

November 9th, 2020

Meeting called to order at 7:05 p.m. Members present were Mark Wiesehan, Fred Harrison, and Ray Redicker. Also present was Daniel Blann, County Surveyor, Travis Thompson, Board Attorney, and Justyn Underwood, Board Secretary. Mr. Underwood kept minutes. Mr. Harrison made a motion to approve the minutes from the September 14th, 2020 meeting with no corrections. Mr. Redicker seconds the motion. The September 14th, 2020 meeting minutes were approved with 3 “yes” votes.

The board then began to hold the hearing for the Hess Petition for Obstruction. Mr. Thompson then reminded the board that they would be voting to determine if an obstruction exists per the evidence presented, and that they would have to determine whether the obstruction was intentional or unintentional. The board then opened the hearing for discussion from the petitioner and the affected property owners.

Petitioner Marcus Hess of 305 E. State Rd. 250 Brownstown, IN, then presented to the board pictures of a culvert pipe that adjoins his property on the north side that has collapsed and is backing up water onto his property. Mr. Hess stated that the culvert has been collapsed for approximately a year. Mr. Hess then said that in the fall of 2019, Ronnie Allman placed some concrete pieces in the hole where the pipe had collapsed to try to fix a safety issue with the hole in the driveway, but then removed them due to the concrete pieces further obstructing the flow of the culvert pipe. Mr. Hess said in December of 2019 that he contacted the state to see who was responsible for the culvert, and that the state said it was the responsibility of the landowner. Mr. Hess said he then contacted all the adjoining landowners to try and get the culvert fixed. After Mr. Hess contacted the drainage board in July of 2020 and sent a letter to adjoining property owner Joel Scott Wheeler, Mr. Wheeler filled the hole with large rocks in August 2020. Mr. Hess stated that after the large rocks were put in by Mr. Wheeler, the flow of the pipe was still obstructed and that nothing further had been done to fix the collapsed culvert pipe.

Mr. Blann stated that he contacted INDOT, and that INDOT said that the culvert is a private culvert and that they are not responsible for replacing the culvert, but that a permit would be required from them for the culvert to be replaced. Mr. Blann also presented photos provided by the County Surveyor’s Office, as well as an easement agreement recorded in the Jackson County Recorder’s Office in 2004 among the three properties that share this driveway and culvert. Mr. Blann informed the board that the easement agreement states that the maintenance of the easement is to be shared by the three property owners that have the rights to the easement and the cost of maintenance shall be equally among the parties hereto and each party shall pay its respective share of cost of maintenance at the time maintenance is performed. Mr. Blann stated that the County Surveyor’s Office did determine that the culvert pipe in question is an obstruction. Mr. Thompson also stated for the record that notices for the public hearing were sent by certified mail to the three adjoining landowners with return receipt requested, and that the return receipts were filed in the County Surveyor’s Office.

Ronnie Allman of 299 E. State Rd. 250 Brownstown, IN, then addressed the board and presented evidence pertaining to the collapsed culvert and obstruction. Mr. Allman stated that even after Mr. Wheeler installed the rock in the hole where the pipe collapsed and placed a screen over the hole that the water is still draining better than it has in the eight years he has lived at his residence. Mr. Allman said that he believes the issue with the pipe seems to be fixed for the time being. Mr. Allman also presented videos of water flowing in the culvert during large rains and photos before and after large rains.

Joel Scott Wheeler of 295 E. State Rd. 250 Brownstown, IN, then addressed the board and presented evidence pertaining to the collapsed culvert and obstruction. Mr. Wheeler stated that in months prior Marcus Hess had contacted him regarding the hole in the driveway and told him that he needed to fix the issue with the culvert pipe. Mr. Wheeler stated that water remains in his yard even after the water drains out due to his yard being lower than the culvert pipe in question. Mr. Wheeler said that he did install a screen in the hole and placed pieces of rock on top to fill in the hole. Mr. Wheeler also stated that he believes that the screen and rock is not a permanent repair, but that it has fixed the problem for the time being. Mr. Wheeler said that someone had also dug out the debris down in the pipe where the collapse was to help the pipe drain, to which he then installed the screen and rock to fill the hole afterwards and that the pipe is currently open and draining properly.

Mr. Hess then stated that the pipe is an 18" pipe, but that it is not getting the full 18" of flow, which is still an obstruction. Mr. Hess stated that he was the one that cleaned out the pipe where it collapsed when the hole first appeared.

The board then proceeded to vote on whether an obstruction exists. The board voted 3 "yes" votes.

The board then proceeded to vote on whether the removal of the obstruction will promote better drainage on the petitioners' land and not cause unreasonable damage to the land of the respondents. The board voted 3 "yes" votes.

Mr. Thompson stated that the requirement for the statute under IC 36-9-27.4-14 has been met.

The board then proceeded to vote on whether the obstruction was created intentionally per IC 36-9-27.4-15. The board voted 3 "no" votes.

Based upon the findings of the board that the obstruction was ruled unintentional, the board has authorized the Petitioner to remove the obstruction at his expense per IC 36-9-27.4-18.

Mr. Blann stated that there was no old business on the agenda, but that the County Surveyor's Office will start legal drain inspection for 2021 cleaning projects in the next few weeks.

Mr. Redicker made a motion to adjourn. Mr. Harrison seconds the motion. Motion carried with 3 "yes" votes.

Meeting adjourned at 7:53 p.m.

James Lucas, Chairman

Fred C Harrison
Fred Harrison

Drew Markel

Mark Wiesehan
Mark Wiesehan, Vice-Chairman

Ray Redicker
Ray Redicker

Justyn Underwood
Justyn Underwood, Secretary