

February 22, 2011 – 10:00 A.M. – DRAINAGE BOARD MEETING – Newton Co. Government Center

The Newton County Drainage Board met on February 22, 2011 at 10:00 A.M. in the Newton County Government Center. Present were Board Members Chr. Russell Collins, James Pistello and Tim Drenth; Surveyor Chris Knochel; County Engineer Larry Holderly; Drainage Board Attorney Dan Blaney; Secretary Debra Honn. The meeting was opened by Russ.

Minutes - Signed previously approved minutes from the **December 3, 2010** meeting.

DeHaan Ditch Report – Bradley Mosness was present from Abonmarche engineering firm. Chris stated that Jasper County had secured an engineering firm to work on the DeHaan Ditch without consulting with Newton County. It was later determined by the Bi-County Board that Newton County hire an engineering firm also and as it turns out, they secured Abonmarche which is the same company used by Jasper County for simplicities sake. Newton County would take care of everything in Newton County, receive a report and then depending upon report, Newton County could then make a ruling and send it to the Bi-County Board. Bradley reported that they did a survey to gain cross sections of the ditch. He stated that DNR informed them that a permit is not required through their office and the Army Corp. of Engineers confirmed that no permit is required. IDEM said that the only permit required is the Soil & Erosion Permit. This is a very tight area in which to work due to pole lines along south side. DNR says we can only work on one side at a time and it was recommended that the contractor work from the south side. The estimate is that a third to a half mile stretch with 2-3' depth be cleared and hauled away. The next step is the water analysis and determining a date to begin. Jim asked what is being asked of the board today. Chris recommended that we accept their report. Bradley stated that he needs the boards' approval to apply for the Soil & Erosion Permit. Chris asked where Jasper County stands and how far along they are. Brad stated Jasper County has their permit. **Jim made a motion to sign the permit package with a second from Tim. Motion carried.** Both counties are now at the same phase with the next step for Newton being the watershed analysis. Brad stated that the spoils could be installed as long as they are not placed in wetlands. Brad stated they had walked the land with the Army Corp. Brad said he would check into the cost associated with moving the ditch materials. Chris stated if hauled out, we must advise as to where we are hauling the ditch materials. Brad stated the contractor can make suggestions. Russ asked if we can get permission from the landowners to put the spoils out farther. Jim asked Chris if we could ask the landowners up there to see if they will take the spoil material to which Chris said he would make that contact. Tim said he would contact Dave and Chris will send letter to others. Russ stated the next step would be to take it to the Bi-County Board.

Hibler System - Chris stated he had received the Discovery Report from Heyde Engineering. Chris has identified a common point and highlighted everything in common in both his report and that from Heyde. The first thing that needs done is to remove the trees that are obstructing the ditch. Jim stated he would rather accept all recommendations at the same time including trees and grade rather than dissecting and reviewing each issue individually since it all pertains to one watershed. Chris said we need to start the process to make all re-routing/re-directing of private drains into regulated drains and encouraged the board to act upon this. Jim asked Dan if we can address them all at the same time or do we need to do them one at a time if we are going to make all of these legal drains. He explained that we need to get these drains regulated so that we can begin to recoup some of the costs that have already been incurred. Chris stated we need to define the length of the regulated drain. Jim turned the question to Dan reinforcing that it is all one watershed and we need to get this legal so that we can get the funds from assessments. Dan said we need to have a hearing to let everyone know what we are doing. Russ asked if the board wanted to approve the recommendations. **Jim made**

the motion to accept the HEC recommendations on the Hibler Open so that we can proceed with the

legal drain. Tim made the 2nd motion. Motion carried. Chris stated that in order to convert a private drain into a regulated drain, the landowner must be notified first. The surveyor's office has the authority to extend a drain if necessary. We need to now go out and determine the extent of the project. Chris stated we know where the regulated drain is and which direction the water flows. He said this project is going to be excessive based on \$75,000. Jim stated we have already spent a lot of money and asked if we are going to be able to recoup the money spent on the Beaver Lake Ditch. Chris stated that everything that has been done is according to statute and that we will be able to recoup the money. Chris said that Heyde is prepared to submit another contract to actually go out and do the development of the project. Jim asked how much we are going to dedicate to HEC without getting a quote from someone else. Russ asked if we need to get quotes from engineering firms. Chris said we can get another quote and also stated that there is a provision that states we can do this in house. He stated this should go to the board if we are going to do this all at once and that we should get two quotes from a couple different places. Jim stated he felt since this project is going to be excessive and big that we should also get bids from others not just Heyde. Chris commented that he understands Jim's statement that before we actually go out to the field again to secure the information necessary for the bidding process, we should go to bid on that part also due to the expanse of the project. Jim mentioned that we are talking a very big job just to get the specs. Chris stated Abonmarche might be interested in giving a bid. Tim said the first step is to define the watershed, the sides and parts that are legal and parts that aren't. Now we need to know what needs done and how much money it will cost. Jim stated that before we even accept bids, we must have the land owners at a meeting. Chris shared the fact that the assessment amount must be set prior to the meeting with the landowners. Russ stated we need to get quotes and the scope of the work. Russ asked Dan about when they had looked at three watersheds for the whole county – Iroquois, Beaver Creek, and Kankakee – which would take care of the entire county with everyone being assessed. Chris said it was easy to do that but unfortunately it was challenged in court and the whole idea had gotten thrown out of court. Chris is going to get quotes from engineering firms for specs.

HEC, LLC Contract – Chris asked for approval to use the remainder of the approved \$100,000. Chris stated the Hibler was by far the worst and affected the most people. Chris stated that \$6,740 has been used and \$28,880 is remaining for discovery. The council said the money is Landfill money and is still available for use. Jim asked how much work we really accomplished for \$100,000. He knows we have progressed on the Hibler, but what else did we get for \$100,000? When this money is gone, the discovery phase will also be complete. Jim said we are still going to need more money later because the Hibler System will not be completed with the initial \$100,000. If we ask for another \$100,000 we must have it split to explain exactly what we got for this amount of money. Dan suggested that we get a map showing the progress made on this project. **Jim made a motion to use the remaining \$28,880 with Heyde Engineering with a second motion from Tim. Motion carried.**

Russell Re-Subdivision – This pertains to a landowner that has subdivided his property into large tracts and now wants to re-subdivide it into smaller tracts and build homes on it. This is part of the problem we are having in subdivisions since we don't really have an ordinance that addresses this other than utilizing roadside ditches. If we are not careful, Chris stated we are going to have the same situation as the Hibler. As things develop there are no ties to the drainage needs of the subdivision to a regulated drain and so we might have this gap of roadside ditch or private ditch that is not regulated. Jim said sometimes we cannot get around it. Chris is asking if we can see another \$100,000 project several years from now. The location of the Russell is **Meridian & 800 N, SW corner**. Larry said we should get soil borings to make sure the lots are buildable. Russ stated that the septic could also be a problem. Chris' concern is that we are introducing houses on farmland where water might

have stood for an entire day but now we put houses out there people have the expectation that the water will disappear. Chris just wanted it brought to the board's attention that if someone wants to put in a subdivision we still have a storm water problem. The lots are: (3) 2 ac. or less, (1) 7 ac. and (1) in excess of 7 ac. Chris noted that if they are taking large lots and dividing them into small lots it really doesn't matter how big the parent tract is. They are taking prior converted wetlands and now building houses on it. This land is converted wetlands where water may have stood for 5-6 days. Chris feels the board is setting itself up for the same issue as the Hibler. Jim asked if there is a ditch near there to which Chris responded it is ½ mile away. Tim stated his concern is that we are holding up someone from developing because we don't have a drainage plan. Chris told them that in order to address this we really need a storm water management plan. Jim wanted to know how we make a plan and have it work everywhere. Russ stated without a drainage plan, the landowners could come back years later and say their property is flooded. It would be like having lots in a subdivision without road plans. Chris asked the board if they want to assign financial responsibility to the developer now or wait 30 – 40 years and have the county pay. A storm water management ordinance would address this. Larry said the thing to do would be to grade land away from the house, make a swale around structure and build a pond for drainage. Jim asked if the Tech Committee could handle this now to which Chris responded "no – we don't have an ordinance". Jim mentioned that the Tech committee could place requirements on the landowner but Chris felt they could appeal and again stated that a storm water management plan would address this issue. Jim stated that if I/o appealed then it would come before the planning commission. There is so much difference in soil types that Jim wanted to know how you could have a plan that worked for everyone. Chris shared that the Storm Water Management Plan takes different soil types into consideration and that is why an ordinance is needed.

Beaver Creek – Dan Blaney stated that Tony Garriott had signed a contract to work on this project. However when the weather finally permitted work, Tony had been in an accident and was physically unable to be at project site. Dan is asking for a continuation of contract date to April 1st for completion of work on this project. Chris had spoken to Tony and both parties are agreeable to an April 1st date. **Jim made the motion to extend the completion date of Beaver Creek to April 1st with a second motion from Tim. Motion carried.**

Agreement of Understanding – Maplebrook Terrace – Dan told the board the situation at Maplebrook Terrace deals with Nipsco placing poles in the drainage easement. An agreement of understanding has been created stating that if Nipsco cuts the trees down we are not going to come back on them later asking them to move their poles out of our easement. **Jim made a motion to sign the Agreement of Understanding with Nipsco with a second motion by Tim. Motion carried.**

Ditches to be Certified for Annual Assessment in 2011 – **Jim made a motion to approve the list of ditches to be assessed in 2011 with a second motion from Tim. Motion carried and the annual assessment list was signed by board members.**

Uncompleted Ditches - Deb presented the board with a list of the drainage jobs not yet completed, named contractor and the contract amounts paid and to be paid.

Chemical Maintenance Bids – Two bids were received for the Chemical Maintenance contract. The first bid was from Dalton, Inc. out of Warsaw with a bid of \$25, 287.05. The second bid was from Townsend of Parker City with a bid of \$25, 530.00. Jim asked Chris which one he wanted and he responded that we have worked with both of them. Chris did say he had received some complaints about Dalton's big piece of equipment which has knocked down some crops in the past. **Jim made a motion to accept both bids and leave the final decision to Chris since both bids are close monetarily. Second motion was made by Tim. Motion carried.**

Year End Reports for 2010 – Chris distributed year end reports to the board. On the priority list, page 3, item 25, this drain is coming before the board as there is a minor debt against it in the amount of \$22.88 which has been there since 1968. Chris will bring a report to the board on this. Chris asked Tim to keep in mind that we can do approximately 10 projects per year, so each page of the report represents one year. Tim asked what the maintenance is on the tiles to which Chris stated that the data would be available once we receive the necessary information. Russ stated that we had roughly done about \$388,000 worth of work in 2010. Chris commented that the long range plan includes the Hibler. The Drainage Board can change the order of the plan up to June 1st. IDEM needs a copy of the long-term plan and that is another reason it is produced. The reconstruction costs were \$6.58/ft. and maintenance costs were \$2.58/ft. The average for four years is still \$24.89/per foot for reconstruction. \$1.63/ft. is the four year average for maintenance. Jim asked how many drains will be eliminated on the Hibler if we consolidate. The Valley Forge Lateral, Hidden Pines (North and West Lateral), NN Woods (East and West Makeever). Jim asked about maintenance when one needs work right away, will it come out of the Hibler or individual drains to which Chris responded it will come out of the Hibler watershed. There will be no other names in the watershed other than the Hibler. The drainage board has given Chris discretionary funds under \$1500 per project as long as he gives a report at year end and that is also included in the year end reports. The construction cost of \$388,000 is 2.42% of the value of the drains. The Hibler is not included in the numbers since we have not yet determined the true value of that drain. Last year was the first year that we did not get all of the chemicals applied. The average cost was \$.07/ft. since they gave us a break for what did not get completed. Section corners are more for the commissioners and that report will be given later.

Gary Coleman – Dan Blaney suggested that the county buy the ½ ac. lot from Mr. Gary Coleman as the ditch runs straight down the middle of it and have him move the trailer. Russ asked for the value of the lot. Jim said the problem is that this issued was just done in 1999 unlike a similar instance where the county purchased property for which the issues dated clear back to the early 1900's. Dan stated we messed up and never should have allowed him to put a house there in the first place. Larry reminded everyone that nothing showed on the plat and now there is a house, garage and septic on the lot. He does think that the pipe is big enough and will work just fine. Jim suggested that we open the ditch – if it blows him out, it blows him out. The worst case scenario is that we will need to buy the trailer and lot anyway so we need to get the project done and see if everything is fine. If we have to adjust the pit in front, then let's do it. Jim told Chris that unless he had \$30,000 sitting around somewhere, since the landowner is not going to settle for less than that, we need to get the project done. Chris said when Mr. Coleman submitted his building permit he didn't show how he was changing the drainage plan and he had an obligation to us. Nobody knew to stop him. It was negligence on the landowners' part and is not a drainage problem but rather an obstruction to the drainage easement. Every ditch has an implied easement for maintenance. Jim said we are going to proceed with the project without buying him out and that we need to let the landowner know we are proceeding with the drain. Dan will send a letter to Joe Morrison, Mr. Coleman's legal representative, stating that we are proceeding with the drain and ditch.

Other Matters – Chris mentioned that the owner of the **elevator on 24 West of Goodland** wants to **extend the regulated drain** and that he told the person that INDOT will not allow it in their right of way. The board suggested this discussion be postponed until the next meeting.

Discussion tabled.

Kindig-Montgomery Ditch – Chris stated we have a crossing placement for the Kindig-Montgomery Ditch and said that the funds are available in the Kindig-Montgomery Ditch. He asked if the board wants to take the funds from the East Kent Ditch or the Kindig-Montgomery Ditch. Steve Kindig has been accessing this property through the Rich Miller property and now Richs' property is beginning to break down. **This discussion**

was tabled until next meeting. Fencing on Oakwood Acres – Chris reported the cost of \$640 for the **Hunter property** and \$700 for the neighbors' property for **removal only**. The contractor stated he could not guarantee that the fence would be able to be reinstalled. Jim asked what the price would be to replace the fence with the same footage except for 25' on the end vs. the time and work involved trying to save the fence. **Chris will have FFC Fence look at it both ways for a quote. Pastor Kelly Howard of Newton County Baptist Church** – Kelly explained that a ditch had been put in for drainage at the Newton Co. Baptist Church. The drainage board had previously agreed in December to pay for ½ of the cost associated with the ditch. An invoice must be submitted to the surveyors' office so that a claim can be created and sent to the auditor's office for payment. The board decided that the debt needs to go against the 100 acres which is not currently in the conservancy & then the conservancy needs to take over the 100 acres along with the East Kent Ditch. Jim made the motion to take \$11,000 from the East Kent Ditch fund and then the remaining \$3,000 - \$4,000 be paid from the General Drain Improvement Fund against the East Kent Ditch in order to reimburse the Baptist Church for ½ of their cost associated with initial drainage at the church. Second motion made by Tim. Motion carried. Jim made a motion to adjourn, second from Tim. Motion carried.