

MORGAN COUNTY DRAINAGE BOARD

*November 1, 2004
11:00 A.M.*

DRAINAGE BOARD MEMBERS PRESENT WERE TERRY BROCK (Surveyor), NORMAN VOYLES (Commissioner), JEFF QUYLE (Commissioner), AND BRIAN GOSS (Commissioner).

TIMBERLAKE WOODS

Terry Brock stated that the drainage plan has not been completed and the owner would like to table the issue. Brian Goss made a motion to table the Timberlake Woods drainage plan review. Seconded by Jeff Quyle. Motion carried 3-0

LAURAL RIDGE

This issue, presented at the last meeting, was tabled due to the County Attorney's conflict of interest. Norman Voyles appointed Rod Bray as the Board's attorney. Jeff Quyle made a motion to approve the appointment of Rod Bray. Seconded by Brian Goss. Motion carried 3-0. Petitioner Brian Slattery stated that he owns property on the western side of the subdivision. Mr. Slattery stated that water is standing on both sides of the road and there is not sufficient drop to facilitate water movement. Mike Plue, Lot 21, stated that the developer installed a drainage tile that drains into his backyard. Mr. Plue stated that there is a huge volume of water that floods his backyard and there is nowhere for it to go. The silt from the tile has partially blocked his basement drain. Mr. Plue stated that the water has also washed out the road of the farm behind his property. Roberta Sharpe, whose mother owns the farm next to Mr. Plue, stated that the water fills up Mr. Plue's yard, then washes into her lane. Ms. Sharpe stated that her mother has lived there for 16 years and never had a drainage problem until the subdivision was developed. Ms. Sharpe stated that the lane to the back pasture was driven upon daily until this year when it became impassable, even after putting gravel on it. Melanie Close owns the second house on the left after entering the subdivision. Ms. Close stated that there is always water standing in the ditch along the road and it is a health issue. Larry Smith, County Engineer, stated that a local contractor called him about putting a final coat of asphalt on the subdivision road. Mr. Smith stated that the drainage is in very bad shape. There are areas where cattails are growing, several driveways require pipes and don't have them, there is no drainage easement, the road is in poor shape and some areas will need to be completely removed. Mr. Smith stated there is a lot of work to be done before the roadway will be acceptable. Bob Davis showed pictures of the area just east of the Laural Ridge subdivision. Terry Brock stated that he has not been out to inspect this area for this complaint. Mr. Davis stated that he and Ms. Lawless own 80% of a pond that the water from the subdivision drains into. The pond is filling with sediment and Mr. Davis would like this problem corrected. Anita Lawless stated that Mr. Gieger, whom they purchased the pond from, has been trying to alleviate the problem for some time. Ms. Lawless stated that she believed Mr. Gieger has settled his case since he has not appeared at the meetings. Greg Aske stated that Bob Davis asked him to look at the site this morning. Mr. Aske stated that there is a silt fence installed, but it is not tucked into the ground per specifications and therefore is useless. Mr. Aske stated that there is currently no effective erosion control on the site. Mr. Aske stated that there is a vertical cut that has been made for one of the houses and it is currently devoid of vegetation, causing more erosion that ends up in the pond acting as a settlement trap. Jeff Quyle asked how many complaints were filed. Terry Brock stated there are currently seven; there were eight, but one withdrew the complaint. Alan Deerwester was present with Terry Sorg representing Deerwester Development, Inc. to discuss the complaints. Mr. Sorg stated that he also represents Dick Gieger. Mr. Gieger's complaint regarding the sediment in the west end of the lake has been resolved. Mr. Sorg stated there was a Rule five violation and Mr. Gieger is in the process of cleaning out his portion of the lake. Mr. Sorg stated that there are a series of ravines that combine into one larger ravine then dump into the ~~east~~ ^{west} end of the lake. Mr. Sorg stated that the issue is exclusive to Mr. Gieger's portion of the lake and the other complaints have no basis. Mr. Sorg stated that the Drainage Board has no jurisdiction over Laural Ridge; the complaints are civil matters and should be regarded as such. Mr. Sorg stated that Poindexter cut the roads for Lots 9, 10, & 11 and the drainage ditch is no more than a swale that, according to the covenants of the subdivision, the individual lot owner is responsible to restore and protect. Mr. Sorg stated that there are driveways across the ditch and the inlets are higher than the outlets. Mr. Sorg stated that before the subdivision was developed, there was a ravine adjacent to the road Ms. Sharpe spoke about, that was the natural drainage of the land. Mr. Sorg stated that the natural waterway is what is contributing to the erosion of the road. Mr. Sorg again stated that the Board has no jurisdiction and no violations of any rule, code, or law have occurred. Mr. Sorg stated that there was no zoning ordinance at the time the subdivision was developed and complaints should be addressed in a civil matter. Jeff Quyle stated that according to the drainage plan, there should not be a pipe emptying water onto Lot 21. Mr. Sorg stated that the Board of Health instructed the developer to install the pipe. Mr. Brock stated that if the swale had been installed per the erosion control plan, it would have slowed down the volume and velocity of water. The Board, Mr. Sorg, and Mr. Deerwester examined the drainage plan and discussed the pipe and the swale. Jeff Quyle asked Rod Bray to clarify jurisdiction over the issue.

Mr. Bray stated that if it is found that something Mr. Deerwester did caused the volume or rate of runoff of the natural water to increase and damage resulted from that, it would be a matter for a civil lawsuit. Mr. Bray stated that if the waterway is obstructed, then the Board needs to determine who is responsible for the obstruction. A discussion followed with comments from the floor on obstructions and when the drainage problems started. Greg Aske talked about sediment and how it would be carried downstream. Norman Voyles asked Mr. Bray if he felt the Board had any jurisdiction over these issues. Mr. Bray replied that he felt there were three issues. One is the ditches, second is the large pipe, and third is the siting of the lake. Mr. Bray stated that the pipe and the pond are issues the Board does not have jurisdiction over and could be contested in a civil suit. Mr. Bray stated that jurisdiction over the ditches would depend on the source of the obstruction. Mr. Sorg read the section of the covenants that states the landowner is responsible for storm water drainage and if there is evidence that the property did not have proper drainage to begin with, then it is beyond the scope of the Board. Jeff Quyle stated that the Board should dismiss the petitions regarding Ms. Sharpe, Lot 21, and the lake, which are issues that the Drainage Board apparently has no authority to take action on. Mr. Bray agreed, stating that the law does not give the Board any authority to do anything about it. Jeff Quyle made a motion to dismiss, for jurisdiction reasons, the petitions from Anita Lawless, Bob Davis, Mike Plue, and Mrs. John Gilbert. Seconded by Brian Goss. Motion carried 3-0. Mr. Quyle apologized to the petitioners, stating that upon legal advice, there was nothing the Board could do to help. Mr. Bray stated that as legal counsel, he thought the Board would be stepping beyond their bounds to say that the ditches were a natural waterway. Mr. Quyle stated that Mr. Deerwester put the subdivision in at a time when there was no zoning ordinance and things were done that were in violation of common sense, and by doing this, has done a disservice to property owners and the community. Mr. Quyle stated that the Board is concerned about the drainage issues and the road quality. Mr. Deerwester stated that there is damage to the road due to heavy truck traffic and there is still six or seven months of construction time left. Mr. Voyles advised Mr. Deerwester to get the side ditches draining before paving the road. Brian Goss made a motion that under advice of counsel, the Board does not have jurisdiction over the remaining petitions. Seconded by Jeff Quyle. Motion carried 3-0. Terry Brock stated that Laurel Ridge could be a beautiful subdivision, but there are drainage problems and Mr. Deerwester should get together with the landowners and work things out. Mr. Brock offered to help settle the problems if both parties would meet with him. Norman Voyles urged Mr. Deerwester to meet with the landowners, stating that resolving the issues would greatly improve the subdivision. Mr. Deerwester stated that he would like to see what Mr. Brock suggests as a solution.

MINUTES


Brian Goss made a motion to approve the October 4, 2004 minutes. Seconded by Jeff Quyle. Motion carried 3-0.

ADJOURNMENT

Jeff Quyle made a motion to adjourn. Seconded by Brian Goss. Motion carried 3-0.

MORGAN COUNTY DRAINAGE BOARD


Terry Brock, Surveyor


Norman Voyles, Commissioner


Brian Goss, Commissioner


Jeff Quyle, Commissioner

ATTEST:


Mae Cooper, Auditor