

CASS COUNTY DRAINAGE BOARD MEETING
August 6, 2012

The Cass County Drainage Board held their regular scheduled meeting August 6, 2012, at 1:45 p.m. in Room 203 of the Cass County Government Building. Those in attendance were members: Dave Arnold, Jim Sailors, Gene Powlen, Attorney John Hillis, Surveyor Jenny Clark, and Acting Secretary Vicky Conrad.

Dave Arnold called the meeting to order.

Jim Sailors made a motion to approve the minutes for the regular meeting on July 2, 2012, and the Public Hearing minutes for #117 McNitt Open & Pump on July 2, 2012. Gene Powlen 2nd; Motion passed.

EXPENSE CLAIMS

Claims CCS-0790 through CCS-0795 were presented.
Gene Powlen made a motion to approve all claims. Jim Sailors 2nd; Motion passed.

NEW WORK ORDERS

A. WO #39 – Sager Open & Tile #65

Dave Forgey has requested a portion of ditch dredged through his property and Garling. Mr. Forgey obtained an estimate from Leo Spitznogle for \$2,500.00. Mr. Forgey commented that there may be more work needed. Jim Sailors made a motion to approve this work order. Gene Sailors 2nd; Motion passed.

B. WO #40 – Cogley East #18

Work was just completed for Dave Rose; however, other holes were found on down from the previous repairs. An additional 60-feet of 18" tile is needed. Blackman Excavating estimated this to be \$1,672.30. Gene Powlen made a motion to repair the additional tile holes. Jim Sailors 2nd; Motion passed.

C. WO #41 – Strubhar Open #73

Dian Finelly contacted Allen Howe regarding a bank washout between 800 and 900 West. An extension of the tile comes into the ditch; part of the tile rusted off and fell in creating the washout. Mr. Howe estimates the repairs to be \$600.00 to \$750.00 which includes a standard 20' section of 24" pipe. Gene Powlen made a motion to make the repairs. Jim Sailors 2nd; Motion passed.

CURRENT PROJECT UPDATES AND DISCUSSION – BANNING ENGINEERING

A. Dehaven Open & Tile #37

Jeff Healey with Banning Engineering reported that plans are on target for the November hearing. Nothing has changed with the difficulties with INDOT. He has not received any reply from INDOT. He suggests the Board have Attorney John Hillis contact the INDOT legal department to request something in writing regarding INDOT's interpretation of Section 71 of the code. Jeff believes INDOT has the liability in it. However, he has had 3 representatives from INDOT tell him INDOT does not interpret it the same way.

Previously, the Board had asked Banning Engineering to do a survey on the open ditch while the Board worked with INDOT on the tile. Jeff presented a sketch showing the existing ditch and what would be involved in moving the open ditch and re-doing the open ditch or a tile on the landward side away from the highway. The sketch showed the state highway and the state right of way with the ditch immediately underneath it. A minimum of 35 feet would be engaged in an open ditch for several miles. Construction to deepen the tile below the ditch line would be very difficult due to fiber optic lines, additional communication lines, and overhead power. Several tiles and laterals that cross the road would also need to be located and reconnected. Jeff showed his suggestions for reconstructing the ditch or even a tile closer to the road.

Jim Sailors asked about taking the tile out and putting one back in the bottom of the ditch. Jeff said it could be done but would have very little cover and involve very difficult working conditions due to fiber optic and overhead power lines. This would only deepen it by 3 feet and also cause instability on the road shoulder, a steep bank, and risks with power lines. Jeff doesn't recommend this option. After much discussion, it was decided to contact INDOT's attorneys for their response. Jeff will give Attorney Hillis a contact name at the INDOT central office's legal department.

B. Powell Tile #80

Herd Crimmins, 967 E. 900 N., Lucerne, IN, was present to ask about the Public Hearing Notice that he recently received. He believed the notice should have been worded as "reconstruction" instead of "maintenance." Jenny Clark confirmed this error and will send out a corrected notice showing it as a "reconstruction" with a "total cost" instead of a "maintenance" assessment with an "annual" cost. The landowners' amounts will not change, but the verbiage will. The Public Hearing can still be held in September.

Mr. Crimmins and other landowners previously met and asked about their options to finance this project. They would like to have a ditch by next spring. Jenny Clark commented that the county providing a loan for them isn't an option since the General Drain fund sits at \$17,000. Jenny said there are 2 options: #1. The Drainage Board could get a loan or bond and finance it over 5 years with the

landowners repaying over 5 years with interest included; or #2. The landowners would pay \$574.00 per acre upfront in 1 year. The Drainage Board has never obtained a loan or bond for this type of project. If the project goes thru a bond process, the paperwork won't be ready for construction to start next spring. The main concern is how to fund this project.

Herd Crimmins also asked what percentage of landowners it would take to stop the project. The project can be approved by the Board and can move forward; however, Jenny Clark confirmed that one person, no matter how many acres they own, can stop the project by filing a lawsuit.

C. Trib D to Jones #109

This is also scheduled for a Public Hearing on November 5, 2012. Jeff Healey, Banning Engineering, had no further updates unless the Board had questions.

OTHER BUSINESS

A. Spray Reimbursement Invoices

Joe Rush submitted 3 invoices requesting reimbursement for spraying ditch banks on #68 Lutz Davis Wendling Open, #84 Updegraph Open #2, and #63 Harvey Brown Open & Tile. Mark Chambers asked if we provide reimbursement for spray; Jenny Clark told him that we did. Mr. Chambers submitted an invoice for #37 DeHaven Open & Tile. Gene Powlen made a motion to approve the reimbursement for Mr. Rush and Mr. Chambers. Jim Sailors 2nd; Motion passed.

The Board also discussed ways to inform the public about getting permission in advance from the Board before doing any construction work instead of just submitting a bill. A public forum in the newspaper and the Talk of the Town radio program were discussed.

B. Landis/Clem v. Ruble

Jenny Clark provided the Board with copies of letters that Attorney Jim Brugh provided to her regarding a new obstruction in the natural surface watercourse on Mr. Ruble's land. Mr. Landis, Mrs. Clem, and Attorney Brugh were all present at the meeting. Pictures of the original obstruction were reviewed as well as a picture in April from Attorney Brugh and pictures taken in May. This may need to have another public hearing. Attorney Brugh stated that the Drainage Board's June 8, 2011, decision was upheld by Judge Perrone on January 13, 2012. His clients believe it is impractical to go thru another hearing because the Board has already stated that there is an obstruction of a natural surface watercourse on Mr. Ruble's property and that the Drainage Board alone has jurisdiction. Attorney John Hillis believed it was subject to presentation of evidence to determine if there is an obstruction. After much discussion, the Board asked Jenny Clark to make a visit and report back at the next meeting so the Board can make a determination.


- C. Jenny Clark provided Board members with a copy of Pulaski County's Spray Program. Dave Arnold would like to find a way that all properties can be sprayed. Jenny Clark was asked to write a public forum in the newspaper regarding getting pre-approval for construction projects and spraying.
- D. Per Jim Sailors request last month to start a schedule to raise ditches/tiles/drains the maximum 25% without having to hold public hearings, Jenny Clark provided a listing of each drain's current assessment rate and potential amounts with the 25% assessment increase. Some have already been increased in the past few years due to public hearings; however she suggested increasing some 25% or scheduling a few public hearings to increase the assessment further. If a public hearing has not been held within a year or is not scheduled, the assessment can be raised 25% without a public hearing. March 1 is the deadline to make changes. After much discussion, Jim Sailors made a motion to postpone the 25% assessment increase decision until the September meeting. Gene Powlen 2nd; Motion passed.

PUBLIC COMMENTS

There were no public comments.

ADJOURNMENT

Gene Powlen made a motion to adjourn. Jim Sailors 2nd; Motion passed.



David S. Arnold, President



Victoria L. Conrad, Acting Secretary