

MEETING MINUTES
MONROE COUNTY DRAINAGE BOARD
9:00 A.M., JUNE 2, 2021
Via Zoom App

MEMBERS PRESENT: Robert Autio (President), James Faber, Dee Owens, William Riggert, Trohn Enright-Randolph (*ex officio*)

MEMBERS ABSENT: Lisa Ridge

STAFF: Donna Barbrick (Secretary), Kelsey Thetonia (MS4 Coordinator), Connie Griffin (MS4 Assistant), Technical Services

OTHERS: John and Amy Poehlman

I. Call to Order

Robert Autio called the meeting to order. Dee Owens asked to speak. She said I got a letter from a county attorney yesterday that said I had been basically appointed outside the ordinance to two different county bodies and that I had to leave one of them. She said I will not be able to continue as a member of the Drainage Board (DB) and therefore I think I should not participate in today's meeting because that notification yesterday puts me in an untenable position, unfortunately. She said I'm not happy having to do that, to leave before my term is up and I apologize.

Trohn said I am sorry that you are in a position to have to make this decision. He said I look forward to continuing to work alongside you in the Plan Commission, though, and regret that you have to step away from DB. Bob Autio said we will miss your input here on the DB, thank you. There was a brief discussion of the rules for citizen members.

Autio asked if DB had a quorum with Owen's departure. Kelsey Thetonia said we have three voting members, so I am under the impression that we do have a viable quorum.

- II. Approval of Minutes for: May 5, 2021 +**
Faber motioned to approve the minutes. Autio seconded. Autio took a vote by roll call:
AUTIO AYE, FABER AYE, and RIGGERT AYE. Motion carried and minutes approved.

III. Public Input for Items not on the Agenda

There was none.

IV. Old Business

a. John and Amy Poehlman – 4825 W Carmola Drive +

Thetonia gave a short introduction. She said I first presented this to DB in March with a general overview of the situation and the more I look into it, the more I realize that this is probably not new for most of you as well. She shared her screen and displayed a map of the area. She talked about the drainage and said there is quite a bit of offsite flow that bypasses through the southern part of the parcel and is supposed to be diffused and continue flowing southwest. She said we have not progressed on the design of Carmola Drive and I do not have a schedule for when that will start up again but there has been a lot of documentation which I had a chance to look at this morning. She said so I am going to bring this back to DB next month. She said the pond was apparently designed in compliance with our ordinance, however our ordinance allowed quite a bit of water to bypass the pond and leave at a rate that causes a lot of water to flow through. She said it is one large pipe and has a concrete structure to hold some water back to two

orifices but as soon as the water overtops, it overflows and that is something that we can discuss. She said typically we do not do any work on private property; these ponds are the responsibility of the owner/developer and they are supposed to maintain them to function as originally designed. She said the problem here is the design itself seems to be an issue. She said when Terry Quillman (former MS4 Coordinator) was there, he decided not to take any action on this specific pond because he thought it would make the county liable for it. She said I do not know of any other better way around it, other than to contact the developer/owner and sign a new agreement if the county were to help redesign the pond. She said with Carmola Drive redesign project, if we work to help with the redesign of it, I would like to get a new commitment from the property owner to maintain as designed. She said this is all hypothetical; I'm not sure what is feasible, but in general, I would recommend something along those lines. She said I have the DB minutes from when this was originally discussed. She said there was some discussion of doing water quality monitoring to make sure that the pond was adequately holding back and allowing the sediment to settle. She said you can see there is a berm that has this concrete box structure with two orifices and then a 30-inch pipe, as well as another 12-inch pipe as the outlet for it. She said there was another string of emails from the past (almost) twenty years now, discussing when it was built, issues during construction and issues since, whether the pond was completely finished and how it's actually functioning and affecting their property.

Thetonia said that is my understanding of it and I will send this documentation. She asked if anyone had any questions or comments before we ask Mr. Poehlman to speak on this. Autio asked about a developer or Homeowner's Association (HOA) that is still involved in this. Thetonia said I have not been in contact with the developer or the HOA. She said there should be some responsible part according to the recorded agreement when this was created.

Trohn said I'm encouraged by the idea of trying to help figure out how to deal with certain drainage issues. He said this is kind of within the Jack's Defeat Creek drainage basin, which is one of our critical drainage ways. He talked about other property owners across the county that have the same issue or could probably use some assistance. Thetonia said yes, this is just one out of hundreds of ponds in the county. She said this is really the only pond that is occurring around one of our large capital projects so that is what has really spurred this, because we will be looking for proper outlets for the drainage from Carmola Drive and this pond happens to be right in the flow path.

Autio asked if the Poehlmans would like to provide their input. John Poehlman spoke. He said it did come up because of the proposed improvements to Carmola Drive and our concern was adding more hard surface, that we'd have even more water flowing onto our property so that is what got us back to our original problem. He said the structure does not appear to be built per the approved design that we received somewhere between 2005 and 2010. He said we have been contacting the county about that continuously over the past 16 years. He said the structure is failing, the underpinnings are washing away and we have received parts of the structure in our pond as well as from debris in the neighborhood flowing through.

Thetonia said thank you for being here this morning. Poehlman said I can't tell you how grateful we are to have somebody listening, for a change.

Trohn said I have one more comment. He said I think it is fantastic coupling these projects with county road improvement projects and addressing existing concerns. He said maybe this is a way that we can help property owners with their issues when it impacts our right of way or it is going through one of our improvement projects. He said I hope that we can do this more frequently with all of our improvement projects and look at how we can build out the roads and improve drainage. He said I think that is one reason I wrote that letter of recommendation to the county commissioners and county council when the Highway department was going through their restructuring and Lisa Ridge was more in a position to

bring the department and stormwater together where we could complement each other so this makes me very pleased to see a project like this. He said thank you for bringing this and I hope we can strive to assist other people if the scenario is similar to this.

Autio said Mr. Poehlman I don't know if we are going to have an answer for you today but I'm going to suggest to Kelsey to reach out to the developer/HOA about these concerns if they are not already aware. He said I'm assuming you'll be coordinating with whatever design is going to be developed for Carmola Drive and see if there is a solution in there someplace. He said if there is anything else you think DB could be doing, let us know. Faber asked if the developer is still around. Thetonia said she would do research and let DB know. Faber asked what responsibility DB has for approving this particular development. Thetonia said the DB approves the preliminary plans for this and the DB, in general, can provide any comments or design recommendations, things like that. She said the only documentation from the meeting was approval of the preliminary plan. She said I do not think the final plans were brought to DB, as far as I can tell.

Amy Poehlman spoke. She said I think what my husband was going to add was when you have chance to review the plans, check to make sure that it was built according to that plan because we think it looks like it was not. Autio said thank you and I'm sure we'll investigate further.

II. New Business

a. Stormwater Management Ordinance Presentation +

Thetonia had a presentation for DB discussing new stormwater management ordinances with more stringent requirements for new detention/retention ponds. She said the county is hiring a stormwater inspector to inspect newly installed stormwater infrastructure in the county. She said I wanted to let everyone know that we are moving in the right direction with our program. She said Todd (Stevenson) and Terry (Quillman) did amazing work getting us set up to be where we are today.

She said I sent a draft yesterday morning. She said I have been working with Dave Schilling on some updates. She said the form has not changed much since Terry left except for the Karst Chapter. She said I have added some things and modified quite a bit but the form of it is still the same. She said I am still working through the technical standards. She said Terry did a very thorough review before he left comparing our current standards to the proposed new ones. She said I want to run through the ordinance with you all, where it currently stands. She said as far as a timeline goes, I will also present this to the Stormwater Management Board next week. She said I also heard from our IDEM MS4 contact that they hope to have the new state general permits released at beginning of July. She said the new State permits will require us to update our ordinances so it would be reasonable to wait a few more weeks because we want to make sure that our proposed ordinance will meet the new requirements. She said I hope to have this all wrapped at the beginning of July and I will bring it to the Commissioners for final approval. She said in the meantime, I will be working on the Technical Standards and sending those to all of our local engineers, architects and surveyors so that they are aware of this and may provide feedback. She said the general premise of the program is not changing but we are going to be introducing more stringent standards and more detail on how we are defining things.

Thetonia continued with a presentation including the background of the program. She said Terry Quillman began the process of overhauling Chapter 761 in 2018, contracting Christopher Burke (CB). She said the new ordinance would have eight chapters and talked about the main highlights. She said Chapter 1 was Applicability and Exemptions. She said Chapter Two is our Illicit Discharge ordinance. She said there are requirements for reporting spills within 24 hours and providing information within a

reasonable time. She talked about spill response procedures. She said another important change is the ability for MS4 staff to access private property in order to perform an investigation if we think there is a hazard to public health, safety or for environmental reasons. She said I want the public to know that we do not have free reign of everyone's properties, if we need to get a search warrant, we will do that, but in general, it would be within reason to access private property and always trying to contact the property owner first. She said Chapter 3 was Stormwater Quantity Management.

She said the big change with the setup of this ordinance is that all of our design criteria will be located in the Technical Standards manual. She said the standards might be something that the Drainage Board can update with the best available information without having to do a full ordinance revision through the commissioners. She said to me this is a great tool for us to be able to tailor our design standards to the needs of the county and the needs of the DB and what types of developments are coming in. She said the ordinance states that new developments will have to follow those guidelines in that manual and it is referenced in there.

Jim Faber had a question about getting on the property to check stormwater quantity. Thetonia said if there is a drainage easement present and there is an issue that is significantly threatening public safety, the county should have the ability to access private property and then bill the property owner for any work done if the property owner is responsible for it. She said that is standard drainage easement language. She said I do not want to get in the habit of doing that mostly because it can be very costly for the county in legal issues with having to bill a property owner for work the county did. She said to me that is for an emergency if we need to protect public safety. She said the standards for general drainage easement is that the property owners can be responsible for not blocking the flow of water, keeping it clear of trash and other things that can cause water pollution.

Thetonia said a big change I want to point out is that berms must be stabilized within 24 hours of installation and emergency swales still need to be installed within 24 hours of installation of a pond, as well. She said that the stabilization part is new and would be a requirement of the new State permits.

She said Chapter Four is our Pollution Prevention for active construction sites. She said this is mostly meeting our Rule 5 requirements. She said the new state requirements will be more stringent and I will update this to include all of those new requirements once they are out. She said our local contractors have already seen presentations on these proposals so it should not be too new for them.

Trohn said I have several questions. He asked does this help with HOA responsibilities. Thetonia said we can talk about the stormwater inspector position at the end and where they fit in. She said the state has a completely new language for the post-construction program and their new permit will require us to inspect privately owned ponds once every five years. She said it is my plan to have a new post-construction inspection program where we are implementing those manuals. She said hopefully in the coming months I will have more updates for you on that.

Autio asked if the DB is supposed to approve this new ordinance. Thetonia said the DB does not need to formally approve the ordinance. She said Dave Schilling said that the only approval required is from the county commissioners, so you can make a motion to provide a recommendation to them if you would like to do that. She said I did not require anything today since this is not finished right now and I want to wait another month to see the new State permit requirements. She said this would not require a public hearing. She said the ordinance would obviously affect the functioning of the DB and everything that you are approving. Autio asked about reviewing the technical standards manual. Thetonia said I need to do more work on it but it would be sent to local engineers to make sure we have everyone's input.

Thetonia talked about post-construction stormwater quality being more stringent. She said Chapter Six is

the Karst Chapter and it has changed quite a bit from the current ordinance. She talked about sinkhole conservancy areas increasing to 50 feet around the largest close contour. She said each area would require an easement so if a sinkhole is plugged for whatever reason, there is an easement sinkhole can have a way to drain. She talked about requiring a sinkhole inventory or evaluation for new projects and prohibiting post-construction impervious surface to drain directly into a sinkhole without treatment first. She said it is going to be tricky to manage all the development of karst areas. She talked about controlling inflow rates to sinkholes. She talked about a new policy for how to handle the emergence of a new sinkhole on a construction site. She said there would be requirements to immediately protect the area with erosion control and sediment control measures, then perform a new sinkhole evaluation with a professional engineer/geologist, and have a plan to either plug it or protect it, depending on the project needs.

Trohn had a question about penalties for filling in a sinkhole. Thetonia said that is something that Connie Griffin and I have been working on. She said we can issue a stop-work order. She said as far as retroactive finds, the Legal department would need to decide about going to court. She said in my opinion it would be useful for the MS4s to be able to issue fines, and being able to act quickly on enforcement would let the owner know that these things are important. She said a notice of violation is just one part of the documentation and progressive enforcement. She said fines might be the last resort. Trohn said it is a tough one. He asked if we find something after the fact, could we flag the developer and somehow be able to use that as a discretionary measure for future developments. Thetonia said I'd like to mention I have started coming up with the fee schedule for inspections. She said regular inspections would not be charged but if we need to do re-inspections for compliance issues, then that would start accruing some charges, also a hefty inspection fee for restarting construction after being issued a stop work order so if you need to come on site to look at all the corrective actions that need to be remedied, coming back on site there would be another inspection fee. She said the other thing is Connie is interested in coming up with a better contract or training program for the county and maybe some kind of certification program. She said that is a lot of work and we would need a dedicated person to look at active construction sites and training contractors, but that is a potential solution. Trohn asked a question about holding a developer accountable for not being compliant perhaps having to go through a certification program in order to do another development in the county. He said my main goal is to hold someone accountable even if it's 20 years down the road, the property has been sold and now it is a burden on a property owner.

Thetonia said I think the main lesson is education, so that people know what we expect. She said I do not want to hold permits hostage. She said really it is about education and that should be the first goal before we start looking into fines or things like that. Bill Riggert said I know when we do work on private facilities like GM they make you watch a video so you can understand what the expectations are. He said perhaps we could have a video that contractors have to watch and that might be a method of training. He said also just to comment on sinkholes, sinkholes can surface or evolve over time and to find one and then hold someone responsible for something that may have evolved afterwards, that might be a challenge. He said you have great intentions but one could pop up later on that no one would have ever even known about so we would have to be careful, I would think, to use that to make an accusation or something unless we could definitely document it somehow. He asked how did we arrive at a 50-foot setback from the last close contours. Thetonia said Terry Quillman and others discussed creating one standard buffer for a sinkhole and they went with the more stringent one. There was a discussion of the City's ordinance and compound sinkholes.

Thetonia said she would like to discuss the stormwater permit. She said anything that would trigger a stormwater review would require us to do a permit and with the OpenGov plan review software, now it is not going to be a burdensome amount of paperwork. She said it is going to be another step in that software and I will work with the Planning department to get a stormwater review process set up so that it will be easy and it will not be redundant with other steps in the permitting process. She said I wanted to run this by you all, you can look at this more and think about it. She said the way that the ordinance is

currently set up requires a preliminary drainage plan approval from DB but I wanted to make sure, do we want to put in the ordinance that the DB also needs to require approval of the final drainage plans, because that is one thing I saw was missing from this. She said I know there are instances where things can change or new information comes up.

Trohn said I would think that would complement the new inspector's role by being able to re-look at it. Riggert asked could they be in some instances done at staff level if they are not too involved. He said I really want input from the DB. Autio said I like the option of completing a staff review but then it being brought to us if there are further questions. There was a discussion of staff review and final approval by DB.

Thetonia said I have been telling as many people as I can that we will be requiring as-built documentation when projects are closed out. She showed a flowchart describing the permitting process. She said I will update this to make sure all the language is consistent between the ordinance and this table. She asked if there were any further comments on the ordinance or other things to incorporate into it. Trohn said you mentioned surveyors; you could bring this to the Surveyor Review Board and they would very much appreciate having the opportunity to provide comments. He asked about getting a red line copy also adding notes at the bottom explaining how things have changed. He asked about public safety measures that Thetonia had mentioned. Thetonia said public safety regarding specifically flooding; mostly we want to make sure that we are designing responsibly and not putting people in danger when they go to build a new house.

Autio said I thought the State had passed some legislation about removing protections from wetlands; is that impacting the local ordinance at all. Thetonia said we still have the intent to protect sensitive areas. She said what we have been doing on large projects is to require wetland delineation. She said that would not necessarily determine jurisdictionality. She said that definition is going to be changing whether it is state or federal jurisdiction but if they delineate something that county can choose to say you need to protect this. She said the county has the responsibility to try to make those decisions. She said I will look through the technical standards to make sure there isn't already something in there but I just want to let you know that is how we have been handling it, by requiring a wetland delineation for the larger projects. She said floodplains, riparian buffers, and all that are already required, so that helps and then, many times, you will find some lower areas of karst that may be protected as a sinkhole.

V. Staff Reports

Thetonia said I just want to take a couple minutes to give a couple other updates before the meeting ends. She said we have hired a new stormwater inspector (Erica Pena) and she will be starting on June 14. She said Erica will be helping to create the inventory of all the county and privately owned ponds and other post-construction measures so we can start that five-year rotating inspection schedule. She said that is huge and I have been excited for that to happen; hopefully at our next DB meeting you can meet Erica.

Thetonia said, as we discussed earlier, Dee Owens will be stepping away from DB and I know Lisa Ridge has been pretty keen to step away as well. She said I do have one new application for a new drainage board member. She said her name is Ginger Davis and she currently works for the Indiana Geological Survey, is moving down here from Hamilton County, and has a great background with drainage and erosion control. She said her application is submitted to the commissioners. Owens said I am thrilled to hear that somebody with that expertise is coming in; that will help a lot. Autio said I know Ginger personally. He said we have been on the Indiana Water Resource Association together and I think she would be a great resource for DB.

Trohn mentioned House Bill 1437 that talks about electronic meetings. He said I think it is our due diligence to bring it up and then allow us to decide to adopt that or not. He said if things do change and

we do not have this in place then we will have to meet in person. He talked about the resolution that Plan Commission had adopted on this matter. There was a discussion of the house bill and its requirements for in-person attendance at official meetings. Faber said it's nice to not have to find a parking place. Autio said there are certain advantage to in-person meetings but this electronic meeting has been a wonderful option.

Autio said thank you to Dee Owens for serving on the DB and we wish you all the best and hopefully we will get a decent replacement for you. Owens said thank you very much for that, sir. She said I have certainly learned a lot. She said I think the important thing to do is to look out for the interests of the people who live in this county. She said I live in a place where there is no broadband and the only way I can come on camera is if my 94-year-old dad who lives with me now is not on the computer. She said I have two sinkholes on my property and I understand what all the issues ae around here and I think it is important that we look out for what is going on because we live in a particularly special place with the karst topography here. She said I appreciate Kelsey, I appreciated Terry Quillman and I am so glad to hear he is back as a consultant because he really knows his stuff, too. She said I appreciate all who serve. She said Jim, you know I looked at the piece this week about back in 2005 for that drainage issue and you were the president of the board. She said Bob you've been around trying to herd these cats for a long time. She said it's really been fun to do this and do not think I've gone away; I've just gone a little quiet for a while, thank you. Autio said unless there's something else, I think we'll adjourn and Kelsey, thank you for the presentation on the new board.

VI. Adjournment

- a. Date of Next Meeting: Wednesday July 7th, 2021 at 9:00 AM**

Minutes approved: _____

President

Secretary