

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

January 9, 2017

The meeting was called to order Monday January 9, 2017 at 12:02 p.m.

The members of the Board present were Ms. Christine Altman-President, Mr. Mark Heirbrandt-Vice President and Mr. Steven C. Dillinger-Member. Also present was the Hamilton County Surveyor, Kenton C. Ward and members of his staff: Mr. Steve Baitz, Mr. Steven Cash, Mr. Jerry Liston, Mr. Greg Hoyes, Mr. Andy Conover and Mr. Luther Cline. The Board's attorney, Mr. Michael Howard, was also present.

Minutes of December 21, 2016:

The minutes of December 21, 2016 were presented to the Board for approval.

Dillinger made the motion to approve the minutes of December 21, 2016, seconded by Altman and approved. Heirbrandt abstained.

Re-Organize the Board:

Dillinger made the motion to appoint Commissioner Heirbrandt as President of the Hamilton County Drainage Board, seconded by Altman and approved unanimously.

Altman made the motion to appoint Commissioner Dillinger as Vice-President of the Hamilton County Drainage Board, seconded by Heirbrandt and approved unanimously.

Appoint Attorney, Secretary and Alternate Members:

Dillinger made the motion to reappoint Michael Howard as attorney for the Hamilton County Drainage Board, seconded by Altman and approved unanimously.

Altman made the motion to reappoint Lynette Mosbaugh as secretary for the Hamilton County Drainage Board, seconded by Dillinger and approved unanimously.

Dillinger made a motion to recommend Steve Holt and Jerry Rulon as Alternate Members for the Hamilton County Drainage Board, seconded by Altman and approved unanimously.

Howard stated that he would file the petition with the Circuit Court Judge.

Designate Surveyor for Claims:

Altman made the motion to designate the Surveyor for claims, seconded by Dillinger and approved unanimously.

Appoint Big Cicero Creek Joint Drainage Board Representative:

Dillinger made the motion to reappoint Commissioner Heirbrandt as Hamilton County's representative to the Big Cicero Creek Joint Drainage Board, seconded by Altman and approved unanimously.

Appoint White River Alliance Board Representative:

Altman made the motion to reappoint Kent Ward as Hamilton County's representative to the White River Alliance, seconded by Dillinger and approved unanimously.

E. E. Bennett Drain, Republic Arm - Deferred Assessment:

Ms. Susan Milton was present for this item.

The Surveyor stated we have today Susan Milton who is the new owner of the Cornett property. Cornett Management, LLC was presented with a bill for \$32,943.87 when the property was platted. Janet (Hansen) picked that up and sent her the bill as per the deferred assessment agreement on the E.E. Bennett Drain, Republic Arm. She is here today to speak to the Board.

Milton stated we received a drainage assessment on December 16th of \$32,943.87. This bill was unexpected as we did not know it would result from the platting of our inherited land. It was an ugly surprise. The neighboring plat needed us to agree to the platting for them to proceed with their land sale and development. Our adjoining land is for sale, but so far we have no one actively interested. We hope to sell the land in the near future. My request is to defer this payment until the land sells.

Altman asked who represented you in the platting process? Did you have an attorney?

Milton stated we have an attorney that I consult with, but I can't think of her name.

Altman stated my point is you should have been aware of at least a drainage requirement as part of the platting process in your review process.

Milton stated not that and we also were required for this platting to proceed to designate the land for the road widening. We were not aware we were going to be required to do that.

Howard asked if that was dedicated right of way for Olio Road?

Milton stated yes, but that's another issue. We had a couple of surprises.

Howard stated that the deferred drainage assessment essentially gets transferred to the City of Noblesville because the city paid for all of the costs to reconstruct the drainage improvements downstream from this property. At that time there was full notice, hearing, etc. and Mr. Cornett would have received notice on that.

Milton asked if that was back in 2007?

The Surveyor stated 2003.

Howard stated at that time the whole Republic Development went in. The Statute says that the assessment becomes payable when the ground goes from its present rural to an urban land and we've traditionally looked at platting in that case. I think I probably have authority on behalf of the ultimate recipient of this assessment to agree to defer it until an Improvement Location Permit would be pulled if that's acceptable. When it sells you could build the Conrad Hilton Hotel on there under the same title and you could defer the assessment indefinitely, but I think until there was an Improvement Location Permit and I think that meets the intent of the Statute.

The Surveyor stated we're going to have to know from Noblesville when that's pulled.

Howard stated it may have been approval of the Urban Drain and it would be upon platting.

The Surveyor stated when the ILP is issued. This is from the minutes of the May 27, 2003 meeting and it says all deferred reconstruction assessments shall be collected at the time the ILP is issued for the developed plan.

Altman asked what is an ILP?

Howard stated Improvement Location Permit. Essentially what I need to do is tomorrow put my new hat on and have Noblesville Planning inform us of that issue.

Heirbrandt asked what would be Howard's recommendation today? To table this?

Howard stated that the assessment be deferred until there's an Improvement Location Permit and the Surveyor's Office is notified by the City of Noblesville.

Altman stated that sounds consistent with what the original work was. The only concern I have quite honestly is if you sell it and the new buyer isn't aware of this that we don't have the same complaint. I would condition any deferral upon you executing and recording a notice of public record in the land records that this will be assessable at the time an Improvement Location Permit is granted so the next buyer is on due notice so somebody else doesn't get a surprise like you did.

Howard stated that assessment has already been deferred 13 years without appreciation or inflation so whatever it cost you to file this you've already saved that because that assessment was based on 2003 construction numbers. Those numbers are probably double today.

Milton asked if someone could lead me through this process?

Howard stated you need to have your attorney prepare a notice of deferred assessment so that when you sell the property and you go to the closing that the title company in that title binder will say that the buyers received notice and we won't have your buyer coming in here whining that "nobody told me this".

Milton stated so my attorney will file a deferred assessment to be registered with the deed?

Howard stated if they have a question have them give me a call, but signed, recorded, cross referenced to the deed of record, the plat, the legal, the whole bit. Have your attorney call me.

Altman made the motion to approve deferring the assessment until an Improvement Location Permit is pulled with the City of Noblesville with the condition that the deferred assessment be signed, recorded, cross referenced to the deed of record, the plat and the legal, seconded by Dillinger and approved unanimously.

Mallery-Granger Drain - Shed Revision:

The Surveyor presented his report to the Board for approval.

"December 16, 2016

TO: Hamilton County Drainage Board

RE: Mallery- Granger Drain

Upon review of the drainage shed for the Mallery-Granger Drain I believe the drainage shed should be revised. Recent investigation revealed that tract 05-06-12-00-00-016.000 owned by AMHC Cicero, LLC should be removed from the Mallery-Granger assessment roll. This will remove 9.53 acres and \$95.30 from the annual assessment.

Hamilton County Drainage Board
January 9, 2017

Along with the above mentioned tract the following tracts within Greystone Village should be removed from the schedule of assessments:

<u>Name</u>	<u>Parcel</u>
Minton, Anthony & Susan	05-06-12-00-01-023.000
Rich, Hughie	05-06-12-00-01-024.000
Miller, Melissa	05-06-12-00-01-025.000
Ramsey, Bryan & Jennifer	05-06-12-00-01-026.000
Vollrath , David & Linda	05-06-12-00-01-027.000
McKinley, Mary	05-06-12-00-01-028.000
Mandery, Walter & Ashley	05-06-12-00-01-029.000
Etchison, Michael	05-06-12-00-01-030.000
Harbit, David & Judy	05-06-12-00-01-031.000
Blueher, Chad & Jennifer	05-06-12-00-01-032.000
Schneiderhahn, Matthew	05-06-12-00-01-033.000
Landes, Jeremy & Kelly Ganousis jtrs	05-06-12-00-01-034.000
DeCollo , Flavian & Judy	05-06-12-00-01-035.000
Marshall, Cynthia	05-06-12-00-01-036.000
Whitmer, Amy	05-06-12-00-01-037.000
Marks, Heidi Catherine	05-06-12-00-01-038.000
Stambro, Raymond & Mary	05-06-12-00-01-039.000
Senefeld, Peter & Beth	05-06-12-00-01-040.000
Greystone Village Homeowners Association	05-06-12-00-01-046.000
Overdorf, Walter & Bethany h&w	05-06-12-00-02-001.000
Uhrick, Rebecca	05-06-12-00-02-002.000
Weaver, Michelle	05-06-12-00-02-004.000
Turnbull, Marilyn	05-06-12-00-02-005.000
Burkhart, Ernest R. Jr. & Kelsey	05-06-12-00-02-006.000
Reily, Christopher & Ruth	05-06-12-00-02-007.000
Thomas, Mark	05-06-12-00-02-008.000
Kauffman, Travis & Jennifer	05-06-12-00-02-009.000
Zink, Deborah	05-06-12-00-02-010.000
Poindexter, Beverly	05-06-12-00-02-011.000
Scherer, Ryan & Kelli Ann	05-06-12-00-02-012.000
Thompson, Jacob	05-06-12-00-02-013.000
Richardson, Diane	05-06-12-00-02-014.000
Bunch, Arle Keith	05-06-12-00-02-015.000
Melton, Teresa S. & Robert S. Starrs jtrs	05-06-12-00-02-016.000
Dennis, Jeff	05-06-12-00-02-017.000
Zink, Steven	05-06-12-00-02-018.000
Brumfield, Kyndal K.	05-06-12-00-02-019.000
Rasnake, Jason & Siminda Jo	05-06-12-00-02-020.000
Swaim, Gary	05-06-12-00-02-021.000
Whyde, Douglas & Kelly	05-06-12-00-02-022.000
Jones, Todd & Alicia	05-06-12-00-02-023.000
Pryor, Robert G. Jr.	05-06-12-00-02-024.000
Horne, Robin & Yvonne	05-06-12-00-02-025.000
Curley, Andrea	05-06-12-00-02-026.000
Curry, Robert P. Jr.	05-06-12-00-02-027.000
Young, Lisa & Jason	05-06-12-00-02-028.000
Mariotti, Roland & Virginia	05-06-12-00-02-029.000
Amonette, Curtis	05-06-12-00-02-030.000
McCormick, Laura	05-06-12-00-02-034.000
Ehman, Bradley & Angela	05-06-12-00-02-035.000
Hendershot, Ronnie & Julie	05-06-12-00-02-036.000
AH4R I IN LLC	05-06-12-00-02-037.000
Pickett, Jeffrey	05-06-12-00-02-038.000
Perry, Todd & Jennifer h&w	05-06-12-00-02-039.000
Meyer, Edward & Lynn	05-06-12-00-02-040.000
Holder, Richard & Amy h&w	05-06-12-00-02-041.000
Bergstrom, William & Linda	05-06-12-00-02-042.000
Greystone Village Homeowners Association	05-06-12-00-02-043.000
Smith, Tyler	05-06-12-00-03.001.000
Thomas , Angela	05-06-12-00-03-002.000
Humphrey, Courtney	05-06-12-00-03-003.000
Ford, Terry W. Jr.	05-06-12-00-03-004.000
Kincaid, Jeremiah & Brittany	05-06-12-00-03-005.000
Nicholson, Pamela	05-06-12-00-03-006.000
Martin, Zachary & Jennifer	05-06-12-00-03-007.000
Remsen , Richard & Stefanie	05-06-12-00-03-008.000
Doss, Amy & Billy w&h	05-06-12-00-03-009.000
Coronado Ridge Development Corporation	05-06-12-00-03-010.000
Rhoton, Adam & Stephanie	05-06-12-00-03-011.000
Dyson, Ronald & Mila	05-06-12-00-03-012.000
Jenkins, Donna	05-06-12-00-03-013.000
Artman, Thomas	05-06-12-00-03-014.000
Shugart, Nathan & Zoe h&w	05-06-12-00-03-015.000
Foster, Brett & Cheryl	05-06-12-00-03-016.000

Brown, Shelley	05-06-12-00-03-017.000
Beeson, Michael & April	05-06-12-00-03-018.000
Armstrong, Greg	05-06-12-00-03-019.000
Dimmock, Aaron & Kimberly	05-06-12-00-03-020.000
Riley, Bruce	05-06-12-00-03-033.000
Owens, Chuck & Linda	05-06-12-00-03-034.000
Egle, Eldon & Alberta	05-06-12-00-03-035.000
Honn, Tonya	05-06-12-00-03-036.000
Murphy, Colleen	05-06-12-00-03-037.000
Miles, Timothy & Tamatha h&w	05-06-12-00-03-038.000
Fredwell, James & Maura	05-06-12-00-03-039.000
Miller, Robert & Christina h&w	05-06-12-00-03-040.000
Greystone Village Homeowners Association	05-06-12-00-03-041.000

The following roads assessed to the Town of Cicero should also be removed from the assessment - Garcena Court, Sholty Court, Treving Drive, Gallium Drive, Stilton Drive. This reduces the acres benefitted for roads from 16.0 acres to 2.23 acres which will reduce the assessment from \$160.00 to \$22.30.

The above reductions reduces the annual assessment from \$3,335.30 to \$22.30.

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pl1"

Altman asked if all the people listed on the report is basically one subdivision?

The Surveyor stated yes and AMHC Cicero, LLC. Those properties have now been taken to the reservoir and should come off of the assessment.

Altman made the motion to approve the Surveyor's report, seconded by Dillinger and approved unanimously.

Professional Services Agreement - Phase II On-Call with Burke Engineering:

The Surveyor stated that this is the On-Call contract that we've had with Burke on the Phase II items. In 2016 the contract was for \$20,000.00, which we spent \$11,500.00 for consulting services. In 2017 we'd like to increase the amount to \$25,000.00 because we have annual reports due this year and also we need to update the facility walk through and those plans for those County Facilities.

Altman asked if they bill hourly not to exceed \$25,000.00?

The Surveyor stated correct.

Altman made the motion to approve the Stormwater Phase II On-Call Contract with Christopher Burke Engineering in the amount not to exceed \$25,000.00 for the calendar year 2017, seconded by Dillinger and approved unanimously.

White River Alliance - MS4 Public Education & Involvement Program:

The Surveyor stated that this is the contract we have with the White River Alliance. We've had it for some time now on the educational aspects for the MS4. Last year it was also \$7,000.00 as it is this year.

Altman made the motion to approve the contract with the White River Alliance for the MS4 Public Education and Involvement Program in the amount of \$7,000.00, seconded by Dillinger and approved unanimously.

Town of Sheridan - CDBG Stormwater Project Timeline:

The Surveyor stated that this is for the Board's information showing the timeline for the Town of Sheridan's Community Development Block Grant for their Stormwater Project that Banning is engineering for them.

Altman stated I'm confused why it says OCRA requires bids in hand by January at the bottom. Do they mean January of 2018?

The Surveyor stated evidently, I missed that.

Altman stated it looks like they'll have it bidding under contract by summer.

The Surveyor stated right. The bids go out in April and they're due in May. I'm not sure why Tina (Henderson) put that in there.

Heirbrandt asked if the Surveyor would check on that?

The Surveyor stated he would check with Tina.

Springmill Run Drain - Crooked Stick West:

The Surveyor stated we have a situation where a gentleman has been asking for some work on the open ditch. You'll see the photo on that with a pool. He has put a pool and a retaining wall alongside the ditch.

Altman stated this is regulated, correct?

The Surveyor stated yes.

Altman asked if the pool area is within the regulated drain?

The Surveyor stated that the pool is outside the easement. He had to put the retaining wall up because the pool was starting to go into the easement. We had Burke look at this and they didn't feel comfortable with doing anything to the open ditch until they had some GeoTech done. ATC went out and looked at it, that's the GeoTech firm, and basically they said don't touch it.

Howard asked don't touch our easement or don't touch what?

The Surveyor stated don't touch the open ditch, just leave it like that because they're afraid the whole thing (pool and retaining wall) is going to slide into the ditch.

Howard stated so there's not enough lateral support.

Altman asked if there's an obligation to provide lateral support on either side?

Howard stated I'm not sure it's expressed in the Drainage Code, but to the extent that there's a high potential of the pool coming into our easement they would be obstructing it.

The Surveyor stated I don't want to buy a pool.

Altman stated I don't know why we would buy a pool if we're working within our easement.

The Surveyor stated going under the assumption you touched it, you bought it. I didn't know if the Board wanted to proceed with this particular work if the landowner gives us a hold harmless.

Altman asked if there was a reason upstream or downstream we should be doing any work in that drainage area?

The Surveyor stated it needs some work done to it, the ditch is eroding. I think that's due to the soil conditions through that area.

Heirbrandt asked what Howard's recommendation was given the liability?

Howard stated I'd go back to one of my early statements that the first rule of complex problem solving is to decide whose problem it is and it sounds like it's going to be the landowner's problem someday.

Heirbrandt stated it does sound like we might have some responsibility.

Howard stated I think we at least need to let them know that we're going to go in there and do some work and we've been informed that because of the inadequate structure of their pool that the work may cause damage and we probably need for them to come in. I think you and I need to put them on notice that there could be a problem if we go in there.

Altman stated I really don't like that. I'd like to know where the retaining wall is in terms of the world and our regulated drain and find out whether we have any duty of lateral support.

The Surveyor stated I think we have cross sections through that area so I can bring it to the Board.

Howard stated that we may not have enough information to make that decision today without a little more refined report. When I was reading the report I wasn't...

Altman asked if the homeowner ever asked for; I can't believe they're working this close to an easement without something coming up unless they kept everything right at the edge.

Howard asked what the easement was through there, it's not statutory is it?

The Surveyor stated no it's not.

Dillinger asked if that would have been considered during the permitting process?

Heirbrandt stated you would have thought.

The Surveyor stated let me bring back the cross sections and the timeline on that.

Howard stated we need a lot more detail on this.

The Surveyor stated I think the pool and retaining wall went in before the ditch became regulated.

Altman asked if the drain was part of a subdivision?

Dillinger stated that would make it our problem then wouldn't it?

Howard stated it's more likely to, I don't know.

Altman stated I can't believe if it's a subdivision this isn't part of their drainage system that says it's subject to control and regulation of the appropriate authority.

The Surveyor stated let me pull the covenant too then.

Altman made the motion to table this item, seconded by Dillinger and approved unanimously.

Windemere Pond - Discussion:

Heirbrandt stated I heard about some progress on this, which was awesome.

The Surveyor stated that he went in dreading the meeting and came out elated. I told Gary (Duncan) to get the report ready for when Carmel brings in the Interlocal Agreement. Before he writes the report we need to know who we need to notice. I think there are two options, one is to notice everybody within the subdivision itself and the other is to notice the people around the pond where the work is going to be done and then also the area of where the outlet is.

Altman asked to back up a second. Could I get a background for the record?

The Surveyor stated this is the Windemere Drain and this is where we're going to be lowering the pond by six inches. We're going to reconstruct the outlet to do so and when the pond is lowered the City of Carmel is going to pay for the new treatment around the pond.

Altman stated so it will look like it's at full.

Heirbrandt stated there was discussion about making sure we notice everybody there in that area because we're going to probably get complaints.

Altman asked how did the meeting go?

Heirbrandt stated Carol (Schleif) is not on Council anymore.

The Surveyor stated she's no longer involved with the HOA or the project.

Howard asked if the HOA was on board with the project.

The Surveyor stated the HOA representative is also a retired Civil Engineer, he felt our same frustrations and said he sees no problem. Gary sent the HOA representative the stuff that he requested to have him go back to the HOA Board. That was sent last week and we expect the HOA Board to turn around and give us the letter that the Board had requested.

Howard stated we still need to notice them.

Altman stated I think anybody that touches the pond would be the logical people to notice.

Howard stated and the Property Owners Association that owns the land the pond is on. Even though we'll have their resolution or some consent documented under Statute we still have to notify them.

The Surveyor stated so just the people touching the pond and the HOA.

Howard stated right.

Hearing Request:

The Surveyor asked the Board to set a hearing for the Masthead Drain, 106th & Geist Road Reconstruction for February 27, 2017.

Altman made the motion to approve the hearing request presented for February 27, 2017, seconded by Dillinger and approved unanimously.

Capital Asset Notifications:

The Surveyor presented a Capital Asset Notification for the O. F. Henley Drain, 1981 Reconstruction to the Board for approval.

Altman made the motion to approve the Capital Asset Notification presented, seconded by Dillinger and approved unanimously.

Anchorage Drain Reconstruction - Contract:

The Surveyor presented the contract for the Anchorage Drain Reconstruction for signature. The Board asked that this contract be brought to them as soon as the contractor signed it and the contractor has now signed the contract.

Heirbrandt asked if we have had any discussions yet with Fishers about their share?

The Surveyor stated yes we have. Fishers has ear marked that money and they're to approve that Interlocal on the 17th.

Howard asked if the Surveyor is comfortable enough or should we hold the release of that contract until we receive the Interlocal?

The Surveyor stated at the last Board meeting the Board said to go ahead and release the contractor and get him moving and to have the contract brought in for the next meeting for signature.

Altman made the motion to approve the contract for the Anchorage Drain Reconstruction with Morphe Construction, seconded by Dillinger and approved unanimously.

Beaver Trap:

The Surveyor stated that he heard from Howard, Altman and Dillinger on this. Altman said No. 2 is the verbiage she liked and also Howard and Dillinger said it didn't matter to them. Altman had also asked that maybe we should add some warning about unapparent or submerged equipment may be located in the regulated drain, which may pose a potential danger or injury.

Altman stated we don't have to have that verbiage in big letters.

The Surveyor asked if that is the verbiage the Board wants?

Altman stated its one thing to say something's going on, but it really isn't going to protect us if someone gets hurt.

Heirbrandt stated that's not going to encourage somebody to even walk in there because they may not understand what that means.

Altman stated exactly.

Howard stated you may want to water that down a little bit; beaver traps in place, which could cause injury. At least that minimum amount of language.

Heirbrandt stated I agree.

Altman stated I really think we ought to tell people there's a darn good reason not to go onto that property.

Howard stated the reason I contacted the Surveyor was to draft a letter to the McElroy's and until we've got this and we know when they're going to be in place. I do think we want the signs up before we actually start the work.

Altman stated we're going to put this on all beaver removal projects.

Dillinger asked why wouldn't you headline the sign by saying "Danger"?

Altman stated we have to say why it's a problem.

Dillinger stated you could say "Danger, beaver extraction". Danger, letting you know that there's traps here, you could get hurt.

Howard stated if you're worried about spacing and size of the font you may just put "beaver traps in place" or "beaver traps". Extraction occurring doesn't shock anybody. "Danger, Beaver Traps in Place, No Trespassing". The rest of it stays the same. Does that work?

Dillinger stated it does for me.

Heirbrandt stated yes.

Howard stated and then "By order of the Hamilton County Drainage Board". That can be a lot smaller font than you've got there. It's almost like the font for paid for and authorized by.

Altman asked above beavers we say "Danger"?

Howard stated yes, "Danger, Beaver Traps in Place" and in small letters "by order of the Hamilton County Drainage Board".

The Surveyor stated instead of "Extraction Occurring" we say "Beaver Traps in Place".

Howard stated yes.

Altman stated we'll put the "Danger" in red.

Williams Creek Drain, O.F. Henley Arm - 146th Street Final Reconstruction Report:

Cline presented his report to the Board for approval.

"To: Hamilton County Drainage Board

October 28, 2016

**Re: Williams Creek Drain: O.F. Henley -146th Street Improvements Project
Reconstruction**

Attached are as-builts and other information for Williams Creek Drain: O.F. Henley -146th Street Improvements Project Reconstruction. An inspection of the drainage facilities for this section has been made and the facilities were found to be complete and acceptable.

During construction, there were no significant changes made to the drainage plans submitted with my report for this drain dated October 6, 2015. (See Drainage Board Minutes Book 15, Pages 359-360) Therefore, the length of the drain remains at **2,120 feet**. The project removed 2133 feet of existing tile. Thus, the overall length of drain was reduced by 13 feet.

The drainage easement for this project was recorded under instrument #2015051602. The project did not require the submission of sureties as it was paid for by the Hamilton County Highway Department.

I recommend the Board approve the drain's construction as complete and acceptable.

Sincerely,

Luther M. Cline
New Construction Inspector"

Altman made the motion to approve the final reconstruction report presented, seconded by Dillinger and approved unanimously.

F.E. Hines Drain - Burris Recorded Agreement:

Mr. Michael Burris was present for this item.

Liston stated if the Board remembers this item was tabled in August of 2016. The Board asked for a hold harmless agreement. Burris' had constructed a fence within our easement and we asked that the fence be moved. Howard has been working on this item.

Howard stated that Burris is represented by Matt Cook. About two days after our last meeting I sent a copy of this agreement to Matt and we discussed it. He said he has no objection to the agreement. I see Burris nodding so everybody is good to go.

Altman asked if the agreement had been signed?

Howard stated it needs to be signed.

Burris stated I will get that to you.

Liston stated I thought we would have that today, but I haven't seen the agreement.

Howard stated I punted to Matt (Cook) and he said don't worry about it. He approved it as the form so we're ready to go, but we probably need to sign it and get it notarized before Burris leaves today so it gets off the schedule.

Burris stated he will get it taken care of.

Non-enforcements:

Mr. Ryan Anderson and Ms. Kate Anderson were present for this item.

Liston presented a non-enforcement agreement for the Canal Place Drain, Weatherstone Arm filed by Ryan and Kathryn Anderson for parcel No. 13-15-12-00-02-055.000 for a fence. The property owners have installed a 4' rod iron aluminum fence on their lot in Weatherstone. The fence encroaches into the 15' drainage and utility easement 14 feet, which places the fence approximately three feet off the center of the 21" RCP pipe. Much similar to what we just dealt with on the Burris fence. The Surveyor's Office recommends that the fence be moved to the east six feet. I believe the Anderson's are here and would like to talk to the Board.

Altman asked before we start with that give us a relationship from the pipe to the existing fence.

Liston stated about three feet.

Altman asked if that is from the edge or center of pipe?

Liston stated from the center of the pipe.

Altman asked how big a pipe is it?

Liston stated 21" RCP.

Altman stated so we don't have much room.

Howard stated so it's three feet less 10.5 inches approximately.

Heirbrandt asked how long has the fence been in?

Anderson (Ryan) stated I believe the fence was installed sometime around August of last year.

Heirbrandt stated just recently then.

Anderson (Ryan) stated yes.

Anderson (Kate) stated the back story on it is we bought the house in December of 2015 and that's when we started inquiring about the fence. Our move in date was January of 2016. When we were looking for a house we wanted to have a fence regardless so either a fence that was already existing with the house or a house that had the ability to put in a fence. We wanted to be able to keep other people's dogs out of our yard and keep our dogs in. We talked to multiple fencing companies, K & K Fence, Touch Ways Fence, we had Stoepelwerth & Associates Survey Company come out and put stakes in our lawn to make sure everything was correct. We went to the County, we thought it was the Courthouse, but later learned from Jerry Liston that it was the Records Office. We went there and asked about getting a survey to make sure we told them we're putting in a fence. We're first time homeowners and we don't really know what we're doing. They said we don't do surveys, but here's a plot of your land, they gave us an aerial view. Neighbors of ours and our HOA Board told us that they've used that plot to put fences in on their own and that was enough, but we try and do things by the book so that's why we got the surveyor with Stoepelwerth & Associates. I asked the fencing companies when they came in to do the estimate about the easement. Our Realtor, the fencing company, everybody said that we put fences in easements all of the time, you just have to be prepared to pay to remove the fence if the city or the county needs to do work within the easement and so that's what we thought was the case since it was consistent across the board.

Anderson (Ryan) stated we made every attempt to circumvent our ignorance on how all of this works as new homeowners. I'm not a contractor, I'm not an attorney so some of the legal jargon and some of the words used we aren't necessarily experts on and it seems as though all these different people we spoke with said just do this and you're good.

Anderson (Kate) stated we contacted the HOA Board because we knew we had one and we've never been a part of one, but we reached out to them in December before we even moved into our house saying we want to put in a fence, what do we need to do? They gave us this architectural form, we filled it out, we used the county blueprints, aerial views and sent that to them. That's when we learned that the type of fence we wanted to put in, the aluminum iron wrought iron look wasn't actually part of the bylaws so we went through all of the motions to single handedly change that because we wanted to do things by the book. That didn't happen until July of 2016 and the reason we wanted you to know that is the sense of urgency was around the fact we wanted the fence because...

Anderson (Ryan) stated we had a dog that was sick so we wanted to get the fence before her passing. She had trouble being on a tether just with the weight of the collar, she had cancer so she was weak. At the end of the day we really tried to do everything the right way and we got some misinformation and people chose not to give us information as well and just collect money from us. At this point we're hoping to keep the fence where it is because we got an estimate on the cost of moving that fence six feet and ...

Heirbrandt stated you do realize that if we did have to come in there that we'd take that fence out and that would not be...

Anderson (Ryan) stated right and so we're kind of rolling the dice on not needing work done on it, but at this time we've incurred some healthcare costs over the last year that have gone upwards of \$25,000.00 and so just having \$1,200.00 of discretionary money isn't exactly in the works after just purchasing a home a year prior to all these health problems happening.

Dillinger stated I'm convinced that the Andersons attempted to do their due diligence and these things are always complicated if you've ever been involved with them before.

Dillinger made the motion to allow the non-enforcement with the idea if we have to get in the property owners have to move the fence.

Anderson (Ryan) stated right, we understand that.

Howard stated you need a hold harmless agreement just like the Burris.

The Surveyor asked wouldn't that be the non-enforcement though?

Howard stated it's the same we'll just use the Burris agreement. What did you tell Stoepfelwerth? If you asked Stoepfelwerth where your boundary was that's one thing, but if you asked them where you could put a fence that's another question. If we have engineers out here that are misrepresenting things to people we need to figure out who they are.

Anderson (Ryan) stated I don't think it was a misrepresentation of anything. What I had asked was I need a survey of our lot so I know where boundaries are so that we can install a fence. I think maybe it's on me and I could have been more specific saying I'm concerned about this easement, but to me as a new homeowner I don't know the difference between an easement, a legal drain easement.

Altman stated but Stoepfelwerth does know the difference.

Anderson (Ryan) stated I may not have asked the appropriate question.

Heirbrandt stated Stoepfelwerth should know better and they should be able to advise you of that. I totally get it and understand where you're coming from.

Altman asked if we're recording those now?

The Surveyor stated we have been recording non-enforcements for quite a while.

Altman stated I just want to make sure because it's the same issue with the other lady with the assessment. I don't want the new buyer should you choose to sell have a big surprise.

Anderson (Ryan) stated absolutely. It's one of those things if the fence was installed as is with a non-enforcement we still would have bought the house with the understanding that if you do have to access the easement we are responsible for the cost at this time. Discretionary interim isn't necessarily there, but if we had to finance it just to get it done so you could work on it that's what we'd have to do.

Altman seconded Dillinger's motion to approve the non-enforcement request.

Anderson (Kate) stated I've been emailing Liston because I want to put together a checklist and get that in the hands of our HOA Board because maybe other people in our community this is common sense to them, but it's not to us.

Altman stated I'm very familiar with your professional management and I'm not surprised.

Howard stated your HOA Board has jurisdiction over esthetics and when they start giving legal, real estate opinions they ought to be writing checks when that goes bad.

The motion had been made and seconded to approve the non-enforcement request with the idea if we have to get in to do repairs the property owners have to move the fence and approved unanimously.

Altman stated and you understand if we get to the fence first it won't be removed gently.

Anderson stated I understand.

Liston asked if we need to bring the non-enforcement back?

Altman asked if the office would revise the form, have the Anderson's sign it and then we'll sign it at the next meeting.

Surety Acceptance:

Liston stated that at this afternoon's Commissioner's meeting the Board would be releasing the following sureties: Performance Bond No. 9239318 in the amount of \$61,874.40 for the Anchorage Drain Reconstruction Project; Payment Bond No. 9239318 in the amount of \$51,562.00 for the Anchorage Drain Reconstruction Project.

Non-enforcement - Anderson:

Altman asked if we should send a note to the surveying company (Stoepfelwerth)? That really bothers me.

Heirbrandt stated Stoepfelwerth should know better.

Howard stated the Andersons acted in good faith.

Altman stated all they had to do was say I want corners for a fence and they should have brought up the plat and they should have seen the easement and they should have said something.

Howard stated if the word fence was even mentioned Stoepfelwerth should have looked for easements that would have restricted that.

Liston stated in talking with the Andersons when they talked to the Realtor and they asked about the fence the Realtor wants to sell the property and the fence companies want to sell a fence.

Altman stated a Realtor isn't going to know the plat, that's not their job.

Dillinger stated I think the whole essence of this is they made numerous attempts to try to do what they thought was the right thing to do and they just didn't go through all the steps right. I certainly think we need to bend in those situations.

The Surveyor stated I'll send a little greeting to the HOA too.

Budget & Permit Update:

The Surveyor presented the budget and permit update to the Board for their information. He asked if there were any questions.

There were no questions.

William Locke Arm 1 Reconstruction - Change Order No. 1:

Conover presented his report to the Board for approval.

"To: Hamilton County Drainage Board

December 22, 2016

Re: William Locke Arm 1 Drain Reconstruction Project
Change Order #1

Change Order #1 is for field changes during the reconstruction of the William Locke Arm 1 Drain. These changes include the addition of french drains on the JJM property, the connection of 72 private tiles encountered during the reconstruction and the deletion of four items from the original bid.

The following items are changes to the William Locke Arm 1 Drain Reconstruction Project:

Change Order #1

#9 Stone (JJM property)	130	Ton	\$16.35	\$ 2,125.50
Stone Install & level (JJM property)	300	LF	\$7.00	\$ 2,100.00
6" lateral hook up	56	EA	\$145.40	\$ 8,142.40
8" lateral hook up	11	EA	\$173.80	\$ 1,911.80
10" lateral hook up	3	EA	\$237.14	\$ 711.42
12" lateral hook up	2	EA	\$340.68	\$ 681.36
Bid Item #21 deleted -Fence Repair	4	EA	375.00	-\$ 1,500.00
Bid item #25 deleted -reset 40' culvert	1	EA	\$1,000.00	-\$ 1,000.00
Bid item #26 deleted -reset yard culvert	1	EA	\$1,100.00	-\$ 1,100.00
Bid item #28 deleted - HMA Road Repair	1	EA	\$2,500.00	-\$ 2,500.00
Cost by Xtreme Excavating of Change Order # 1				\$ 9,572.48

Contractor's Bid ----- \$499,113.26
Change Order #1 Total ----- \$ 9,572.00
Total Reconstruction Cost ----- \$508,685.74

Amount approved by Board ----- \$573,980.25
Total Reconstruction Cost ----- \$508,685.74
Difference ----- \$ 65,294.51

Submitted By:



Andrew D. Conover
Inspector "

Altman made the motion to approve Change Order No. 1 for the William Locke Arm 1 Reconstruction, seconded by Dillinger and approved unanimously.

William Locke Arm 1 Reconstruction - Change Order No. 2:

Conover presented his report to the Board for approval.

"To: Hamilton County Drainage Board

December 22, 2016

Re: William Locke Arm 1 Drain Reconstruction Project
Change Order #2

Change Order #2 is for compensation for excavating through limestone encountered during the installation of the tile during construction. The presence of the limestone was not known to exist in this area and therefore not addressed in the original bid. The excavation to install the tile in this area was approximately 4 feet into the limestone for a distance of 1200 feet. Xtreme Excavating requested compensation for the rental of the additional

excavator with a jackhammer attachment and an additional per foot charge for working in the limestone.

The following items are changes to the William Locke Arm 1 Drain Reconstruction Project:

Change Order #2

Hydraulic Excavator with jackhammer - rental	1	Week	\$6,400.00	\$ 6,400.00
Additional per foot installation charge limestone	1200	LF	\$4,800.00	\$ 4,800.00
Cost by Xtreme Excavating of Change Order # 2				\$ 11,200.00

Contractor's Bid -----	\$499,113.26
Change Order #1 Total -----	\$ 9,572.48
Change Order #2 Total -----	\$ 11,200.00
Total Reconstruction Cost -----	\$519,885.74

Amount approved by Board -----	\$573,980.25
Total Reconstruction Cost -----	\$519,885.74
Difference -----	\$ 54,094.51

Submitted By:



Andrew D. Conover
Inspector "

The Surveyor stated I would recommend that the Board approve Change Order No. 2. We had no clue there was limestone. We never ran into it when we prepared the plans. The farmers were surprised just like we were. We've done this before on another contract where we had to get a machine in to get rid of limestone.

Dillinger made the motion to approve Change Order No. 2 for the William Locke Arm 1 Reconstruction, seconded by Altman and approved unanimously.

Construction Updates:

Newton Teter Drain Reconstruction - Conover stated the contractor is still in Elkhart, Indiana doing a project. The weather hasn't been favorable up there so I'll give them a call and see where they're at on that project.

William Locke Arm 1 Reconstruction - Conover stated we're still waiting for asbuilts on this project.

William P. Bennett Drain Reconstruction - Conover stated that he hopes to have the final report to the Board for their next meeting.

Mud Creek Drain, High Flow Shelf - Liston stated we're waiting for Butler, Fairman & Suefert to send us their final invoice. Mike (Bisecker) was out of the office the month of December, but is back now and I did see an email where that invoice is going to be sent to us.

Beaver Traps:

The Surveyor stated that Mr. McElroy hung onto the trap that the dog had allegedly got into. He's not given it back to either the office or to the trapper. The trapper is out about \$40.00 on that. The trapper asked if we could reimburse him for the trap because he doesn't believe he will ever see it again.

Heirbrandt asked Howard to advise the Board?

Howard stated which McElroy? There are three owners and their mailing address is Sarasota, FL, which McElroy are we talking about? We have Richard, James, Robert J. and Randolph.

Altman stated that Robert is deceased.

The Surveyor stated Randy McElroy has the trap.

Altman stated there is a personal representative of his estate in the county and I obviously have a conflict, but it would be good to send that to the personal representative.

Dillinger stated I would think you would let Randy know that it's technically theft.

Heirbrandt stated yes, that's how I look at it and that's why I would suggest Howard send a letter to Randy.

Dillinger stated either bring it back or we'll issue a warrant.

Altman stated send it to all of them.

Howard stated I may just incorporate it into my notice letter.

Heirbrandt stated if Howard could please do that.

Items Pending:

Anchorage Interlocal with Fishers - Howard stated that the Interlocal is with Fishers.

Beaver Materials Mud Tracking on River Road (Ordinance) - Howard stated he found the old ordinance. I'm going to let you look at this between now and the next meeting and see what your thoughts are. Essentially we justified it first of all for safety on the roads with debris and also under Stormwater Phase II because obviously lime, dust and all of that stuff becomes a pollutant. This ordinance allows the Surveyor to designate an enforcement person from his office under Stormwater Phase II, Highway designates an enforcement under their safety. They get one written warning every six months and if it's not cleared they can be cited for an infraction violation with up to \$1,000.00 per day per incident. We talked about this years ago. This is from the old ordinance that for several reasons we didn't want to pass. Our jurisdiction would be on those roads on which we had maintenance responsibility which would include not only those in the unincorporated areas, but also 146th Street. I'll pass that out, food for thought and have comments and if I don't hear anything we will put it on the next meeting agenda as an actual agenda item with a formal ordinance number.

The Surveyor asked if the County Highway maintained Olio Road?

Heirbrandt stated I think so.

Howard asked do they maintain Olio also?

Dillinger stated I think they do.

Altman stated I think we go up to I-69.

Howard asked from 96th Street to I-69?

The Surveyor stated that's what I was thinking.

Altman stated we may go north of there because it's unincorporated. We had Interlocals on it so we could control access.

Howard stated from 96th Street to I-69 has all been annexed into the City. There's a little section in Noblesville Annexation north of...

Altman asked if we had an Interlocal that we retain control.

Howard stated on Fishers I believe that was under an Interlocal Agreement.

Dillinger stated I think so.

Howard stated we'll check with Highway.

Dillinger made the motion to adjourn, seconded by Altman and approved unanimously.

Mark Heirbrandt - President

Lynette Mosbaugh
Executive Secretary