

**Regular Meeting #09-45
Fairfield County Commissioners' Office
November 3, 2009**

9:00 a.m. Dayspring Drainage Maintenance District Meeting

The Board of Commissioners met with County Engineer Frank Anderson and County Utilities Director Tony Vogel to discuss concerns relative to the Dayspring Drainage Maintenance District (DMD). Commissioners present were Judith Shupe and Mike Kiger. Absent was Jon Myers. Also present were Eric McCrady, Chad Lucht, Todd May, Drew Shadwick, Holly Mattei, Thomas Romine, Dawn Romine, Jason Dolin and Scott Zody.

Mr. Anderson provided an overview of the issue, stating that Dayspring is a subdivision in Violet Township near Harmon Road and State Route 204. The subdivision has two drainage outlets to the west, and one had a drainage tile system underneath but the drainage was supposed to be surface oriented. A catch basin was added that ties into the tiles and that has impacted drainage on neighbors.

Mr. McCrady provided photos showing the drainage structures and catch basin and French drain that was installed, stating that the catch basin is backing water and the French drain is not functioning.

Mr. McCrady stated the Engineer has looked at having some debris removed from a neighboring property that is impeding surface drainage, and noted the tiles were not included as part of the original planned drainage. The Engineer's Office was notified of the problem by subdivision residents who were having water back up on their properties, and the line appears to be obstructed on the Shadwick property. The Engineer would like to enter the Shadwick property to try to fix the problems. A meeting was recently held with the property owners and interested agencies, including Soil & Water, Violet Township, Regional Planning and the Engineer's Office.

Mr. Lucht stated that he had gone out to visit with a former property owner (Mr. Baumgardner) and the owner had had a disagreement with DiYanni Homes, the builder when the subdivision was being constructed. The area soils are Pewamo Type soils, which are very wet and hydric, and the tiles have several blow holes in them. The tiles are old field tiles that drain to the Haaf Farms subdivision, and are in very poor condition. Mr. Lucht added that they discovered a junction box on the Romine property.

Mr. McCrady stated there is a lot of water draining into the tile, which is crossed by a County Utilities access road and may have a pole barn built on top of it, and there is a need to try to fix the drainage. Mr. McCrady stated he had met with the Romines and their dilemma is how to fix the drainage and pay for it, since the Shadwick and Romine properties are not part of the Dayspring DMD. Mr. McCrady suggested using the Ohio drainage law and possibly petition ditch the drainage to fix it.

Mr. Shadwick stated he has two issues – first the tile and its condition, and secondly the potential removal of the debris pile on his property. Commissioner Shupe asked if Mr. Shadwick was objecting to the proposed fix, and Mr. Shadwick stated he is. Mr. McCrady stated that Mr. Shadwick is refusing to grant access to his property.

Mr. Shadwick stated that he is dismayed that he and the Romines were not informed of the meeting that was taking place, having only noticed it when looking at the Commissioners weekly schedule last night on the computer. Mr. Shadwick stated that he had participated in the meeting last week with the Engineer, and asked to be notified of any future meetings.

Mr. Shadwick stated he has a basic understanding of the facts surrounding the issue, and there used to be a swale in his backyard along with drain tiles, and DiYanni changed the surface drainage flow when building the subdivision.

In the Dayspring subdivision, there is a lot adjacent to the drains that has two sump pumps operating 24 hour per day just to keep the basement dry, and that water is being pumped into the drain tiles, adding to the flow that comes into his yard.

Mr. Shadwick stated that Mr. Baumgardner, who used to own his home, noticed his yard was constantly wet after DiYanni started the subdivision, and DiYanni changed the drainage into the tile but never received permission to do so. Now water is running into the Romines property as well as other properties downstream of Dayspring.

Mr. Shadwick stated that attempts to fix the drainage have failed, and tiles have broken and water is backing up on the property. Simply moving the rocks will accomplish nothing. Mr. Shadwick stated that DiYanni submitted bad plans that the county approved but never should have and nothing has been done to address the issue for 10 years and now the county is telling the neighbors it is their fault. Mr. Shadwick would like the Commissioners to investigate the matter.

Mr. Anderson stated that Mr. McCrady summarized the issues, and they simply do not have the funding mechanism to fix problems off site of the DMD. Mr. Shadwick stated the county is at fault for allowing DiYanni to change the drainage after the fact. Now the surface drainage is too much for the system and ground to handle.

Commissioner Shupe asked what could be done – can the tile be fixed? Mr. McCrady stated the tile could be fixed, but not permanently. The Engineer wanted to inform the Commissioners of the problem and get an opinion on their ability to enter private property to fix it. Mr. McCrady stated the tile is old field tile and is tied into other tiles and subdivision drainage. Fixing the tile would help some but not alleviate the overall problem.

Commissioner Shupe stated the county can do the project and assess the landowners, and Mr. Shadwick stated the problem is fixing the tile won't solve the problem – he is not sure a petition ditch project would solve the problem either. The problem is the county's to solve, as they allowed it to happen in the first place. Mr. Shadwick stated he is willing to work with the county to resolve the problem, but not if it is going to cost him \$20,000 to do so.

Mr. Romine stated that his house was constructed in 1964, when there was nothing around but agricultural fields. The drainage was fine until DiYanni built the Dayspring subdivision and started putting additional water onto their property, both surface and subsurface water. The county should have caught the problem – his backyard used to look like a golf course, and now it resembles a swamp.

Mr. Romine stated the problems are being caused by homes built in 2007 and 2008, and they all have sump pumps that add subsurface water to the mix in an area receiving 17 acres of surface drainage that should be receiving 6 acres.

Commissioner Shupe asked what the tile size is, and Mr. Romine stated main tile is 6-8", but has several 4" tiles tied into it. The tile runs into a catch basin at Haaf Farms, then into a 12" line and then onto a creek. When Haaf Farms was built the builder took out the swale and put houses on top of it, and someone should have caught it.

Mr. McCrady stated that he does not dispute historical records or eyewitness accounts, noting that Bill Lozier in the Engineer's Office had noted his own concern with the design for the subdivision, and noted the watershed changes that were made, but they were felt to be minor at the time.

Mr. McCrady stated the drainage has been a long term issue with the subdivision and he knows of others that have similar circumstances. Mr. Lucht noted there was one on Pleasantville Road that they have been working with to resolve, and Ms. Mattei noted

that the Pleasantville Road subdivision is an agreement, but nothing has been constructed as yet.

Mr. Vogel stated the problem is one of retention and the amount of retention. Mr. Zody asked if there is space on Dayspring to construct enhanced or additional retention, and Mr. McCrady stated he could deepen or slightly widen basins, but that would not resolve the problem. Mr. Vogel agreed, stating the biggest problem is the need to fix the tile system so the water can run off.

Mrs. Romine stated that all the neighbors are 2nd owners of the homes, the original owners all stated they never had drainage problems until Dayspring was built. Their own basement now has flooding problems. Commissioner Shupe asked if anything could be added, and Mr. McCrady stated the Engineer has a limited ability to work within the DMD and the drainage easement, and a regional solution to include the neighbors and possibly Haaf Farms is needed.

Mr. Anderson stated a petition ditch could be used, and sized according to need. Mr. Shadwick asked what the legal and moral solutions are, stating that he is not sure the neighbors should bear the burden of that.

Mr. McCrady stated that ultimately, all benefitting property owners would need to contribute. Mr. Lucht stated there are several homes contributing to the problem, including several sump pumps running into the tiles. Mr. Vogel stated there are also sumps running directly into septic leach fields.

Mr. Vogel offered to bring out a Vactor Jet and try to clean out and identify problem areas in the tiles, and Mr. Romine stated he would like to see the township provide their backhoe to dig up broken tiles so they could be repaired. Mr. Vogel stated that he wanted to make it clear that the Jet would not repair problems, but identify area of need to repair, and in the past some temporary fixes have merely led to other, previously unidentified problems.

Mr. McCrady stated the Engineer fixed a "Dandy Bag" onto the catch basin so at least now the head pressure has been reduced and the tile is not blowing out. The Engineer has some options to consider but is looking to the Commissioners for advice. Commissioner Shupe asked if all the property owners need to cooperate on any project, and Mr. Vogel stated yes, but he would need access first from the neighbors to identify problem areas. Mr. Vogel asked if the pole barn was actually on the tile, and Mr. Lucht stated he had walked that property, and believes the barn is about one foot off of the tile, but he is concerned that the Vactor Jet line could get stuck in broken tiles.

Mrs. Romine asked if the Commissioners would agree to allow the Utility Department to access their property and clean out the line, and Mr. Vogel stated he main concern would be finding areas in need of repair. Mr. Shadwick asked if this would be a temporary fix, and Commissioner Shupe stated this would allow Mr. Vogel to access the properties and possibly clean some areas up, and Mr. Vogel stated it should help provide insight to a long term solution.

10:00 a.m. Commissioners' Regular Meeting

A regular meeting of the Fairfield County Board of Commissioners was held on Tuesday, November 3, 2009 beginning at 10:00 a.m., with the following Commissioners present: Judith Shupe and Mike Kiger. Absent was Jon Myers. Also present were Jon Kochis, Aundrea Cordle, Ed Laramee, Ritta Seitz, Michael Orlando, Jason Dolin and Scott Zody.

Announcements

Mr. Zody announced there would be one add-on item for the Fairfield County Community Action Recycling Program.

Public Comment

There were no public comments.

Approval of minutes of Tuesday, October 27, 2009

On motion of Mike Kiger and second of Judith Shupe, the Board of Commissioners voted to approve the minutes for Tuesday, October 27, 2009.

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval of and a signature needed by Commissioner Jon Myers on the CFLP Solid Waste District Grant Contract Amendment to purchase recycling equipment for the county recycling drop-off program

On motion of Mike Kiger and second of Judith Shupe, the Board of Commissioners voted to approve a signature needed by Commissioner Jon Myers on the CFLP Solid Waste District Grant Contract Amendment to purchase recycling equipment for the county recycling drop-off program, see resolution 09-11.03.a

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval of confirming the inclusion of the Fairfield County Board of Developmental Disabilities into the Fairfield County Health and Life Insurance Benefits Program

On the motion of Mike Kiger and second of Judith Shupe, the Board of Commissioners voted to approve confirming the inclusion of the Fairfield County Board of Developmental Disabilities into the Fairfield County Health and Life Insurance Benefits Program, see resolution 09-11.03.b

Commissioner Shupe stated that part of the agreement is for the BDD to save some funding elsewhere within their operation, and Commissioner Kiger stated the agreement also holds the county harmless for three years against any increased premiums for higher tiers.

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval of an Order of Suspension for an employee of Fairfield County Job & Family Services, Child Support Enforcement

On the motion of Mike Kiger and second of Judith Shupe, the Board of Commissioners voted to approve an Order of Suspension for an employee of Fairfield County Job & Family Services, Child Support Enforcement, see resolution 09-11.03.c

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval of renaming of Spires Road (TR173) and Duncan Road (TR160)

On the motion of Mike Kiger and second of Judith Shupe, the Board of Commissioners voted to approve the renaming of Spires Road (TR713) and Duncan Road (TR160), see resolution 09-11.03.d

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval of a Contract Amendment by & between Fairfield County Job & Family Services and Lancaster Public Transit System

On motion of Mike Kiger and second of Judith Shupe, the Board of Commissioners voted to approve a Contract Amendment by & between Fairfield County Job & Family Services and Lancaster Public Transit System, see resolution 09-11.03.e

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval of an Award of Bid – CDBG FY2008 Fairfield County, Walnut Creek Sewer District project

On motion of Mike Kiger and the second of Judith Shupe, the Board of Commissioners voted to approve an Award of Bid – CDBG FY2008 Fairfield County, Walnut Creek Sewer District project, see resolution 09-11.03.f

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval of the Quarterly Report for the Fiscal Year 2008 Neighborhood Stabilization Project completed October 2009

On motion of Mike Kiger and second of Judith Shupe, the Board of Commissioners voted to approve the Quarterly Report for the Fiscal Year 2008 Neighborhood Stabilization Project completed October 2009, see resolution 09-11.03.g

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval of the six-month report for the Fiscal Year 2008 Community Housing Improvement Project completed October 2009

On motion of Mike Kiger and the second of Judith Shupe, the Board of Commissioners voted to approve the six-month report for the Fiscal Year 2008 Community Housing Improvement Project completed October 2009, see resolution 09-11.03.h

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval to Create a New Sub Fund for Fund 2050 – Ditch Maintenance Fund – Violet Meadows, Section 4, Phase 2

On the motion of Mike Kiger and second of Judith Shupe, the Board of Commissioners voted to approve to Create a New Sub Fund for Fund 2050 – Ditch Maintenance Fund – Violet Meadows, Section 4, Phase 2, see resolution 09-11.03.i

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval to Amend Certificate and Appropriate from unappropriated – Fund 2625 – Special Projects Fund – Domestic Relations Court

On the motion of Mike Kiger and second of Judith Shupe, the Board of Commissioners voted to Amend Certificate and Appropriate from unappropriated – Fund 2625 – Special Projects Fund – Domestic Relations Court, see resolution 09-11.03.j

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval to Amend Certificate and Appropriate from unappropriated – JFS Workforce Development

On the motion of Mike Kiger and second of Judith Shupe, the Board of Commissioners voted to Amend Certificate and Appropriate from unappropriated – JFS Workforce Development Fund, see resolution 09-11.03.k

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval of Repayment of Advance resolutions – Commissioners

On the motion of Mike Kiger and second of Judith Shupe, the Board of Commissioners voted to approve resolutions relative to repayment of advances for the Commissioners Office as follows:

- 09-11.03.l Approval of Repayment of an Advance to the General Fund – Commissioners Fund 2730
- 09-11.03.m Approval of Repayment of an Advance to the General Fund – Commissioners Fund 2709
- 09-11.03.n Approval of payment of a voucher without an appropriate carry over purchase order - Commissioners

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval of Financial Resolutions

On motion of Mike Kiger and second of Judith Shupe, the Board of Commissioners voted to approve financial resolutions as follows:

- 09-11.03.o Approval of payment of a voucher without an appropriate carry over purchase order - BDD
- 09-11.03.p Approval of Fund to Fund Transfer – Motor Vehicle Fund 2024, to Note Retirement for the West Campus Engineers Facility, Fund 4523
- 09-11.03.q Approval of Account to Account Transfer – Clerk of Courts
- 09-11.03.r Approval of Account to Account Transfer – Older Adult Services Levy
- 09-11.03.s Approval to Appropriate from Unappropriated – Building Department Fund & Fund to Fund Transfer - Utilities
- 09-11.03.t Approval to Appropriate from Unappropriated – Motor Vehicle Fund
- 09-11.03.u Approval to Appropriate from Unappropriated – Motor Vehicle Fund

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval of Authorization for Payment of Bills, November 3, 2009, check date November 6, 2009

On the motion of Mike Kiger and second of Judith Shupe, the Board of Commissioners voted to approve the authorization for payment of bills November 3, 2009, check date November 6, 2009, see resolution 09-11.03.v

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Approval of a signature needed by the Fairfield County Commissioner Jon Myers on the CFLP Solid Waste District Recycling services contract, 4th Quarter, 2009 budget revision

On motion of Mike Kiger and the second of Judith Shupe, the Board of Commissioners voted to approve a signature needed by the Fairfield County Commissioner Jon Myers on the CFLP Solid Waste District Recycling services contract, 4th Quarter, 2009 budget revision, see resolution 09-11.03.w

Roll call vote of the motion resulted as follows:
Voting aye thereon: Mike Kiger and Judith Shupe

Review Session

The Board of Commissioners met to review legal issues, correspondence, and pending and future action items. Commissioners present were Judith Shupe and Mike Kiger. Absent was Jon Myers. Also present were Aundrea Cordle, Michael Orlando, Jon Kochis, Ed Laramee, Jason Dolin and Scott Zody.

Mr. Dolin stated that he has received a response form the Juvenile/Probate Association attorney relative to the Judge's authority to provide health insurance benefits to an employee who otherwise would not qualify under the county policy. In his opinion, the Judge has that authority. Commissioner Shupe stated the Judge also has mandating authority, and Mr. Dolin stated there are good arguments on both sides of the issue relative to Revised Code authorities.

Commissioner Shupe stated it is pointless to fight, and the Board would lose in the end. Mr. Dolin stated it is a question of whether it is worth it or not and if it sets a precedent with respect to the Commissioner's authority.

Mr. Dolin reported that he has the information relative to updating the JFS lease and is working on that. Mr. Zody noted the amendments need to be approved by the end of the year, as the Auditor has warned that the county could have a Finding for Recovery from the State Auditor otherwise. Mr. Zody stated the lease needs to be retroactive to January 1, 2009 and the new payment schedule would take effect July 1, 2010. Mr. Orlando stated that the payment schedule appears to go beyond the effective life of the building. Mr. Laramee stated the lease should reflect the square footage occupied by JFS and be adjustable for future expansion or shrinkage of the agency.

Mr. Kochis stated he has a draft Guidance document for H1N1 flu for county offices to follow. Mr. Kochis stated he has dropped the 15% threshold as most agencies are already at that level of absenteeism, and modeled the guidance after the CDC. Mr. Kochis stated he is recommending that once absenteeism hits 40% or an agency is inhibited from meeting its mandated mission, public contact should be limited. If absenteeism hits 75%, he recommends office closure.

Mr. Kochis stated he has received the surgical masks they ordered and they are ready to distribute to agencies for use by members of the public that exhibit signs of illness. Commissioner Kiger asked if the guidance would be part of the Policy and Personnel Manual, and Ms. Cordle stated it is merely a guidance document, and would not be part of the manual. Mr. Kochis stated that he would encourage limiting face-to-face contact now, and there are already 10 confirmed H1N1 cases in Fairfield County, and he suspects there are many more.

Mr. Kochis stated Fairfield County is being more proactive than most other counties, and asked the Board how the guidance should be distributed, and Ms. Cordle stated it

should come from EMA, not the Commissioners. Mr. Laramée stated the policy should be posted prominently at points of public contact.

Regarding the MOW contract, Commissioner Shupe stated that she has spoken with one of the congregational meal site coordinators and they are very unhappy with the lack of enhanced services that MOW promised under the levy, and she believes a stand alone committee should be formed to oversee MOW spending. Commissioner Shupe asked Mr. Dolin how that could be accomplished, and Mr. Dolin stated that would have to be negotiated with MOW due to the ballot language.

Commissioner Shupe stated that MOW is not being cooperative and changes are needed to the contract or she would not be able to support it. The Friends committee only sees the allocations, and does not review the administrative or contract services spending.

The Board directed Mr. Zody to contact Dan Bolger relative to his concerns over a hangar lease at the airport and direct his concerns to the Airport Authority Board, as the lease is with the Board, not the Commissioners.

Commissioner Shupe asked if there were any other questions relative to the MOW contract, such as the self-contracting, and Mr. Dolin stated the self-contracting will be changed to administrative charges, and other than that, not much has changed.

Commissioner Shupe stated the ballot language needs to be changed the next time the levy is renewed, and Mr. Laramée stated that would cause it to be a new levy, not a renewal. Mr. Laramée stated the Commissioners can place a Senior Services levy on the ballot and not specifically mention MOW, but that is why getting the language right the first time is so critical. Mr. Laramée stated that in lieu of changing the ballot language, the Commissioners have the final say relative to appropriations to MOW each year and how much is spent on administration, contract services and grants.

Commissioner Shupe stated the Commissioners never see the details or what MOW does not fund. Mr. Laramée stated that is up to the Commissioners to look into and for the Board to decide what to appropriate. Mr. Dolin stated it is a question of the Commissioners spending more time to gather, analyze, and monitor the information, and Mr. Laramée stated the Board has a right to ask MOW questions at any time.

Adjournment

With no further business to come before the Board, on the motion of Mike Kiger and the second of Judith Shupe, the Board of Commissioners voted to adjourn at 11:30 a.m.

Roll call vote on the motion resulted as follows:

Voting aye thereon: Mike Kiger and Judith Shupe

Mike Kiger
Commissioner

Jon D. Myers
Commissioner

Judith K. Shupe
Commissioner

Scott Zody, Clerk/Manager

THE NEXT REGULAR MEETING OF THE COMMISSIONERS' IS SCHEDULED FOR THURSDAY, NOVEMBER 5, 2009 AT 10:00 A.M.