

NEWTON COUNTY DRAINAGE BOARD

NEWTON COUNTY COURTHOUSE – KENTLAND, IN

December 3, 2012 10:00 A.M.

The Newton County Drainage Board met on **December 3, 2012** with the following persons present: Board Members – Russell Collins, Jim Pistello & Tim Drenth, Surveyor Chris Knochel, County Engineer Larry Holderly, Secretary Debra Chapman Risley, Drainage Board Attorney Dan Blaney, Newton County Attorney Pat Ryan and LeAnn Sale.

Minutes – November 5, 2012 – Tim made a motion to approve the November 5th minutes with a second from Jim. **Motion carried and minutes were signed.**

McGraw Tile M-45 – Bob McKee was in attendance to submit a map and discuss the drainage problems on the McGraw Tile. Certain areas of the tile are fine. Other areas need very little attention. The area north of 1500 S that runs through the Richard Welch property - operated by Jim Hawkins, is in desperate need of work in order to prevent further deterioration (approx. 2 ½ miles). Chris stated that Bob is correct in that the surface drain does need a lot of work. The waterway north of 1550 S has filled in so the waterway is not operating at full capacity. The area south of 1550 S will be requiring work in a few years also so Chris was considering making it a two stage project. The McGraw Tile is the biggest and longest in the county stated Chris. He also mentioned that with the GPS unit, information can be gathered without staking the project until the contractor is ready to begin work. Chris is to create an estimate for the project so that a hearing can be scheduled. Deb reported the fund has a cash balance of \$7,200.00.

Moran Tile Reroute - According to the engineering plans, Chris said we will have to reroute the Moran Tile to accommodate INDOT. They designed the bridge without considering the needs of the tile even though the tile was there before their pavement. Any expense involved will have to be carried by us locally and then a claim will be submitted to the state for reimbursement. Deb stated there is currently \$4,600.00 in the fund and it brings in \$14,475.59 per year. Chris is assuming that the contractor that is there to install the bridge will also be the one to install the tile and move the utilities to accommodate the tile. Larry stated that Highway 24 will need cut and this will be done at the same time.

Bid Proposals – Morrison–Talley Open M-63 – Three bids were received for this project and they are as follows: Josh DeYoung \$42,850.00; Ronnie Madison \$98,978.00; Rod Green \$43,920. Chris' estimate was \$68,579.50. **Jim made a motion to accept the bid from Josh DeYoung in the amount of \$42,850 as long as it meets Chris' specifications. Tim seconded the motion and the motion carried.** **Kennedy-Lawrence M-19** – Chris' estimate for this project was \$11,246.57. Bids received were: Josh DeYoung \$11,900.00; Rod Green \$5,959.00; King Bulldozing \$4,410.00. **Jim made a motion to accept the King Bulldozing bid in the amount of \$4,410.00 as long as it meets Chris' specifications. Tim seconded the motion and the motion carried.** **Battleday Group M-72** – Chris estimate was \$10,497.30 and there were four bids received. Edwyn Mattocks & Sons \$5,400.00; Josh DeYoung \$12,900.00; Rod Green \$7,199.00; Ronnie Madison \$6,520.00. **Jim made a motion to accept the \$5,400.00 bid from Mattocks as long as it meets Chris' specs. Tim seconded the motion and the motion carried.** **Mary Spitler Tile M-15** – There was one bid received and it was from DeYoung Drainage & Excavating in the amount of \$47,480. Larry's estimate was \$60,000. **Jim made a motion to accept the bid from DeYoung Drainage in the amount of \$47,480.00 as long as it meets Larry's specs. Tim seconded the motion and the motion carried.**

David Deardurff Watershed Determination – Chris stated this is a lateral to the Narrows. Danielle had made the watershed map and Chris has confirmed it. Chris didn't have the estimated costs for assessment. This will be added to the list of drains needing an assessment hearing.

DeHaan Ditch Certification for Assessments – Deb presented the certificate for assessment for signatures and offered the assessment role should anyone wish to see it. Russ and Tim signed the certification form so it could be returned to Rhonda at the Jasper Co. Surveyors Office as they are the surveyor of record on the DeHaan Ditch.

Reconstructed Drain Fund – Dan stated his recommendation is to establish the fund. Chris stated per statute if you reconstruct a drain, that money all has to be paid upfront by the landowners who benefit. There is no borrowing from the General Drain Improvement Fund. If you do not pay for it in the first year, you not only get a penalty – you get a 10% penalty stated Chris. Deb mentioned that Dan was to get a hard copy of the resolution to the board members per the last meeting. Jim suggested the topic be tabled until Dan has the resolution available for board review.

Other Matters – **Mosquito Creek** - Chris is preparing letters to be sent to the landowners on the Mosquito Creek. Whereas he is the surveyor of record for both Newton & Jasper counties, the letters will state he needs to personally inspect the area. **Charles Triplett Tile** – Chris said he has a report on this tile that is very encouraging and he would get a copy of the report sent to the board members. This is the tile that outlets into the low spot in front of Maury Wiseman's house. The tile was inspected in a number of places and found where the tile was actually broken and not functioning. Once we found the blockages and opened it up the tile started flowing. It was put in approximately in 1930 by machine Chris stated. The last inspection was done at the fence line just south of the cemetery and the water is flowing at a consistent depth of the water upstream. There were two obstructions - the tile was broken almost immediately south of Maury's house in that grassy, wetland area on the Warren Johnson property and there is more tile that needs replaced as it is broken on both sides of their inspection. And on the south side of CR 625 S the tile was broken and it was also broken out in the middle of the field. There is some winter wheat that has been sown north of 625 S so Chris will get with J.R. Johnson to see if he wants us to go in there to repair the tile. Larry said there was a problem south of the cemetery at one time too. **Dan Stoller Parcels** – Chris mentioned that Larry had done some good work on the Dan Stoller problems as he went to the courthouse to investigate. It seems the landowner has a substantial claim so Chris will get the problems corrected and the assessments adjusted. **Simons Lateral** – Dan reported that he originally thought we were not in the ROW but apparently we are. So if we are in the right-of-way we must pay the \$1,500.00 application fee or possibly change the route and move it over 5'. That would move it into Mark Simon's field. He is paying for most of it. Technically, Dan said, we are in the ROW. The problem comes when we go to get documents recorded – if we don't have a permit and we are in the ROW, we won't be able to record it. Josh DeYoung was awarded the contract and he is ready to go with the project. Chris mentioned to the board that the \$1,500.00 was not added in to the cost of the project when we figured the assessment rate. **Tim made a motion to process the permit and pay the \$1500.00. Jim seconded the motion with the funds to be taken from the GDIF if necessary. Motion carried.** **Gary Coleman Issue**– Jim asked if the money had been given to Attorney Morrison for the Gary Coleman issue to which Dan said the money is available to be paid as soon as Mr. Morrison can come to Kentland to close the matter.

Attorney Suggested— Russ mentioned that Chris said in the commissioners meeting that he wanted to hire an attorney to handle the reconstruction. Dan said Chris had told him he wanted to get an attorney out of Lafayette. Since Dan represents the drainage board, Chris can do that – it is his prerogative. Chris said originally since the reconstructed drains are new to all of us and we are all somewhere in the learning curve, he was going to hire an attorney that works with other counties that reconstruct drains and have him advise us on how to set this thing up. Chris said now I have the issue that I brought up at the commissioners meeting. He stated that he sees that Pat is here as well. Chris has the ten “shalls” that somehow we have circumvented and the last one is...Jim reminded Chris that he had asked the board to do that – that he could wash all of this and let the board do the job if they made the motion. Chris said he didn’t ask them to do it. According to the minutes, the board either had to accept or reject his surveyor’s report and they had motioned to reject it. Chris said he was done with it so the board wanted to know why he kept bringing it up. Chris said just because he is done with it doesn’t mean it is done. There is a process that states that if you reject it (the surveyors report) the landowner, whoever, has to submit a petition. The petition has the attorney involved with it. Jim asked if he was talking about Roger. Chris said whoever is going to circulate the petition. Jim asked why we needed a petition – why are we back to a petition. For a reconstructive drain, that is how it reads. If we cannot come to a conclusion, the landowner still has a right to pursue it, but he has to have an attorney. Russ said 3 or 4 times we have come to a conclusion to which Jim responded that we have voted on it 4 times. Tim said we had four different plans come across the table of which two were identical and we went with the second one. Chris said Tim does not ask the right questions and he is not his legal attorney - that is Dan. Tim said we did not get any red flags. Jim said we OK’d this to which Dan said he thought we were proceeding and Chris disagreed with that. Jim asked if we can proceed to which Dan responded “yes”. Dan said it was to be in the minutes that Chris’ recommendation was not followed and the drainage board decided on another course. Deb reviewed the minutes from the previous meeting stating Chris’ report had been rejected and that Deb was to send Dan a list of the landowners and acreage which she did. One bid was received from DeYoung Drainage & Excavating in the amount of \$47,480 for the Mary Spitler Tile Project which the board accepted. Jim asked Dan if we can go ahead and proceed to which he said “yes”. Dan also stated that Chris just disagrees with him which is his privilege but that the board should go ahead and proceed. Chris stated he is not sure it is “privilege” – we are dealing with the law and “you are circumventing the law”. Dan told Chris that he needs to get Dave Lunma or whoever to come up here then. Jim said that right now DeYoung has the O.K. to go ahead and start since we just accepted the bid. He asked Dan if there was a problem with that to which Dan said, “No. Chris and I disagree”. So DeYoung can go out there tomorrow and start this project questioned Jim. Dan replied, “That’s what I would do”. Russ said if Chris wants to get an attorney that’s fine. Chris said, he was fine because it is in the record that he disagreed. “That is not the point – the point is what happens the next time we bring a reconstructed drain before the board”, asked Chris. So Chris is fine but he is not sure the county is as they are circumventing the law and the regulatory..... Chris is therefore warning the county like he did not do at Sumava. “The board is circumventing the regulatory agencies and if they get wind of this – that’s why I don’t want my name associated with this”. “It’s not, Chris”, replied Dan. Russ told Chris if he wants to have an attorney here to explain things then schedule it for the first meeting

after the beginning of the year. The question of the depth of cut was brought up to which Roger DeYoung responded that the dual wall should not be an issue.
Jim made a motion to adjourn with a second from Tim. Motion carried.

(Refer to audio tape for more details)