

**MONTGOMERY COUNTY  
DRAINAGE BOARD  
MINUTES  
January 13, 2021**

The Montgomery County Drainage Board met on Wednesday, January 13, 2021 at 9:30 a.m. at the Montgomery County Courthouse.

The meeting was called to order by Chairman, Dave Rhoads followed by the Pledge of Allegiance. The prayer was given by Vicki Emmert.

Board members in attendance were Chairman Dave Rhoads; Vice Chairman John Frey; Secretary Matt Mitchell; members Doug Mills and Lance Sennett. Present were Tom Cummins, Surveyor, Vicki Emmert Secretary and Attorney Dan Taylor.

Also present was Jim Peck, Tom Klein, Curt Hudson, Roger Azar, and Suzie Smith.

**Reorganization & Swearing in New Member(S)**

Karen Douglas of the Clerk's office presided over the swearing in of Board members John Frey, Doug Mills, and Lance Sennett.

**Election of Officers**

**John Frey moved, seconded by Lance Sennett, to nominate Dave Rhoads as chairman of the Drainage Board. Doug Mills moved, seconded by John Frey, to close the nominations. Motion carried, 4-1. Dave Rhoads voted against.**

**Lance Sennett moved, seconded by Dave Rhoads, to nominate John Frey as vice chairman of the Drainage board. Doug Mills moved, seconded by Lance Sennett, to close the nominations. Motion carried, 5-0.**

**Lance Sennett moved, seconded by John Frey, to nominate Matt Mitchell as secretary of the Drainage Board. John Frey moved, seconded by Dave Rhoads, to close the nominations. Motion carried, 5-0.**

**Attorney Contract**

Dave Rhoads reported it was time to renew the attorney's contract.

Dan Taylor- reported there is a budget cap of \$6,000.00 for the attorney which is an hourly wage and reported it was under budget with the total being \$5,033.00 for 2020.

**John Frey moved, seconded by Doug Mills, to retain Taylor, Chadd, Minnette, Schneider & Clutter, P.C. (Dan Taylor) as the Drainage board attorney. Motion carried, 5-0.**

## Approval of Minutes

John Frey moved, seconded by Lance Sennett, to approve the December 9, 2020 minutes as submitted. Motion carried, 5-0.

## Hearings

Tom Cummins - reported there is nothing new to report on the Cheatham/Spall petition to remove an obstruction.

Dan Taylor – reported that the Board is waiting on plans from the obstructor and this hearing should be continued indefinitely and not on the agenda every month. When we receive information from the parties involved it can then be put back on the agenda.

John Frey moved, seconded by Lance Sennett, to table the Cheatham/Spall hearing petition to remove an obstruction indefinitely. Motion carried, 5-0.

John Frey moved, seconded by Dave Rhoads, to table the B & B Farms/Hudson hearing petition to remove an obstruction indefinitely.

Curt Hudson was present and reported it was his understanding that the Drainage Board and the Surveyor were no longer involved in the case and it has been dismissed as it has been over thirty days.

Dan Taylor- reported to the Board the case has not been dismissed but the Surveyor and the Drainage Board are no longer defendants. They were dropped from the lawsuit. The Board still has jurisdiction over the case and cannot make a decision until the court makes their final decision. The judge decides if the connection is legal or illegal. It is still an ongoing case.

Curt Hudson – inquired if the Board would let him know when they will reconsider the case. Mr. Hudson prefers it to be left on the agenda. Motion carried, 4-1. Doug Mills opposed.

## Stormwater

Tom Cummins reported the Eagles Nest Subdivision secondary plat and drainage plan has been approved by County Commission. It is being brought to you today for the creation of a legal drain for the area. The overhead projector was used to display the area. There will be eleven single-family homes with six on the east and five on the west. It meets the County Stormwater Ordinance requirements. It is located at 600 west just south of 640 south, west of New Market.

Dave Rhoads- inquired if it impacts any legal drains in area.

Tom Cummins- reported the subdivision does not impact any legal drains.

Doug Mills - inquired if the legal drain is being created in the subdivision to take care of any water issues within the platted area.

Tom Cummins -- reported the Board is taking jurisdiction over all the drainage structures in the subdivision. Two retention ponds were created along with lead in and lead out swales, along with road ditches to be maintained. The new drain will only be for the new subdivision.

Doug Mills -- inquired about the responsibility outside of the drain.

Tom Cummins -- reported the Board will not be responsible for anything leading up to the subdivision.

Dave Rhoads --inquired if the Eagles Nest Subdivision will have a homeowner's association.

Tom Cummins -- reported there will be a homeowner's association but by creating the legal drain the Board will not have to rely on an association to maintain the drain.

Roger Azar -- reported their will be covenants for the ponds.

Roger Azar -- inquired about existing pond and a new pond, anything new will it be a regulated drain with a seventy-five-foot easement and could there be a twenty-five-foot variance.

Tom Cummins -- reported the Board could reduce an easement if they should choose to with a variance but it should be no less than thirty feet due to size of equipment.

Roger Azar - reported and inquired about future designs of setbacks of fifty-foot pond easements due to high water mark. Homes cannot be built on the east side due to easements. Can future designs have the regulated drain easements reduced to the existing setback requirements.

Tom Cummins -- reported he thought it would be appropriate.

Roger Azar - inquired who mows the easement area.

Tom Cummins - reported it will be up to homeowners and/or homeowners' association to keep it looking nice and to keep algae out of pond. If left for Drainage Board and Surveyor, it would only be once a year. The Drainage Board and the Surveyor to maintain the drain for functionality.

Roger Azar - inquired can this be put in writing for the landowners to know what their responsibilities will be to maintain the easement area.

Dan Taylor -- reported it is just like a right away on a highway. If the landowners want it to look good, they will have to take care of it. INDOT would only mow it once a year.

Tom Cummins- reported there will be an assessment hearing to answer landowner's questions. The proposed assessment will be \$100.00 per lot, per year. Recommends Mr. Slavens to attend the hearing. Currently there is a four-year cap on assessments. Option of making it for eight years.

Jim Peck – reported that the two detention ponds will not be part of any lot.

Tom Cummins – reported that if the ponds are separate parcels, the ponds will be assessed at \$100.00 also.

Doug Mills – inquired about having same standard for each new drain. Should the Board have set standards for setbacks of exactly of how many feet will be allowed in a variance such as fifty, thirty etc.

Tom Cummins – reported the Board could make a policy, which would determine what the setback would be.

Jim Peck – reported drainage ordinances states what the set backs are.

Doug Mills – reported this is a new path the Board has with developing subdivisions and would like to avoid as many issues as possible for future plans.

Roger Azar – inquired where does the Drainage Board stand with septic systems.

Tom Cummins – reported can come before the Board for guidance.

Dan Taylor – reported need guidance case by case as we see patterns emerge with developments. Every subdivision will be different with making policy to promote development and not hinder it.

Doug Mills – reported to keep it within the boundaries of the policy.

Roger Azar – inquired on easement with ponds that are close to the property line, especially a farmer's field who does not want to deal with an easement.

Tom Cummins – The Board can approve the easement as is or reduce the easement when required.

Jim Peck- inquired is someone from the Drainage Board to sign off on the secondary plat when approved.

Tom Cummins – reported the Chairman of the Board would sign it.

Dan Taylor – reported the paperwork will establish a new drain and will state it is drain classified as in need of periodic maintenance. Today we are here to establish a drain.

Roger Azar – inquired as to the standard verbiage to include on the plat.

Dan Taylor – reported Mr. Azar should contact Marc Bonwell as he can provide that information to him.

**John Frey moved, to amend his motion to state to establish a new legal drain at the Eagles Nest Subdivision to be classified as a drain in need of periodic maintenance required. Seconded by Lance Sennett. Motion carried, 5-0.**

### **Petitions**

Tom Cummins reported receiving a petition to attach from Rex Ballard to the **Guy Little #534** drain. The overhead projector was used to display the area. The area already has existing tile and the drain can handle the additional water. **John Frey moved, seconded by Lance Sennett, to approve the petition to attach to the Guy Little #534 as submitted. Motion carried, 5-0.**

Tom Cummins reported receiving a petition to attach from Wilma Beauchamp to the **Henry Lee 2 #658 drain**. The overhead projector was used to display the area. Their drain was being choked off by existing trees and the plan to move the tile around the trees to the eight-inch tile. **Lance Sennett moved, seconded by Doug Mills, to approve the petition to attach to the Henry Lee 2 #658 as submitted. Motion carried, 5-0.**

### **Old Business**

Tom Cummins reported on the **George Nichols #546** reconstruction as there was a delay when the contractor took an extended vacation. The overhead projector was used to display the area. Mr. Cummins reported the new tiles were installed over two of the gas lines. Next week the plan is to complete the other two crossings and will bring the paperwork to the February meeting.

Dave Rhoads – inquired who was the contractor.

Tom Cummins – reported the general contractor was Maxwell Farm Drainage and the construction was sub-contracted out to Conner Excavating.

### **New Business**

Tom Cummins reported the following drains are carrying debt in the Improvement Fund and would recommend scheduling assessment increase hearings for the **Charles Cowan #510, James Grimes #521, George Hutchinson #527, Elva Thompson #650, Henry Lee 2 #658, John & Sarah Niven #723** along with the **Eagles Nest Subdivision** drain for the March 10, 2021 meeting.

**Doug Mills moved, seconded by Dave Rhoads, to hold assessment increase hearing on March 10, 2021 at 9:30 a.m. at the Montgomery County Courthouse for the Charles Cowan #510, James Grimes #521, George Hutchinson #527, Elva Thompson #650, Henry Lee 2 #658, John & Sarah Niven #723 along with the new Eagles Nest Subdivision drain. Motion carried, 5-0.**

### **Public Comment**

Tom Klein, the new County Administrator, introduced himself to the Board and thanked the Board for their service to the community. Reported he really appreciates the drainage work that is done before it comes to the County Highway and Engineer.

Dave Rhoads thanked Vicki Emmert for her work for the Drainage Board.

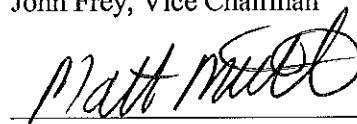
Dave Rhoads reported the next Drainage Board meeting will be February 10, 2021 at 9:30 at the Montgomery County Courthouse.

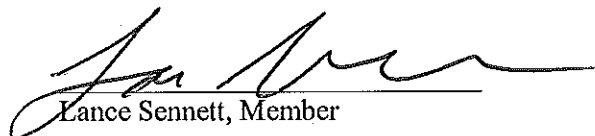
**Doug Mills moved, seconded by Dave Rhoads, to adjourn the meeting at 10:14 a.m. Motion carried, 5-0.**

Vicki Emmert,  
Recording Secretary

  
David Rhoads, Chairman

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John Frey, Vice Chairman

  
Matt Mitchell, Secretary

  
Lance Sennett, Member

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Doug Mills, Member