

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

January 23, 2017

The meeting was called to order Monday January 23, 2017 at 9:05 a.m.

The members of the Board present were Mr. Mark Heirbrandt-President, Mr. Steven C. Dillinger-Vice President and Ms. Christine Altman-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, Mr. Luther Cline, Mr. Gary Duncan and Ms. Suzanne Mills. The Board's attorney, Mr. Michael Howard, was also present.

Minutes of January 9, 2017:

The minutes of January 9, 2017 were presented to the Board for approval.

Dillinger made the motion to approve the minutes of January 9, 2017, seconded by Altman and approved unanimously.

A.F. Ingerman - James Lockwood Drain - Maintenance Assessment Increase:

There were no objections on file. Mr. Pat Comer, Mr. Paul Utterback and Mr. Dan Strong were present for this item.

The Surveyor presented his report to the Board for approval.

"November 29, 2016

To: Hamilton County Drainage Board

Re: A.F. Ingerman - James Lockwood Drain Maintenance Assessment Increase

At this time I recommend that the rates for the maintenance assessment for the A.F. Ingerman Drain be revised. Currently the rates for this drain are set at the following rates:

1. Maintenance assessment for agricultural tracts set at \$2.00 per acre with a \$15.00 minimum.
2. Maintenance assessment for non-platted residential tracts set at \$3.00 per acre with a \$15.00 minimum.
3. Maintenance assessments for platted lots in subdivisions whose drainage systems will not be part of the regulated drain set at \$35.00 per lot/minimum. Common areas within the non-regulated drain subdivisions assessed at \$5.00 per acre with a \$35.00 minimum.
4. Maintenance assessment for platted lots within subdivisions whose drainage system will be part of the regulated drain set at \$65.00 per lot/minimum. Common areas within the regulated drain subdivisions set at \$10.00 per acre with a \$65.00 minimum.
5. Maintenance assessment for commercial, institutional and multi-family residential tracts to be set at \$10.00 per acre with a \$75.00 minimum.
6. Maintenance assessment for roads and streets set at \$10.00 per acre with a \$15.00 minimum.

The above rates were set at hearing when the Lockwood and Ingerman Drains were combined on April 25, 2005. (See Hamilton County Drainage Board Minutes Book 8, page 266-268). The assessment for the commercial minimum rate was increased at hearing on April 24, 2006. (See Hamilton County Drainage Board Minutes Book 9, pages 192-193).

I recommend the rates be revised to the following standard rates for the county.

1. Maintenance assessment for agricultural tracts set at \$4.00 per acre with a \$25.00 minimum.
2. Maintenance assessment for non-platted residential tracts set at \$4.00 per acre with a \$25.00 minimum.
3. Maintenance assessments for platted lots in subdivisions whose drainage systems will not be part of the regulated drain set at \$45.00 per lot/minimum. Common areas within the non-regulated drain subdivisions assessed at \$10.00 per acre with a \$45.00 minimum.

4. Maintenance assessment for platted lots within subdivisions whose drainage system will be part of the regulated drain set at \$75.00 per lot/minimum. Common areas within the regulated drain subdivisions set at \$15.00 per acre with a \$75.00 minimum.
5. Maintenance assessment for commercial, institutional and multi-family residential tracts to be set at \$15.00 per acre with a \$85.00 minimum.
6. Maintenance assessment for roads and streets set at \$15.00 per acre.

With the revised rates the drain will collect \$17,472.58 annually. These collections at the revised rates will begin in May 2017.

With 2,517.54 acres and 19 lots in the drainage shed the annual assessment for this drain is \$9,759.46. The fund is currently in the red \$43,709.81. Currently there are no drainage complaints or work orders. The collection period was increased from 4 times the annual assessment to 8 times the annual assessment at the Board's meeting of September 24, 2007. (See Hamilton County Drainage Board Minutes Book 10, pages 424-425).

I recommend the Board set a hearing for this matter on January 23, 2017.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pl1"

Heirbrandt opened the public hearing; seeing no one Heirbrandt closed the public hearing.

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

"FINDINGS AND ORDER

CONCERNING THE MAINTENANCE OF THE

**A.F. Ingerman - James Lockwood Drain,
Maintenance Assessment Increase**

On this **23rd day of January, 2017**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **A.F. Ingerman - James Lockwood Drain, Maintenance Assessment Increase**.

Evidence has been heard. Objections were presented and considered. The Board then adopted the original/amended Schedule of Assessments. The Board now finds that the annual maintenance assessment will be less than the benefits to the landowners and issues this order declaring that this Maintenance Fund be established.

HAMILTON COUNTY DRAINAGE BOARD

Mark Heirbrandt
President

Christine Altman
Member

Steven C. Dillinger
Member

Attest: Lynette Mosbaugh
Executive Secretary "

Benton Hinesley Drain, South Drive Arm - Certification for Reconstruction:

The Surveyor stated at the last meeting the Board approved the final report on the Benton Hinesley Drain for the South Drive Arm. We had to revise the assessments to the people because the project came in under budget so we're going to revise those assessments to reflect that.

Heirbrandt stated so the reconstruction assessments will actually be lowered.

The Surveyor stated yes.

Altman asked what percentage of reduction? Was it about 25%?

Conover stated right around 25%.

Altman made the motion to approve the Certification for Reconstruction on the Benton Hinesley Drain, South Drive Arm in the amount of \$261,118.71, seconded by Dillinger and approved unanimously.

West 146th Street Fund 4598 - Investment Interest to Drain Maintenance Fund 2700:

The Surveyor presented his report to the Board for approval.

"Date: January 20, 2017

To: Hamilton County Drainage Board

From: Hamilton County Surveyor's Office

Re: West 146th Street Fund 4598
Investment Interest to Drain Maintenance Fund 2700

On October 5th, 2000 the Hamilton Co. Redevelopment Commission created 96-421 Economic Development **Area**. On June 17th, 2010 that Commission approved an Amending Resolution which permitted the use of tax increment from the **Area** to be used for the construction of improvements to West 146th Street **Project**. On August 6, 2014, the Council appropriated \$3,592,500 toward the cost of the West 146th Street Project from the Rainy Day Fund subject to the Commissioners, Council and Drainage Board entering into an **agreement** for the Rainy Day Fund to be reimbursed. On September 23, 2014 the Drainage Maintenance Fund paid the Rainy Day Fund the entire \$3,592,500. The "**Agreement** between the Board of Commissioners of Hamilton County, the Hamilton County Drainage Board, and the Hamilton County Council concerning West 146th Street" indicates as soon as the amount in the **West 146th Street Fund** is sufficient to pay all anticipated expenses of the **Project**, excess Increment from the **Area** shall be used to reimburse the Drainage Maintenance Fund.

All amounts payable to the Drainage Maintenance Fund from the West 146th Street Fund shall include interest at the per annum rate equal to the average rate earned by the Hamilton County Treasurer on all County funds during the prior year. The average rate for 2016 was 0.34%. The calculated annual interest to be added to the repayment of the investment loan is \$12,214.50 for 2016. With the 2016 interest added, the accumulated interest to date is \$24,185.89. I recommend that the Board approve the \$12,214.50 as the amount to be added to the loan repayment for the 2016 interest.

Kenton C. Ward, CFM
Hamilton County Surveyor"

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

Centennial Drain - Petition:

The Surveyor stated we have today a petition from homeowners in the Centennial Subdivision. When Centennial came in, the first section, there was a debate on the subsurface drains especially in the street and the subsurface drains throughout Centennial since there was tree plantings allowed or required by Westfield and the developer. All those subsurface drains in the streets are not regulated drains. Somehow that translated over to the subsurface drains in the backyards too in Section 1. Section 1's subsurface drains in the rear yards were not included as regulated drain. Section 2 on they were, but we didn't go back and fix the problem in Section 1. These folks are wanting to have their drain regulated so that would also be maintained by the county.

Howard stated so it would be the Section 1 Arm.

The Surveyor stated it's just a portion of Section 1.

Altman asked how many units are in Section 1, how many houses?

The Surveyor stated I would have to look at the plat.

Dillinger stated it really doesn't matter does it because if it should have been included to begin with why would we not included it.

Altman stated no, to me we'll have multiple petitions coming through and it's going to be difficult administratively to do just one part at a time. It seems like if we're to correct the problem can these four people be deemed the percentage necessary to regulate the entire system of Section 1?

Howard stated you don't want to regulate the street drains.

Altman stated no, the backyards.

Howard stated I think Section 1 becomes for hearing purposes a separate arm and then those four people and then you notice only those people in Section 1.

Altman stated right. That's my point we've got four and we've got a strip that obviously is plugged up and now it's convenient to be regulated because they've got a problem. I think we ought to do it as the whole section.

Heirbrandt asked so it's spread out?

Altman stated no, that we have a base to collect assessments and do...

Howard stated you're going to make it an arm of the drain and you'll consolidate it for purposes of consolidating the assessments, but for purposes of notice and hearing and approval you would approve the micro and then roll it into the macro for funding.

Altman stated my point is I think all of Section 1 ought to be considered for regulation if we're going consider any part.

Dillinger stated I agree.

Howard asked if all the lots are benefitted?

The Surveyor stated probably so.

Altman stated they'll have backyard drains.

Howard stated so all of Section 1 would be the micro, but you'd roll it into the entire Centennial.

Altman asked what's our percentage? Is it 10%?

The Surveyor stated 10%.

Altman stated so if there are 400 houses...

The Surveyor stated there's not that many in Section 1.

Howard asked if you have four petitioners?

The Surveyor stated yes.

Howard stated 10% is 40. Is there 40 in Section 1?

The Surveyor stated it might be close. I'll have to check and get back with you at the next meeting.

Altman stated we have to accept the petition, but we might ask these folks that have petitioned to go talk to a couple more neighbors and see if we can get a percentage appropriate for the number of houses. It's kind of like we've had a couple of other petitions where there's a problem now they want the county to fix it without having paid into the system and we don't have enough money on four houses to correct the problem without dipping into somebody else's pot.

Heirbrandt asked what Altman's motion would be?

Altman stated it's no action I think it's just notice that we got it, but it seems to me if we're going to fix a problem we need to fix the whole problem.

The Surveyor stated I don't remember how big Section 1 is, but we'll check it and get back to the Board.

Dillinger stated that makes sense to do.

Howard stated those four people are going to have to know they have to get 10% so they need to get a couple of neighbors.

Altman stated figure out how many and go from there.

The Surveyor stated the HOA could do it too because they own several pieces in there.

Altman asked if any of it is regulated in Section 1?

The Surveyor stated the main storm sewers are regulated.

Howard asked the collection system from the streets?

The Surveyor stated yes.

Beaver Trapping - No Trespassing Sign:

The Surveyor stated we have the new signs and we have a wire that goes into it just like the political signs.

Altman asked if we ordered several?

The Surveyor stated I think we got twenty (20).

Howard stated the certified letters went out to not only all owners at the address on the property record card, but the addresses we had on the Tort Claim Notice including those people who were on the Tort Claim Notice who were not of title and the administrator of one estate. Those went out Friday and we told them that we would begin trapping this coming Friday. I've talked to Steve Baitz and we're going to get the signs out fairly soon and start down the road.

Big Cicero Creek Joint Drainage Board - Minutes of 11/23/16:

The Surveyor presented the minutes of the Big Cicero Creek Joint Drainage Board of November 23, 2016 to the Board for their information.

Heirbrandt stated there wasn't really anything that was notable that came out of this meeting other than the USDA discussion.

Heirbrandt stated we did have a testy meeting this last one. The developer that's building a gas station over on S.R. 28 came in and told us we needed to fire our engineering firm because he had hired them originally and didn't get what he wanted. He was making all kinds of accusations.

The Surveyor stated unfortunately for the developer the engineering firm followed the ordinance.

Dillinger asked who was the engineering firm?

The Surveyor stated Burke. This developer is from Virginia.

Altman asked if they were putting tanks close to a water source?

The Surveyor stated no they wanted to fill in the floodplain.

Altman stated that would be a difficult problem for people that live along that floodplain.

The Surveyor stated especially since we're getting ready to spend how many million dollars in Tipton to solve a flooding problem.

Hearing Request:

The Surveyor asked that the Board set a hearing for the Thorpe Creek Drain, Shed Correction for February 27, 2017.

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

Non-enforcements:

Conover presented a non-enforcement request for the Elizabeth Wendt Drain filed by Patrick Wilson and Christopher Wilson for parcel No. 03-02-05-00-001.005 for landscape mounds. The Surveyor's Office recommends approval.

Altman made the motion to approve the non-enforcement request presented, seconded by Dillinger and approved unanimously.

Dillinger asked Conover if he would be in the room when we listen to the Johnson issue on the rezone this afternoon?

Altman stated Arden Johnson that wants to rezone on 211th Street.

Dillinger stated for the slaughter house. You've been out there right?

Conover stated yes.

Dillinger stated we may not say anything to you, but there were some accusations made relative to you that could be contentious in this about whether the water is or is not draining a certain way and all that. I think it's a good idea if you'd at least be in the room if we need to address you. Could you do that?

Conover stated yes.

Liston presented a non-enforcement request for the F. E. Hines Drain filed by Michael Burris for parcel No. 10-10-04-00-13-003.000 for a fence and consent to terms of encroachment agreement No. 2015-45655. The Surveyor's Office recommends approval.

Dillinger made the motion to approve the non-enforcement request presented, seconded by Altman and approved unanimously.

Violation Updates:

F. E. Hines Drain - Liston stated that the Surveyor's Office has rescinded the violation for the F. E. Hines Drain by Michael Burris. The work has been completed on the violation.

Krause & Klepfer Drain - Liston stated that the Surveyor's Office has rescinded the violation for the Krause & Klepfer Drain by Terstep Co., Inc. The work has been completed on the violation.

Mud Creek/Sand Creek Drain - Liston stated that the Surveyor's Office has rescinded the violation on the Mud Creek/Sand Creek Drain by HGCC Lender, LLC, which is also Mansur. The work has been completed on the violation.

Surety Release:

Liston stated that at this afternoon's Commissioners meeting the Board would be releasing the following sureties: Subdivision Improvements Performance Bond No. 929 404 218 in the amount of \$10,800.00 for Shaarey Tefilla synagogue, storm sewer & erosion control to be part of the Springmill Run Drain; Performance Bond No. 105659458 in the amount of \$14,040.00 for AutoZone Store No. 4533, erosion control and Stormwater control; Performance Bond No. 105659458 in the amount of \$14,040.00 for AutoZone Store No. 4533, erosion control and Stormwater control (**Rider changing project description from Erosion Control and Storm Water Control to Reconstruction of the Park Northwestern Drain**); Performance Bond No. 1026992 in the amount of \$86,780.40 for Northview Christian Life Church (Fishers), Drain Relocation/Replacement; Performance Bond No. 1026992 in the amount of \$86,780.40 for Northview Christian Life Church (Fishers), Drain Relocation/Replacement (**Rider changing scope of work from Drain Relocation/Replacement to George Burke Legal Drain Relocation/Replacement**); Cashier's Check No. 11032014 in the amount of \$124,166.00 for Terry Lee Crossing, outstanding punch list items.

Construction Updates:

Anchorage Drain Reconstruction - Liston stated on Friday Duncan and I conducted the pre-construction meeting with Morphe Construction and also gave them their notice to proceed.

Newton Teter Drain Reconstruction - Conover stated he contacted the contractor on this project last week. They're finishing up a job in Elkhart County. The weather has them backed up. They believe they'll be here probably the last week of February depending on weather.

William Locke Arm 1 Reconstruction (Pending Asbuilts) - Conover stated that the survey crew finished up the asbuilts on this. We're doing the asbuilts in house.

William P. Bennett Drain Reconstruction (Pending Final Report) - Conover stated I finished the final report last week. It should be ready for the Surveyor's review and hopefully we'll have that at the next meeting.

Mud Creek Drain, High Flow Shelf (Pending Final Report) - Liston stated I completed my portion of the final report. I need to have the Surveyor and Janet (Hansen) finalize all the numbers on it.

Drainage Board Attorney (Pending Items):

Anchorage Interlocal with Fishers - Howard asked if the Anchorage Interlocal was back from Fishers?

Duncan stated yes. They approved it Wednesday night.

Heirbrandt stated yes, they approved it and I saw them here working with the office.

Duncan stated that Jason Armour was here Friday for the preconstruction meeting. We are presently working on getting the original agreements back and then we'll bring those to the Board.

Beaver Materials Mud Tracking on River Road (Ordinance) - Howard stated that the Surveyor got him some comments on that at the middle of the week. I still need to go back and see what we've got in our existing code to repeal or modify, etc. I hope to get that to the Board at the next meeting.

Fitch & Jessup Drain (Letter to McElroy and Letter to Randy McElroy) - Howard stated these issues are basically the McElroy and my efforts on that have been completed.

Petition to Circuit Court for Alternate Members - Howard stated he has not completed that.

E.E. Bennett Drain, Republic Arm (Notice of Deferred Assessment) - Howard stated I've been in contact with the Susan Milton's attorney so we can get that done.

Altman asked if Howard is going to have the petition done for the Alternate Members by the first meeting in February.

Howard stated I'll have it filed and have a file mark copy back.

The Surveyor asked Howard if he would get him a copy of the letter on the Fitch & Jessup Drain?

Howard stated yes.

Pending Items:

Stony Creek Drain, Irving Materials Extension - The Surveyor stated that he's been working with Doug Lehman with IMI Materials on the letter to the Board on Stony Creek. We've been going back and forth with emails on that and how he wants to word it.

Ream Creek Reconstruction (Fund Balance & Participation) - The Surveyor stated Duncan is working on this item right now. We did have a conference call with Marathon. I think it went well.

William Knight Drain, Marcum Arm - The Surveyor stated Conover has been playing phone tag with Mrs. Marcum in getting the easements signed. Once the easement is signed we can finalize that report and get it set for hearing.

Permit Fines - The Surveyor stated I need to readdress those and come back to the Board.

Windemere Pond (Cost Sharing Agreement) - Duncan stated we had a meeting with a representative of the HOA and we feel like we finally got that off center and moving forward. One of the things the Board had wanted was something confirming that the HOA was agreeable to our plan to improve the drainage outlet as well as the pond banks in the one pond that will be affected by the project. We received an email late last week indicating that the Board had approved and drafted a letter for the Board to say they approve our project so that should be coming in the mail. When we met that person from the HOA Jeremy Kashman, the City of Carmel Engineer, was there and we had asked him about the status of their review of the Interlocal Agreement and he was going to check on that. Right now that is the one unknown before we can bring this back to the Board for full approval.

Springmill Run (Crooked Stick West) - The Surveyor stated Hoyes put some things on my desk that I had asked him to work on as far as the timeline and also on the status of what the easement actually is. He looked up the plat and the covenants.

Canal Place Drain, Anderson Non-enforcement (Hold Harmless Agreement) - Liston stated he took the agreement over to Howard's office a week ago and gave it to Jan so he should have that.

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

Mark Heirbrandt - President

Lynette Mosbaugh
Executive Secretary