone from the city has told her why they fixed the minor problem, but didn't fix hers; she stated that her attorney was told by Herb Spitzer that they can do that. The Board asked her why they fixed eight peoples problem, only charging six of them about \$400.00 and two of them didn't have to pay anything. She informed them that one of the properties that didn't pay has been on the market for a while and wasn't selling and the other landowner that did not have to pay is a fireman named Yeakle. Kenny Cates recommended that she go back over to the city offices and see if they will participate in going over to the pond across the street before spending more on attorney fees. She has been advised to put this out in the open, such as news channels and such; get the word out. Ms. Keefe has already spent over \$10,000.00 trying to get the water off from her house and the damage on the corner from the excess water. Now the porch on the west side is sinking in. She has receipts for all the repairs that she has made.

NEW BUSINESS:

Goff Ditch of Tippy

Jim Todd informed that Board that while he was out to a funeral, a Mr. Kitts and Mr. Corey were complaining about Tom Roush's farm

crossing that he put in. The contractors dug it out and it is down to grade and is a four foot pipe. Mr. Roush figured on a 2" rain and he put it in on property that he rents. Right now, we dredged south of there, so it has a good outlet. Mr. Kitts and Mr. Corey wanted to come to the meeting and complain. Jim stated that Raymond Bair informed them that both sides of the dispute need to come to a meeting. Jim is reluctant to have somebody remove a crossing; Gordon Gough added that he did not seek Board approval. Jim agreed, but he did water shed it and put in for a 2" rain and he did put it down to grade. Jim Todd added that now it is clean for about 1,500-2,000 feet to the Tippy Ditch and has a good downstream flow. He feels that they need to give this a chance and see how it works; Richard Cox agrees. Raymond Bair stated that they called in and it is a double wall, not a single wall.

OTHER BUSINESS:

There is no other business to discuss

ADJOURN:

Kenny Cates made a motion to adjourn at 12:04 p.m.; Seconded by Richard Cox; motion carried with support 3-0.

The next scheduled Drainage Board meeting to be held will be May 14, 2019 at 11:00 am

Minutes recorded by Mary R. Weesner

MINUTES APPROVED:

ABSENT

MARK BARDSLEY

GORDON GOUGH

RICHARD COX

KENNY CATES

ABSENT

PAT PINKERTON