

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

February 27, 2017

The meeting was called to order Monday February 27, 2017 at 9:01 a.m.

The members of the Board present were Mr. Mark Heirbrandt-President, Ms. Christine Altman-Member and Mr. Steven A. Holt-Alternate Member. Also present was staff of the Hamilton County Surveyor's Office: Mr. Steve Baitz, Mr. Jerry Liston, Mr. Greg Hoyes, Mr. Andy Conover, Mr. Gary Duncan, Ms. Suzanne Mills and Mr. Steve Cash. The Board's attorney, Mr. Michael Howard, was also present.

Masthead Drain - 106th & Geist Road Reconstruction:

There were neither landowners present nor objections on file.

Duncan presented the Surveyor's report to the Board for approval.

"December 23, 2016

TO: Hamilton County Drainage Board

Re: Masthead Drain, 106th & Geist Road Reconstruction

Attached are plans for the reconstruction of the Masthead Drain by the City of Fishers. The proposal involves the reconstruction of the existing drain located within the Geist Road right-of-way. Plans for the intersection improvements / roundabout were originally submitted by A&F Engineering with revised plans submitted by Keeler-Webb. This reconstruction takes place completely within the City of Fishers right-of-way and platted drainage easement for the Heck Subdivision. The cost of the project is to be paid by the City of Fishers

This reconstruction will consist of the following:

15' of 12" RCP

The new drain pipe has a length of 15'. The new manhole structures with this project include Str. 21C and Str. 24A.

As a result of this project to accommodate the new roundabout, a portion of the existing drain has been removed. This includes 150' of 12" RCP located at the southeast quadrant of the intersection. This pipe was installed in 1986 as part of Masthead, Sec. 15 (Str. 601 - 602. Note: Str. 602 will remain in place, while Str. 601 has been removed).

This petition will remove 135' of footage from the drain's overall length.

Other storm sewer pipes have been installed with this roundabout project that are not considered part of the Hamilton County regulated drain. Those storm facilities will be maintained by the City of Fishers.

The Masthead Drain, Sec. 15 Arm was established in 1987 as per my report to the Board dated August 28, 1987 and approved at hearing on November 9, 1987. (See Hamilton County Drainage Board Minutes Book 2, pages 223 & 233).

The cost of the project is to be paid by the City of Fishers.

The existing easement for the drain will remain in effect. The additional easement is located on the property owned by Sandra D. Jackson, Lot 1, Heck Subdivision, parcel 13-15-09-00-00-003.101. The easement is a platted drainage easement as shown on the Secondary Plat as recorded in the Hamilton County Recorder's Office as instrument 8706011, Plat Book 13 pages 128-129. No additional easement is needed for this project.

I recommend the Board set this item for hearing on February 27, 2017.

Sincerely,

Kenton C. Ward
Hamilton County Surveyor

KCW/stc"

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

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

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Thereafter, the Board made inspection for the purpose of determining whether or not the lands of any owners had been erroneously included or excluded from the Schedule of Assessments. The Board finds on the basis of the reports and findings at this hearing as follows:

HAMILTON COUNTY DRAINAGE BOARD

Mark Heirbrandt
PRESIDENT

Christine Altman
Member

Steven A. Holt
Alternate Member

ATTEST: Lynette Mosbaugh
Executive Secretary "

Thorpe Creek Drain - Shed Correction:

There were neither landowners present nor objections on file.

Duncan presented the Surveyor's report to the Board for approval.

"January 12, 2017

To: Hamilton Co. Drainage Board

Re: Thorpe Creek Drain, shed correction

Upon the review of the Thorpe Creek drainage shed it has been discovered that the area of the Piper Glen Subdivision now outlets north into the Thorpe Creek drainage shed and is benefitted by that drain. Due to the development of Piper Glen Section 1 the drainage shed should be revised by including the tracts shown on the attached schedule of assessments.

The total assessment for the 27 parcels to be added to Thorpe Creek is \$931.00. This will begin collections in May 2017.

I recommend the Board set a hearing for February 27, 2017 for this shed correction.

Kenton C. Ward, CFM
Hamilton Co. Surveyor"

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

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

"FINDINGS AND ORDER

CONCERNING THE MAINTENANCE OF THE

Thorpe Creek Drain, Shed Correction

On this **27th day of February, 2017**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Thorpe Creek Drain, Shed Correction**.

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 A. Holt
Alternate Member

Attest: Lynette Mosbaugh
Executive Secretary"

E. E. Cornthwaite Drain - Easement Purchase:

Duncan stated the office received an appraisal for a portion of property owned by Tamara C. Guilkey. As part of this project, its one I've been working on to revise a small portion of the E. E. Cornthwaite Drain and the Jacob Kepner Drain to convert a short section from tile to open ditch to improve drainage. In order to realize that project a certain amount of property is needed from Mrs. Guilkey. We've had it appraised at \$5,610.00 and we're asking for the Board to approve us to make the offer to Mrs. Guilkey to acquire the land.

Heirbrandt asked Howard if he had a chance to review this?

Howard stated I did look at the appraisal from Jeff Juday and it appears pretty much standard.

Heirbrandt asked if this is a recommendation from the Surveyor's Office?

Duncan stated yes.

Altman made the motion to approve the offer to Tamara C. Guilkey in the amount of \$5,610.00 for land acquisition for the reconstruction of the E. E. Cornthwaite Drain, seconded by Holt and approved unanimously.

Professional Services Agreement - Cool Creek Drain:

Duncan stated that this is a professional service agreement to hire Clark Dietz to study Cool Creek Drain. As a result of the improvements on US 31 and 191st Street the Surveyor feels that the base flood elevation may be lowered by what the State has done. We want to contract Clark Dietz to potentially raise the limits.

Heirbrandt stated Clark Dietz is already working on this drain.

Duncan stated that Clark Dietz did the original study on Cool Creek and they've done the studies since.

Altman asked if this is off of our base contract with them; on-call services?

Duncan stated I'd have to find out, I don't know.

Altman asked if this is our form? Yes, it does say at the top on-call engineering services.

Howard stated it's really a modification.

Altman made the motion to approve Clark Dietz for data collection on Cool Creek at US 31 at 191st Street in the amount of \$6,740.00, seconded by Holt and approved unanimously.

Legislation - House Bill No. 1549:

Duncan stated as I read this it looks like a Bill has been introduced to allow townships to establish their own Drainage Board. I'm not quite sure how that interacts where there's already a County Drainage Board.

Howard stated I read most of it and it's a Flood Control Board and the Township makes recommendation and the County Council must approve the rate and it can be vetoed by the Commissioners. It's not just for drainage, it's for flood control. The difference between flood control and drainage I didn't find in there, but that's not unusual.

Altman stated it came from Ed Delaney in Washington Township so my guess is it has to do with...

Holt stated the old what Indianapolis does screws everybody.

Altman stated right.

Howard stated usually when something like that comes up its either Indianapolis or somebody that was adversely affected by government so we pass a law based on some horror story that came out. This is Marion County if it's Ed Delaney. I didn't get to the sponsor, but it applies statewide I think.

Holt asked if it passed?

Howard stated no, it's down there.

Holt stated I wouldn't think a Delaney Bill would go too far.

Howard stated although it could have Marion County steam behind it, bi-partisan Marion County steam. If it did it'd be real nice if they made it applicable to Marion County.

Altman stated even though it's statewide as long as Commissioners have ultimate jurisdiction.

Howard stated when I saw that the actual assessment, tax was imposed by the County fiscal body I figured that was not going to be during my term.

Service Advisory Board:

Duncan presented the minutes of the Service Advisory Board for November 15, 2016, December 20, 2016 and January 17, 2017 for the Board's information.

Hearing Request:

Duncan presented a request for hearing to the Board for April 24, 2017 for the Margaret O'Brien Drain, Crosspoint Business Park Arm, Concourse at Crosspoint Detention Area Maintenance and Expansion.

Altman made the motion to approve the request for hearing presented for April 24, 2017, seconded by Holt and approved unanimously.

Altman stated when you go forward with the public hearing on this lets make sure we have in your notes that before they proceed the easement has to be granted.

Variance Request - Little Eagle Creek Drain - Fill in the Floodway:

Dwayne Sharrer was present for this item.

Hoyes stated the first variance request in front of you is being filed by GT Property Development and Weihe Engineering. This is for Williams Trace Section 2, which is at the southwest corner of Casey Road and 186th Street. This has been reviewed by Burke. It does exceed the 3:1 mitigation ratio. The floodplain is not actually using the FIRM's now because the Burke Study is the best available data. The floodplain was actually reduced some in this area. They're meeting the 3:1 ratio on that reduced area and then they are mitigating on the west side of Little Eagle Creek in a wetland mitigation area.

Altman asked if the developer is creating wetlands?

Hoyes stated they are not, but there is another project that is actually creating a wetland mitigation area, yes.

Altman stated I assume all approvals from the other landowners have been granted.

Sharrer stated that the other property where the mitigation is to occur is owned by a partnership that has the entities, the same people involved in the project, GT Properties. It's a different corporation, but it's the same owner.

Altman asked what assurances will Drainage Board have that the area that is compensation will be restricted and not tampered with in the future?

Sharrer stated as part of Hoyes comments on the variance, which I agree with all of them, one of them is to provide protective easement covering that floodplain.

Howard stated provide and record.

Sharrer stated yes.

Altman asked if those easements will be granted before you do work?

Sharrer stated we can do that however the Board sees fit.

Howard stated that's the protection.

Sharrer stated sure.

Altman made the motion to approve the Variance Request for Little Eagle Creek Drain, deviation from Ordinance 4-26-99-C with protective easements in place and recorded before work starts, seconded by Holt and approved unanimously.

Variance Request (Preliminary) - Bent Creek - Fill in the Floodway:

Mr. Brian Robinson was present for this item.

Hoyes stated that this is the first variance that falls under the new policy where they're requesting permission of what is allowed in the new ordinance to fill in a floodplain. This was primary platted back in 2005 and then re-primary platted in 2015. Between those times the firm panels changed so now we have a fill in a floodplain issue that they need to address. This is preliminary. They're asking you to set the mitigation ratio and recommend this be sent to Burke for review.

Altman asked what the Surveyor's Office position was on this?

Hoyes asked as far as the ratio or...

Altman stated whether this is advisable to grant or not.

Hoyes stated it is fill in the boundary edges and where they're actually cutting will be lower in the flood channel so it is a flood benefit. Assuming they meet all their other standards the office would recommend approval.

Howard stated its net better because of location and it meets 3:1 both.

Hoyes stated its net better if we set the 3:1 ratio and they move forward with that ratio and get it reviewed by Burke.

Altman stated that's the standard that we've been using.

Hoyes stated yes.

Altman stated I don't know why we'd have that discussion. I think the request needs to be for lesser if it comes up. Just for staff guidance that's the ratio unless there's extenuating circumstances.

Howard stated that's our ordinance, 3:1.

Duncan stated I think we wanted to bring these all before the Board because what would happen if we; we've had in the past where even though we've moved forward with 3:1 and we brought it to the Board for final approval there's been months of engineering that have gone into it and it's the first time the Board has seen it.

Altman stated you're doing the right thing it's just we don't have a discussion about ratio, the discussion is, is this an area we would even consider allowing. That's the discussion for the preliminary.

Altman made the motion to approve the concept to fill to be vetted by the engineer's (Burke) for formal approval or disapproval later, seconded by Holt and approved unanimously.

Non-enforcements:

Hoyes presented a non-enforcement request for the Village of West Clay Drain filed by Aftab S. Khan for parcel 17-09-33-00-15-007.000 for a fence. The Surveyor's Office recommends approval.

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

William Locke Arm 1 Reconstruction - Final Report:

Conover presented the final report to the Board for approval.

"To: Hamilton County Drainage Board

December 29, 2016

RE: Locke Drain Arm 1 - Final report

This is the inspector's final report on the Locke Drain Arm 1, located in Wayne and White River Townships in Hamilton County, Indiana.

The Surveyor's Report for the Locke Drain Arm 1 dated May 5, 2016 was presented to the Drainage Board and approved on June 7, 2016 (Hamilton County Drainage Board Minutes Book (Book) 17, Pages 5-16). Bid opening for the reconstruction was on August 8, 2016 (Book 17, Page 65). The bid was awarded to Xtreme Excavating on August 22, 2016 for the amount of \$499,113.26 (Book 17, Pages 97-98).

The Locke Drain Arm 1 as constructed consists of 4,797 feet of 30 inch HDPE pipe, 4,642 feet of 24" inch HDPE pipe, 3,555 feet of 18 inch HDPE pipe, 621 feet of 15" HDPE pipe, 1,153 feet of 12" HDPE pipe, 1,058 feet of 10" HDPE pipe and 3 manholes with castings. The as-built plans have been completed and are attached.

There were a total of two change orders for additional work or field revisions on the project as allowed by IC 36-9-27-80.5. Those change orders are as follows:

Change Order #1 was required because of private tiles encountered during reconstruction of the tile ditch and outlets were required to be provided. There were 72 private tiles encountered on this project which were required to be connected to the new drain tile. Change Order #1 also included 4 (four) items that were deleted from the original bid since they were not required. Total cost of Change Order #1 was \$9,572.48 approved on January 9, 2017 (Book 17, Page 254).

Change Order #2 was required because of limestone that was encountered during reconstruction of the tile drain. The new tile was installed deeper than the existing tile and in an area west of Prairie Baptist Road approximately 1200 feet of excavation was four feet into hard limestone. The contractor had to rent an additional excavator with a jackhammer attachment to break up the limestone. Cost of Change Order #2 was \$11,200.00 approved on January 9, 2017 (Book 17, Pages 254-255).

The final costs for the reconstruction are as follows:

Contractor's Bid Xtreme Excavating -----	\$499,113.26
Change Order #1 Total -----	\$ 9,572.48
Change Order #2 Total -----	<u>\$ 11,200.00</u>
Xtreme Excavating Total Cost -----	\$519,885.74
Amount Approved by the Board -----	\$573,715.50
Total Reconstruction Cost -----	<u>\$519,885.74</u>
Difference -----	\$ 54,094.51

Partial Pay Requests for this project submitted and paid as allowed in IC 36-9-27-81 are as follows:

Pay Request #1 submitted 11-3-2016	Paid 11-29-2016	\$144,752.66
Pay Request #2 submitted 11-14-2016	Paid 12-13-2016	\$83,746.80
Pay Request #3 submitted 12-3-2016	Paid 12-27-2016	\$190,561.81
Pay Request #4 submitted 12-22-2016	Paid 1-10-2017	\$22,841.61
Pay Request #5 Retainage submitted 2-17-2017	Paid 2-22-2017	<u>\$77,982.86</u>
Construction Total - Xtreme Excavating		\$519,885.74

Statement of All Incurred Expenses Paid signed by the contractor as required in IC 36-9-27-82(b) was received on 12-28-2016. The contractors claim for release of retainage was submitted on December 28, 2016.

The engineering design, plans, construction staking and as-built (record) drawings were prepared by the Hamilton County Surveyor's Office.

As of December 28, 2016, I hereby attest to and agree that the reconstruction was installed according to the specified plans and change orders and have approved such work under IC 36-9-27-82(a). All inspections have been completed. Final inspection was on December 6, 2016.

On August 22, 2016 (Book 17, Pages 88-97) the Board voted to allow \$100,000.00 of the maintenance funds from the Stony Creek Watershed to be used to pay on the reconstruction. The Hamilton County Highway is responsible for the costs of the pipes installed under the roads as part of the project plus the per acre rate for road right-of-way. The original estimated lump sum to the Hamilton County Highway Department was \$31,997.46. The final revised lump sum is \$22,700.00.

The reconstruction balance after the Hamilton County Highway assessment of \$22,700.00 and the \$100,000.00 utilized from the maintenance fund is \$397,185.74* which will be assessed to the property owners within the watershed.

The original rate per hearing was \$1,155.74 per acre. The revised rate to the property owners within the watershed will be \$476.91* per acre. On August, 22, 2016 (Book 16, Pages 88-97) the Board voted to allow the drain reconstruction assessments to the property owners to be paid over a 7 year period at 3% interest. (* based on \$100,000.00 from maintenance fund)

I recommend the Board approve the reconstruction as complete and acceptable.

Respectfully,

Andrew Conover
Inspector
Hamilton County Surveyor's Office"

Altman asked if the use of funds is as previously approved?

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Conover stated yes.

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

William Locke Arm 1 Reconstruction - Certification for Reconstruction:

Conover presented the Certification for Reconstruction in the amount of \$419,890.04.

Altman made the motion to approve the Certification for Reconstruction as presented, seconded by Holt and approved unanimously.

William P. Bennett Drain - Certification for Reconstruction:

Conover presented the Certification for Reconstruction at 3% interest as requested by the Board in the amount of \$292,109.86.

Altman made the motion to approve the Certification for Reconstruction as presented, seconded by Holt and approved unanimously.

Construction Updates:

Anchorage Drain Reconstruction - Liston stated the work has been completed by Morphey Construction. They finished the project in about 15 days. The contractor has restored the area as best they can for this time of year. They will need to go back in and repair existing irrigation and dog fence concerns. Morphey did a great job getting this project done. We did have some utility conflicts that we had to work through. AT&T was very difficult to work with on this project, but that seems to be the same across the county.

Altman asked but AT&T were in our regulated drain, correct?

Liston stated yes.

Altman stated I don't believe there's a statute that allows them to be in the regulated drain without permission is there?

Howard stated I think under the Drainage Code they're exclusive. It wouldn't do any good. Most of our conflicts they were there ahead of us.

Liston stated Duke and Vectren have worked with us on this project. You call them and they're there. With AT&T the Surveyor had to get involved with that one and go above this individual.

Altman asked what was their attitude? I don't understand. They're encroaching in a regulated drain.

Duncan stated there was no response.

Howard stated every one of these utilities is typical corporation and they're doing more with less and the less people they have on staff to address issues the more that falls to the bottom line; it's no more simple or complex as that. It's just corporate greed.

Duncan stated at one point AT&T said we'd have to pay for them to move and then we provided them with the State Code that says no you have to move since you're in the regulated drain easement.

Altman stated you never know, you might get lucky. I'm sure that was their theory.

Howard stated the problem is if they don't know you're remedy is just cut it and go on, but then you're the bad guy to the property owners who lose service. It's a lose, lose deal. Local government is not the most arbitrary, it's the utilities.

Liston stated with this project we found an unmarked 7200 volt line, which was outside the utility easement and Duke has started the process to move that inside their easement. It was in our easement and the locate contractor did not locate the line and gave us a clear path through that area. Our contractor hit it.

Newton Teter Drain Reconstruction - Conover stated that the contractor started moving their equipment in last week. Depending on the weather they're hoping to get started with the reconstruction of the drain this week.

Duncan stated in case the Board gets any calls the contractor's initial drop off of equipment was outside of the regulated drain easement on private property. The homeowners were not happy. The contractors worked it out, but in case the Board would get any calls.

Conover stated it was on a parcel that is on the regulated drain, it's just they set the equipment outside the easement so it wasn't a random property. The property owners weren't aware of what was going on.

Pending Final Report:

Mud Creek Drain, High Flow Shelf - Liston stated that the Surveyor has the final report and hopefully we'll have that at the next meeting.

Drainage Board Attorney (Pending Items):

Beaver Materials Mud Tracking on River Road - Howard stated that the Surveyor had some mark ups on these.

E.E. Bennett Drain, Republic Arm (Notice of Deferred Assessment) - Howard stated that this is an Urban Drain Assessment and the lady who was here owned a fractional interest. I've heard from the other owner so we're trying to get that all unified. We've been assessing that as Urban Drain upon platting and I think in this issue part of it got platted and the other part is platted, but it's not being used yet. That may be deferred as a matter of law so we're working on that.

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

Mark Heirbrandt - President

Lynette Mosbaugh
Executive Secretary