

A Hearing was held in the Commissioner's Room of the Courthouse on February 3, 2020 at 10:30 a.m. with the following present: Mark Bacon, Paul Wilkinson, Bruce W. Levi, members; Marvin L. Rees, Surveyor; Shelle Hendrix, Secretary. Warren Norris, Council member and several landowners were also present.

Mark Bacon recused himself because his family has land in this watershed. Wilkinson opened the Hearing by turning it over to the County Surveyor. Rees read his report and recommended assessing the watershed \$2 per acre and \$10 per acre for Abe Keim's properties. The report also stated that no written objections had been received on the proposed assessment. This report can be found in the file. Wilkinson stated it was his understanding that one property owner is causing the drainage problem. Landowner J. D. Wicker expressed his opposition to being assessed since he has paid to have the ditch cleaned out on his own property. Andy Kuhn said this is a continuing problem with debris being allowed to get into the ditch and said there needs to be a remedy for the situation. Tim Kuhn presented photos to the Board and stated he has cleaned his own property and asked why the other landowners should be assessed. Scott Richey said they had no problem until the debris from the Keim pallet business caused a log jam and now there is also mulch debris. Kathy Kuhn said her property is on the very end and she is opposed to being assessed. Carl Harcourt asked about zoning and whether or not there is any enforcement mechanism in place to prevent the debris from entering the creek. J. D. Wicker asked if Keim would be willing to put a fence to contain the debris. Rees said he had talked to Keim about a fence or a levee, but the Drainage Board has no authority to force him to do so. Menno Hershberger showed photos of flooding on his property. Mark Bacon explained to the landowners about assessments for maintenance. Ron Jarman asked Rees if he had inspected the ditch and also asked how many acres Keim is being assessed. Rees said he has checked the ditch and Keim is being assessed for a little over 100 acres. J. D. Wicker asked if he could formally object to being assessed and Rees replied the objection needed to be submitted in writing 5 days prior to the Hearing. Kathy Kuhn stated she has cleaned up Keim's debris and asked if she could send the Drainage Board an invoice. Levi and Wilkinson explained the County does not pay individuals, it needs to be contracted out by the Board. After questions from Carolyn Wicker and Merrill Carrigan about zoning Levi summoned Gregg Duke from Area Plan Commission. Duke advised the Board Keim's pallet company is zoned A3, Regulated Livestock. Scott Richey asked if the Highway Dept. has had issues with the debris along the road. The Surveyor said he will talk to Jerry Sitton about it. Further questions from landowners concerning zoning and assessing prompted Levi to say legal advice is needed. Wilkinson proposed assessing only Abe Keim at this time, saying he and Levi would have to agree as Bacon will recuse himself. Levi acknowledged there is a real problem but further facts need to be gathered and legal advice sought. Levi made a motion to recess the Hearing and reconvene on February 6, 2020 at 9 a.m. with a 2nd by Wilkinson. Motion carried and the Hearing was recessed.

DRAINAGE BOARD MEETING**FEBRUARY 3, 2020**

The Rush County Drainage Board met in the Commissioner's Room of the Courthouse February 3, 2020 at 11:00 a.m. with the following present: Paul Wilkinson, Bruce W. Levi, members; Marvin L. Rees, Surveyor; Shelle Hendrix, Secretary. Warren Norris, Council member was also present.

A motion was made by Wilkinson to approve the minutes from the previous meeting with a 2nd by Bacon. Motion carried and the minutes were approved and signed.

ANNUAL REPORT AND REPORTS TO OTHER COUNTIES

The Surveyor presented his annual report to the Board. Bacon made a motion to approve the report with a 2nd by Wilkinson. Motion carried and the annual report was approved and signed. Rees then presented assessments for other counties. Wilkinson made a motion to approve with a 2nd by Bacon. Motion carried and the assessments were approved and signed.

FRALEY/WILKER DRAIN

The Surveyor read an email from Holly Robertson about flooding and showed photos to the Board. This area has been annexed into the City of Rushville and is not the County's jurisdiction.

CARR/STANLEY

The Surveyor has talked to the USDA about a loan and is waiting to find out when he can meet with them.

GEISE/STEVENS

The Surveyor is still waiting to hear from Chris Hershberger on when he can evaluate the trees.

There being no further business to come before the Board, Wilkinson made a motion to adjourn with a 2nd by Levi. Motion carried the meeting was adjourned.

Mark Bacon

Paul Wilkinson

Bruce W. Levi

The Wm Garner Hearing was re-convened in the Commissioner's Room of the Courthouse February 6, 2020 at 9:00 a.m. with the following present: Mark Bacon, Paul Wilkinson, Bruce W. Levi, members; Leigh Morning, Board Attorney; Marvin L. Rees, Surveyor; Shelle Hendrix, Secretary. Warren Norris, Council member and several landowners were also present.

Wilkinson began the meeting by saying the Commissioners had taken another look into the plan to assess a higher amount on the Pallet Company and checked into zoning questions. Levi stated according to zoning the permitted use was confirmed. Wilkinson further stated the issue at hand is the blockage in the drain primarily caused by debris from the Pallet Co. Jim Wicker told the Board he was opposed to being assessed since his family has kept their part of the drain cleaned out at their own expense. Abe Keim spoke to the Board and showed photos of a culvert which is plugged and not big enough. He also questioned whether the blockage was completely due to his debris only. Rees said he will talk to Jerry Sitton about the culvert to see if the Highway Dept. will clean it out. Wilkinson said another issue which needs to be addressed is the material Keim has stacked on the edge of the creek. Keim said he has Muckerhide scheduled to clean out around the concrete barriers next week. Wilkinson said that wouldn't be sufficient to prevent the stack of material from being pushed into the creek by heavy rains and said there needs to be a 75 foot area on each side of the creek kept clear. Gregg Duke added the piles are in the flood plain and a retaining wall won't hold it. Wilkinson summarized saying 1. Waterway needs to be cleaned out, 2. Need to keep the debris out of the creek, and 3. Need to pay for it. Levi asked Rees about his proposed assessment. Rees said the legal drain was established in 1949 and hasn't been assessed since. He is recommending assessment of \$2 per acre for the entire watershed and assessing Keim \$4310.58 to pay for the work already done to clean out debris from the pallet company as a result of 2 floods. Warren Norris stated he too had been to inspect the area and agreed the stacks are too close to the creek. Wilkinson again stated the need to assess the landowners in order to pay for the work already done and to have a fund for future maintenance. He explained how a maintenance fund works and stressed the desire to be as fair as possible to all landowners in the watershed. Levi asked once again if the costs already incurred were due to the pallet company's debris only to which Rees said it was. Jim Wicker said he thought \$2 per acre was too high and would rather see a smaller assessment spread out over a longer period of time. Abe Keim asked Rees again if it was only his debris that was cleaned out and Rees said it was, due to 2 different floods washing his pallet company debris into the creek.

Wilkinson said a decision needed to be made immediately in order to get the assessment on this year's tax bill. Levi made a motion to assess all landowners in the watershed \$1 per acre for the next 4 years for a maintenance fund with a 2nd by Wilkinson. Motion carried. Wilkinson made a motion for a one-time assessment on Abe and Darlene Keim of \$4,310.58 for the cleanup that has already been done. Levi seconded the motion. Motion carried.

Levi made a motion to adjourn the Hearing with a 2nd by Wilkinson. Motion carried and the Hearing was adjourned.

Paul Wilkinson

Bruce W. Levi