

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

January 13, 2020

The meeting was called to order Monday January 13, 2020 at 12:00 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 were staff members of the Hamilton County Surveyor's Office: Mr. Sam Clark, Mr. Andy Conover, Mr. Jerry Liston, Mr. Gary Duncan, Mr. Luther Cline, Mr. Reuben Arvin, Mr. Steve Baitz and Mr. Steve Cash.

Approve Minutes of December 19, 2019:

The minutes of December 19, 2019 were presented to the Board for approval.

Heirbrandt made the motion to approve the minutes of December 19, 2019, seconded by Dillinger and approved unanimously.

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:

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

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.

Proposed Legislation:

Duncan stated the Surveyor wanted to apprise the Board of several pending legislations at the State level that affect the Drainage Board. Some of them would be favorable to us if they are made into law, one of which is the need for a permit if we're affecting wetlands. One of them also is specific to the type of pipe material that may be installed.

Altman asked do we have any idea who's driving that other than the pipe association, the PVC people?

Duncan stated the Surveyor did mention the person's name, but I do not remember it. I believe it is somebody who is looking to put in plastic pipe.

Heirbrandt stated there's been a lot of discussion with a lot of the developers and the additions of piping and they said that will lower costs to some of the developments, but there needed to be some more specifics in regards of what kind of schedule there is of PVC, whether it's Schedule 40, Schedule 80, but the whole idea was to drive cost down.

Howard stated so they're trying to supersede our local authority to spec the material.

Altman stated I think there's an issue of how long they last, too. I don't know whether it's accurate or not, but some of the stuff I read back and forth indicated that PVC would have a lower life than reinforced concrete.

Duncan stated we'll have to keep an eye on that because our standard is reinforced concrete and I know one of the main reasons we do specify that is that it's a lot more durable when other people are around it, other utilities and whatnot. It can stand up to a lot more people going through the pipe.

Howard stated on the other legislation I talked to the Surveyor quite a bit and talked to Victoria Spartz. When IDEM heard about the proposal to eliminate the need for permits in regulated drains they said they would not object it and listed a series of conditions and those conditions essentially boil down to, unless they deemed that it was a wetland. In other words, it had no effect whatsoever so they're going to fight the legislation because if we agreed to their amendments to the legislation it would have given you \$10.00 and taking back \$10.20 in return. It didn't make any sense. The Surveyor decided to go forward and that Bill was set for hearing at 10:00 this morning.

Altman stated David Bottorff asked IDEM; did you see the email this weekend? The complaint is when you don't fix them right away, which half the time we don't know they're failing right away, it redevelops into a wetland.

Howard stated that's what happened to us on Cumberland Road.

Altman stated right.

Howard stated when you have all the miles of drains that we have it's real easy to miss one that's broken down or clogged for a couple of years and by then it's wet and that's exactly what happened to us up there.

Altman stated if we follow their logic and didn't do anything we'd turn back into a swamp and we'd be one gigantic wetland in the State of Indiana.

Duncan stated Senate Bill No. 46 it appears that a stormwater management department, municipal or county, will not be able to assess or collect user fees for religious property, property that belongs to a school corporation and property that is assessed as agricultural land.

Altman asked well what are we putting the drains in for?

Howard stated we might as well let it go to a swamp after all.

Altman stated that's just crazy. The primary reason we put in all the regulated drains was for agriculture back in the 1800's.

Duncan stated I don't know what the basis for this one is or who proposed it.

Big Cicero Creek Joint Drainage Board:

Duncan presented the minutes of the Big Cicero Creek Joint Drainage Board of November 20, 2019.

Bidders List:

Duncan stated that East Central Contractors, LLC is requesting to be placed on our bidders list to receive notices of public projects when we bid them.

Dillinger made the motion to place East Central Contractor's, LLC on the bidders list, seconded by Altman and approved unanimously.

Government Liability & Climate Change:

Duncan presented an article on Climate Change and selected issues for wetland and floodplain managers.

William Krause Reconstruction Phase 2 - Change Order No. 9:

Conover presented his change order to the Board for approval.

"To: Hamilton County Drainage Board

January 7, 2020

Re: Wm Krause Drain Phase II Reconstruction Project
Change Order #9

Change Order #9. On September 17, 2019 Aaron Ogle requested compensation in the amount of \$4,116.00 for matters concerning the 17.5 acres of temporary easement of the Fox property.

The request addresses two items. The first is compensation for lost cropping opportunity for the 2019 growing season. The Agreement of Settlement dated February 26, 2018 stated that the project would be complete by April 1, 2019. Due to weather delays the project was not completed by April 1, 2019.

The second item is a request for compensation mowing the 17.5 acres, and for parts and labor to repair to his mower which was damaged while mowing the 17.5 acres.

Change Order #9

Mower Repair - Parts -----	\$ 286.00
Mower Repair - Labor -----	\$ 150.00
Mowing (part of the area had to be mowed twice) 26.5 acres @ \$20.00 per acre	\$ 530.00
Loss of cropping 2019 - 17.5 acres \$180.00 per acre -----	\$ 3,150.00
<u>Cost for additional work on Fox Property - Change Order #9 -----</u>	<u>\$ 4,116.00</u>
Contractor's Bid -----	\$ 659,819.20
Change Order #1 Total -----	(\$ 17,838.88)
Change Order #2 Total -----	\$ 725.00
Change Order #3 Total -----	\$ 559.36
Change Order #4 Total -----	\$ 9,516.00
Change Order #5 Total -----	(\$ 7,166.57)
Change Order #6 Total -----	\$ 25,075.00
Change Order #7 Total -----	\$ 11,598.85
Change Order #8 Total -----	\$ 1,400.12
Change Order #9 Total -----	\$ 4,116.00
<u>Total Reconstruction Cost -----</u>	<u>\$ 687,804.08</u>
Engineer's Estimate -----	\$1,011,017.60
Total Reconstruction Cost -----	\$ 687,804.08
Easements & Associated Costs -----	\$ 367,450.00
<u>Total Reconstruction Cost -----</u>	<u>\$1,055,254.08</u>
Difference -----	(\$44,236.48)

Submitted By:



Andrew D. Conover
Inspector"

Altman stated you were going to look at the temporary easement. What did you find out?

Conover stated the project was to be completed April 1, 2019 and we did not meet that completion date.

Howard asked was there part of the temporary that was in grass and part that was supposedly tillable? Was this lawn mower and the lost farm on the same property?

Conover stated we were not able, because of the weather, to get the easement completely graded. All the ground on that 17.5 acres was all tillable ground. The ground was wet, it was settling in areas so were going to have to go back in and regrade it and while we were waiting for that to be dry enough to go back in meanwhile it was growing up in weeds and Aaron (Ogle) said we have to get these knocked down. He felt the need to get the weeds knocked down before the weeds completely took over and it was at that point when he was out mowing it before we were able to level it up.

Altman stated it seems like we're double dipping if we pay for mowing and crop damage.

Conover stated its crop loss. Basically, the price Ogle came up with was \$180.00 per acre cash rent which is within reason.

Howard stated probably pretty fair because the airport just bid theirs.

Altman stated I don't have a problem with cash rent, but I don't think you can charge both, that's my point. It's fish or fowl to me. If, basically, we rented it from him do we have the obligation to control weeds? I don't know the answer to that, but it seems like it's double dipping to me.

Howard asked what's the total cost to the mowing and the damage?

Conover stated his total request for compensation is \$4,116.00, \$3,150.00 of that cost being the cash rent.

Howard stated I think I agree with Altman on the need to mow, of course he's mowing what we had last control over and the mower got damaged so maybe the parts and repair, but the mowing he would have had to spent money putting in a crop or mowing or something else.

Altman asked when did we finally release it? Have we released it?

Howard asked are we going to get it released in time for crops next year?

Conover stated yes.

Howard stated terminate the temporary easement. Notify Ogle that we are no longer using the temporary construction easement.

Conover stated I think you said when we give him this payment, we want him to sign a document.

Altman asked do we still have to go out there and grade?

Conover stated we've got all the grading; we actually had to pay somebody to mow it again because it continued to grow up and then they came back in with a bulldozer and leveled everything back out and then we had to have a crop service come in and finish on the top because the dozer left ruts in all of that.

Howard stated it's done, we're done with him, so he can plant a crop next year or grow weeds or do whatever he wants to do, he's on his own.

Conover stated yes, on this phase.

Dillinger stated I don't have an issue with Ogle's charges.

Dillinger stated made the motion to approve Change Order No. 9, seconded by Altman with the condition that we have to have a complete release.

Howard stated complete release, we release the temporary easement and he releases us for its condition.

The motion had been made and seconded to approve Change Order No. 9 with the condition of complete release of the temporary easement and release by Ogle for the condition and approved unanimously.

Non-enforcements:

Clark presented a non-enforcement request for the Crooked Creek Drain, Ashbrook Arm filed by Charles and Barbara Raih for parcel #17-13-07-00-05-023.000 for a fence with removable panels. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Woodside at West Clay Arm filed by Susan Reid and Anne Roberts for parcel #17-09-21-00-23-023.000 for a fence with removable panels on north and south side. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Village of West Clay Drain filed by Teisha Smith-Harrison and Ryan Kennedy for parcel #17-09-33-01-03-025.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Preserve at Bear Creek Arm filed by Steven and Tamika Zapolski for parcel #17-09-19-00-10-013.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Ridge at Flat Fork Arm filed by Robert and Rosa Clark for parcel #13-16-05-00-03-031.000 for a fence. The Surveyor's Office recommends approval.

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

Violation Update - Wheeler & Wheeler Drain, Arbor Grove Arm:

Liston presented his report to the Board for their information.

"January 7, 2020

TO: Hamilton County Drainage Board

**RE: Wheeler & Wheeler Drain, Arbor Grove Arm
VIO-2019-00002**

The Hamilton County Surveyor's Office rescinds the Notice of Violation issued to Arbor Grove HOA on October 23, 2019.

All grass clippings and debris has been removed from the Wheeler & Wheeler regulated drain easement. The work was inspected by the office on December 27, 2019 and found to be complete and acceptable.

Hamilton County Drainage Board
January 13, 2020

Should you have any questions please contact my inspector, Mr. Jerry L. Liston, at 317-776-8495.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

CC: City of Noblesville Planning
Arbor Grove HOA"

Violation Update - F. M. Musselman Drain, Braswell Violation:

Liston presented his report to the Board for their information.

"January 7, 2020

TO: Hamilton County Drainage Board

**RE: F. M. Musselman Drain, Braswell Violation
VIO-2019-00003**

The Hamilton County Surveyor's Office rescinds the Notice of Violation issued to Thomas and Michelle Braswell on October 24, 2019.

All fill material has been removed from the F. M. Musselman regulated drain easement and floodplain. The work was inspected by the office on December 27, 2019 and found to be complete and acceptable.

Should you have any questions please contact my inspector, Mr. Jerry L. Liston, at 317-776-8495.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

CC: City of Noblesville Planning
Thomas & Michelle Braswell"

Government Liability & Climate Change:

Altman asked does anybody know what group sponsored this report? Is this someone's agenda item?

Duncan stated I don't know.

Altman stated I think maybe we ought to find that out. I was looking through it and I couldn't figure out whether it was more political or whether it was true science. I think we ought to know who's sending stuff out. It's dated April of 2016. Did this just happen to appear? Where did it come from?

Duncan stated it was about a month ago or maybe less than that.

Altman stated we might want to dig in a little deeper. It may be purely factual and science and that's wonderful, but if it is a special interest group, I think we ought to be aware of what's going on.

Howard asked if we have something like that, we put on should we put who authored it?

Altman stated the author is on here, but it has the support from the McKnight Foundation in collaboration with the Association of State Wetlands Managers so it may be perfectly fine, but I think we ought to vet things before we put them in the record.

Howard stated I wouldn't want it to be said that we somehow ratified some position because it was in our record.

Altman stated I don't know anything about the McKnight Foundation.

Surety Acceptance:

Liston stated that at this afternoons Commissioner's meeting the Board would be accepting the following surety: Subdivision Improvements Performance Bond No. 3085887 in the amount of \$48,675.61 for Emory Trace Section 1, Stephens & Clark Drain, George Stephens No. 2 Arm Reconstruction.

Surety Release:

Liston stated that at this afternoons Commissioner's meeting the Board would be releasing the following sureties: Subdivision Performance Bond No. 1133427 in the amount of \$105,619.20 for Waterfront of West Clay Section 2C, Storm Sewers; Subdivision Performance Bond No. 1133427 in the amount of \$105,619.20 for Waterfront of West Clay Section 2C, Storm Sewers **(Rider changing Obligee name from Hamilton County Drainage Board to Hamilton County Board of Commissioners)**; Performance Bond No. 014208780 in the amount of \$196,629.00 for Shelby Materials, Reconstruction of the Johnson & Gardner Arm 1 of Arm 2 Drain; Subdivision Bond No. SU1153392 in the amount of \$26,056.26 for McCord Pointe Section 1A, Springs of Cambridge/Bee Camp Creek Offsite Ditch Improvements.

Construction Updates:

Anchorage Drain, Reconstruction of a Portion of Section 1 - Liston stated the contractor has all the pipe in and the structures. I plan on going down there this afternoon to see how the system handled the water over the weekend. I was told this morning that Fishers had about 4.5 inches of rain over the weekend.

Altman asked what stage of completion?

Heirbrandt stated there was some ponding of water, but in all fairness, I don't think some of that area has been graded.

Liston stated right.

Duncan stated the finish grading hasn't been done.

Heirbrandt asked did you reply back to him because of his question that he brought with the pictures? There was a gentleman that sent an email saying I think that your design is not working real well because it looks like there's ponding.

Altman stated no, he said it *wouldn't* work.

Duncan stated he's always said that. He's the one that stopped the project and his contention has been all along that since the pipe doesn't go outside the easement to drain the low points of the yard that it's not going to work. It will work when it gets graded out and the people are going to have to put their own drains in and connect.

Heirbrandt stated one property owner is already in the process of doing it.

Duncan stated the grading is not done and all the erosion and sediment control measures are still in place which will prohibit the water from getting in there. That's why I would be curious to see today when Jerry goes out there. If the water has gone down that would be fantastic because that means it's made it through.

Heirbrandt asked Liston, are you going to take a look at that today?

Liston stated yes, this afternoon. Also, we found during the process there was a couple of self-inflicted wounds that had caused some problems out there too. One being on the extreme west end a property owner with a two-inch PVC pipe that was pumping into an area and then we also learned during the process and this did not come up in any of the meetings we had that one property owner in the last three to five years had brought in about 20 loads of dirt to build his property up and that never came out in any of our meetings. I'll go out this afternoon and see what's happening.

Ellis Barker Drain Reconstruction - Cline stated the dipping of the open ditch and the construction of the new open ditch have been completed. As of last Thursday, they have put in approximately 550 feet of the reinforced concrete pipe.

William Krause Drain Reconstruction Phase 3 - Conover stated this project is still under construction. We ran into an unknown storm drain last week and we will have to run a camera in that to see where that goes and determine how we are going to deal with that in conjunction with the drain we're installing.

Thistlewaite Drain, California Street Arm Extension - Conover stated we're waiting on weather to break on this project. They have to put in the new curb that the Board had approved.

William Krause Drain Reconstruction Phase 1 (Pending Asbuilts) - Conover stated we're still waiting on asbuilts for this project.

William Krause Drain Reconstruction Phase 2 (Pending Asbuilts) - Conover stated we're still waiting on asbuilts for this project.

Benton Hinesley Drain, Grass Waterway (Pending Asbuilts) - Conover stated we're still waiting on asbuilts for this project.

Thorpe Creek Drain, Martha Ford Arm Relocation (Pending Asbuilts) - Liston stated this project is complete and we're waiting on asbuilts.

Thorpe Creek Drain, John Underwood Arm Reconstruction (Pending Asbuilts) - Liston stated this project is complete and we're waiting on asbuilts.

Budget & Permit Update:

Duncan presented the budget and permit update to the Board for their information.

Amend Agenda:

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

Williams Creek Drain, Centennial Section 3 Arm:

Heirbrandt stated a property owner at 15239 Declaration Drive in Westfield; would you give the Board an update of the conditions and what's going on there?

Conover stated we have a property owner that's having some flooding issues at the back of her property. It started as a private drainage complaint. I went out and looked at it and found that the development plan indicated there should have been a subsurface drain behind the property. I couldn't find any indication of that. Further investigation found that the final report where the Surveyor's report to the Board on Section 3 of Centennial called out that there was to be subsurface drain installed at that location. I couldn't find any. The final report from the Surveyor to the Board called out some changes and the deletion of those subsurface drains were not included in the changes. At this time, I think that the Board, if they wish would be able to have this installed through maintenance since the record actually said that there should be a drain there.

Howard stated I talked to the Surveyor on this and made sure that all of the work and the access, etc. would be done through our already platted easements. It looks like it was an oversight during the inspection phase of this property. I think there is a problem with maybe this property and I don't know whether its this one or one of the other ones near it had put a mound up, another self-inflicted wound, but the Surveyor recommended that he be authorized to have a maintenance contractor go out and install the missing drain.

Dillinger made the motion to authorize the Surveyor to have a maintenance contractor go out to 15239 Declaration Drive in Centennial Section 3 and have one of the Board's maintenance contractors install the missing drain, seconded by Altman.

Altman asked when we go through inspections do we check all that stuff? How involved do we get in that process?

Conover stated usually we inspect that. I think in Centennial, we've ran into this in another area in Section 3; this is where the subsurface drains under the road were not taken by the county and there was some back and forth between the City of Westfield and the Drainage Board because Westfield wanted street trees in this subdivision. We deleted the subsurface drains under the streets from the regulated drain portion and I think in this section they misinterpreted that as all the subsurface drains in the subdivision were not going to be regulated. We found out later that the rear yard subsurface drains were going to be part of the regulated drain and the curb subsurface drains were not.

Altman stated it still goes back to inspection because if we inspected them we should note what's missing and then put those notes of missing stuff on the performance bond so we don't release performance bonds. I guess I'm trying to figure out a method where we or the maintenance people get stuck with this when it really is a developer cost.

Howard stated I would agree, but it sounds like there was some misunderstanding throughout the deal and somehow it fell through the cracks on the non-road surface drains. How long ago was this?

Conover stated I think 17 years ago, 2002 to 2003.

Altman stated I remember when I first came on we had big discussions about street trees because they clog up everything. Then we went to a double wall pipe and we find that they're still clogging up everything.

Duncan stated I know from our inspection standpoint this is definitely an exception and not the rule.

Altman stated there's some way if you note things because it sounds like they were noted in the inspection process we have to tie that to the bond and just put a note in the bond folder so we know not to allow it to be released until we reinspect.

Howard stated I know that's supposedly been the process but evidently for some reason it fell through the cracks.

Altman stated things happen, but if we could just have a normal SOP on it.

Duncan stated normally we will not release the bond or recommend that it be released until everything is done.

The motion had been made and seconded to authorize the Surveyor to have a maintenance contractor go out to 15239 Declaration Drive in Centennial Section 3 and have one of the Board's maintenance contractors install the missing drain and approved unanimously.

Drainage Board Attorney (Pending Items):

Heirbrandt asked Howard for any updates?

Howard stated the Surveyor and I met and went through a whole list of things and I haven't had time to see if some of them were on my list.

Altman stated we're waiting on the ordinance on fines.

Howard stated I've made some changes to that and got them to the Surveyor and he thought we would use another thing of the ordinance. I looked at that Friday afternoon and he wasn't available. It's there, just a couple of minor things.

Bellwood Drain, Glen Oaks Arm - Konow Property:

Heirbrandt stated I talked to Christopher Konow on Saturday and told him I was thinking about him and what was going on with his situation. He said the improvements we have done so far if we wouldn't have done those he would have had five feet of water in his basement. There is a phase 2 obviously that they petitioned for that he needs further improvement on. He said I'm lucky I didn't get any water in my basement. He put sandbags up, but the sooner you can expedite that the better.

Duncan stated the last time the Surveyor and I talked he was considering, because of the workload, that he may consider hiring that out.

Heirbrandt stated I would like you to figure that out and see what we can do to expedite that.

Martha Darrah Drain - Chance Property:

Heirbrandt stated he received an email from Bob Davis from the Highway Department that they had put some stone up against the inlet and outlet. I did email the Chances and asked them how they were able to handle the rain this weekend, but I have not gotten a response back.

Overman-Harvey Drain - Village Farms Pond:

Howard stated one of the things the Surveyor and I talked about was the Village Farms Pond. Did he talk to you about that?

Heirbrandt stated he has not, I've been asking him about it.

Howard stated he's going to have one of our consultants go out there and shoot that dam. He believes there is a high probability that the elevation of that dam or the emergency spillway have been raised. Depending on what happens from there obviously that makes the upstream water level a little higher than would otherwise be acceptable. That might be a lot easier fix than we think.

Altman asked do we have any idea who? One of the bigger ponds?

Heirbrandt stated it's on the bigger pond where it floods, but there's always been that speculation that the dam was raised years ago and that the Homeowners Association did it.

Howard stated it sounded amazingly like our friends in Windemere.

Heirbrandt stated they didn't like the level where it was at so they took things into their own hands did some modifications. We're in the process of trying to find out whether that happened or not.

Senate Bill No. 229:

Heirbrandt stated Senate Bill No. 229 just passed out of Committee with a "Do Pass" recommendation.

Altman asked which one is that?

Heirbrandt stated that's where the Surveyor was at.

Howard asked was that for the wetlands?

Heirbrandt stated yes.

Altman stated once a regulated drain, always a regulated drain.

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

Mark Heirbrandt - President

Lynette Mosbaugh
Executive Secretary

Hamilton County Drainage Board
January 13, 2020