



Lumpkin County, Georgia

Public Works Department

April 1, 2016

Agenda Item:

Eckler Property – Drain Pipe

Item Description:

Repair of drainage issue located on Chestatee River Ridge Rd.

Facts & Historical Information:

The property in question went into foreclosure in 2011 and was purchased by the Ecklers. Since then the owners of the property located at 152 Chestatee River Ridge Rd have complained about a drainage problem with water coming from the road. Several times county forces have tried to make improvements to the drainage to reduce the issue including trying to get a drainage easement on the opposite side of the road and pipe the water across the road. Staff has also recommended that the owners contract with a grading company to install a drainage system on their property to carry the water beyond their house. The property owners are of the opinion that the problem is a result actions taken by the county. County Staff is of the opinion that the problem is a result of the builder of the house turning the drainage during the construction of the house and not taking proper actions to redirect the water away from the house. Sometime around the beginning of 2015, the property owners retained an attorney in an attempt to get the issue resolver. Since that time staff has met several times with the owners and their representative in an effort to resolve the issue. In March, 2016, Staff met with the owners and discussed a potential fix to the problem. The fix consists of installing approximately 140 feet of culvert pipe and a drop inlet to pipe the water beyond the house and regrading approximately 200 feet of ditch. Most all of the proposed fix will be located on privately owned property. The owners agreed to give a drainage easement (draft attached) to the county for the construction and maintenance of the proposed system. The cost of materials required to accomplish this is estimated at \$4,500. Due to the complicated nature of this problem, staff is bringing it before the BOC for guidance.

Potential Courses of Action:

- A: Accept the drainage easement, design and construct the proposed repairs at county expense.
- B: Accept the drainage easement, design and construct the proposed repairs with the cost being shared by both parties
- C: Do nothing

Budget Impact:

A: Cost, of this option, to the county is estimated to be approximately \$9,500 for materials, equipment and labor.

B: Cost, of this option, to the county is estimated to be approximately \$5,000 for equipment and labor if the property owners agree to purchase the materials.

C: No impact on the budget.

Staff Recommendation:

Staff is of the opinion that the problem was caused by the builder of the house and not a result of anything the county has done. That being said, staff had expended a large amount of time and effort in an attempt to resolve the issue. It is staff's opinion that if a resolution acceptable to the Ecklers is not reached than this issue may end up in court. Although staff is sure that the county is not at fault, the court costs may exceed the cost of the repairs. Staff recommends that the BOC accept option "B" and negotiate a cost sharing agreement.

**STATE OF GEORGIA
COUNTY OF LUMPKIN**

DRAINAGE EASEMENT AND AGREEMENT

THIS AGREEMENT, made and entered into this the ____ day of _____, 2016, By and between Pamela Jo Eckler, and Melanie Meschler Eckler, parties of the first part (hereinafter referred to as "First Parties"); and, Lumpkin County, Georgia, party of the second part (hereinafter referred to as "Second Party").

WITNESSETH

WHEREAS, First parties are the owners of property located at and known as 152 Chestatee River Ridge, Dahlonega, Lumpkin County, Georgia, designated as Lot 1 of a "survey prepared for Melanie M. Eckler and Pamela J. Eckler," situated, lying and being in Lumpkin County, Georgia, more particularly described as follows:

All that lot, tract or parcel of land lying and being in Land Lot 475 of the 15th District, 1st Section, Lumpkin County, Georgia, being Lot 1 of Coppermine Road Subdivision II, depicted as 1.62 acres, per that certain plat of survey for "Melanie M. Eckler and Pamela J. Eckler" as prepared and surveyed on March 1, 2012 by Mark E. Chastain, Georgia Registered land Surveyor No. 2718 of Chastain & Associates, P.C., which plat of survey is incorporated herein by reference thereto and is more particularly described on Exhibit "A" and depicted on Exhibit "B" attached hereto and made a part hereof by reference thereto.

This being the same property previously conveyed by Quitclaim Deed from Melanie Meschler Eckler to Pamela Jo Eckler and Melanie Meschler Eckler as tenants in common on November 21, 2011 and recorded in Deed Book 1199, pages 697-699, Lumpkin County, Georgia records, which Quitclaim Deed is incorporated by reference thereto.

This further being the same property previously conveyed by Special Warranty Deed from the Federal Home Loan Mortgage Corporation to Melanie M. Eckler on October 17, 2011 and recorded in Deed Book 1198, pages 292-294, Lumpkin County, Georgia records, which Special Warranty Deed is incorporated herein by

reference thereto.

The above described tract hereinafter sometimes being referred to as the "First Property", and the First Property being further illustrated in a copy of the above referenced plat of survey attached hereto and made a part of this Agreement as Exhibit "A" (hereinafter referred to as the "Survey");

WHEREAS, Second Party is Lumpkin County, Georgia, a legal governmental entity operating under the laws of the State of Georgia; and

WHEREAS, the Parties desire to enter into this Drainage Easement in an effort to control the water run-off from Copper Mines Road, which is designated as a County Road, by creating a controlled means to redirect said run-off located on the First parties' property, described above. Referred to as the "Drainage Easement".

NOW, THEREFORE, in consideration of the premises, and of Twelve and No/100 Dollars (\$12.00), and other valuable consideration in hand paid by the Second Party to First Parties, First Parties and Second Party hereby covenant and agree as follows.

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The Second Party hereby expressly disclaims any title or interest in any portion of the First Property by reason of said Drainage Easement. Additionally, Second Party hereby acknowledges that it, as prior conveyors of a portion of the First Property to First Parties did not reserve access, ingress and egress, the right of use, and easement by implication or any other means, a right of way, a private way, or any other right of use of property of First Parties or regarding First Property. Any rights by or through use, possession or maintenance of the Drainage Easement are hereby waived released and disavowed by Second Party.

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The First Parties hereby grant unto Second Party a Drainage Easement for the existence of the drainage run-off area over the First Property. This Drainage Easement area shall be confined to the area which runs along the entire western edge of the First Property which runs parallel to Copper Mines Road. Said Drainage Easement shall be no wider than Twenty (20) feet in total, and shall run down the existing ditch and shall run Ten (10) feet from said center line of the Drainage Easement; however, the Drainage Easement shall not interfere with the existing septic tank drain field of the residence of the First Property. Second Party agrees that it shall be solely responsible for the construction of the run-off implements, and solely responsible for the maintenance and repairs of any items placed within the Drainage Easement by Second Party. Additionally,

First Parties hereby grant unto Second Parties an easement over First Property affording access to Lot 1 only for the purposes stated in this Agreement. This Agreement shall be binding on the heirs, successors, and assigns of First Parties.

IN WITNESS WHEREOF, First Parties and Second Party have hereunto set their hands and seals, the day and year first above written.

Signed, sealed and delivered as to
First Parties in the presence of:

Unofficial Witness

Pamela Jo Eckler

Notary Public
(NOTARIAL SEAL)

Melanie Meschler Eckler

Signed, Sealed and delivered as to
Second Parties in the Presence of:

Unofficial Witness

Lumpkin County, Georgia by:

Notary Public
(NOTARY SEAL)
