

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

January 25, 2021

The meeting was called to order Monday, January 25, 2021 at 9:02 a.m.

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

Approval of Minutes of January 11, 2021:

The minutes of January 11, 2021 were presented to the Board for approval.

Heirbrandt made the motion to approve the minutes of January 11, 2021, seconded by Altman and approved unanimously.

Mallery-Granger Drain Reconstruction:

There were six objections on file. Mr. Roy Wallace, Ms. Karla Wallace, Mr. Mark Reiger, Mr. John Green, Mr. Sandy Snodgrass, Ms. Judith Snodgrass, Mr. Daniel Church, Ms. Robin Phelps, Mr. Zach Ortman and Ms. Regina Blackwell were present for this hearing.

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

"November 30, 2020

TO: Hamilton County Drainage Board

RE: Mallery-Granger Drain Reconstruction

Attached is a drainage map, drainage shed map and schedule of assessments for the reconstruction of the Mallery-Granger Drain. The Mallery-Granger Drain is currently listed as Number 3 on the 2020 Classification List as being in need of reconstruction.

The Drainage Area of the Mallery-Granger Drain covers a portion of Section 12, Township 19 North, Range 4 East, of Jackson Township and portions of Sections 13, 14, 23, 24, 25 & 26 of Township 19 North, Range 4 East, of Noblesville Township. The total watershed for the drain is approximately 1,110.98-acres and 162-lots.

The Mallery Granger Drain consists of the Mallery Granger Drain, Arm 1, the North Arm, the Feather Cove Arm, the John Deere Arm, and the State Road 19 Extension Arm.

The Mallery-Granger Regulated Drain is an open ditch that starts approximately 623-feet west of SR 19 and approximately 2,680-feet south of 206th Street. The drain then runs west and crosses under James Road after which the drain turns south and continues generally to the south and crossing under 196th Street to where it ends on the Fox Prairie Golf Course property approximately 560-feet south of 196th Street. The Mallery Granger ditch continues as an unregulated drain to State Road 19 where the ditch again becomes a regulated drain as described below.

Arm 1 of the Mallery Granger Drain begins at 216th Street approximately 1,783-feet east of Hague Road and generally drains south crossing under James Road twice, then under 206th Street and then under James Road a third time before discharging to the main ditch at approximate Station 29+89 of the main ditch.

The North Arm of the Mallery Granger Drain starts at the intersection of Hague Road and Carrigan Road, flows easterly and discharges to Arm 1 of the Mallery Granger Drain.

The Feather Cove Arm of the Mallery Granger Drain drains the Feather Cover Development on the west side of Hague Road. The Arm drains north along the west side of Hague Road and then drains east crossing under Hague Road and discharging to the main ditch.

The John Deere Arm of the Mallery Granger Drain runs along the eastern edge of the Morse Lake Industrial Park, LLC property. The drain is an open ditch that discharges to the Feather Cove Arm of the Mallery Granger Drain.

A Surveyors Report dated September 24, 2009 for the Mallery Granger Drain State Road 19 Extension was presented to the Drainage Board at the meeting of November 23, 2009. This Drain is within the channel of the existing Mallery Granger drain between State Road 19 and the White River that was not part of the regulated drain system. The drain was established at the meeting. [See Hamilton County Drainage Board Minute Book 12, pages 331-332].

HISTORY

The Mallery-Granger Drain was constructed by order of the Hamilton County Circuit Court in 1881. (Order Book 4, pages 545-553). The original drain consisted of a main drain and three (3) arms. Over the years since originally constructed the drain was altered several times. The first was by the construction of the Indiana Filler Drain constructed in 1915 which replaced Arm 2 of the drain. The second was in 1928-1930 when the construction of the County-McMahon Drain replaced the first 663 feet of the main drain and Arm 3. The Mallery-Granger Drain was dredged by order of the Hamilton County Commissioners in 1917. The drain was last dredged in 1955 by order of the Hamilton County Circuit Court (see Hamilton County Drainage Board Minutes Book 14, pages 387-395).

The Mallery-Granger Drain, North Arm was petitioned on February 21, 1995 by the City of Noblesville. The drain was described in a report to the Board dated June 7, 1999 and approved by the Board on June 28, 1999 (see Hamilton County Drainage Board Minutes Book 5, page 169 to 172).

The Feather Cover Arm of the Mallery-Granger Drain was petitioned by Community Development II, Inc. The drain was outlined in a report to the Board dated July 14, 2000 and was approved by the Board at hearing on August 28, 2000 (see Hamilton County Drainage Board Minute Book 5, pages 423-425).

The John Deer Arm of the Mallery-Granger Drain was petitioned by Morse Lake Industrial Park, LLC to regulate a portion of open drain along the east property lines of Tract 11-06-24-00-00-024.000 and Tract 11-06-24-00-00-024.002. This open drain outlets into the existing Feather Cove Arm of the Mallery-Granger Drain and is described in a report to the Board dated March 18, 2005 and approved by the Board at hearing on May 23, 2005 (see Hamilton County Drainage Board Minutes Book 8, pages 316-317).

The Mallery Granger Drain was placed on maintenance during the November 28, 2012 meeting of the Drainage Board (see Hamilton County Drainage Board Minutes Book 14, pages 387-395). The main ditch located east of the Nickel Plate Railroad is under maintenance as part of the County McMahon Drain.

A contract with VS Engineering to develop construction plans for the dredging of the entire length of Arm 1, and the Main Drain from the rail line at approximately station 18+69 to the end at Station 66+00 was approved on January 12, 2015. [See Hamilton County Drainage Board Meeting Minutes Book 16, pages 79-80].

A Public Information Meeting was held on December 13th, 2016 where the proposed plans to improve the ditch were presented to the affected property owners. At the meeting the general opinion of the property owners in attendance was that the project was not needed. However, after the meeting a few property owners not wanting to speak up for it at the meeting did state that they believed there was a need for the project. The plans have been revised to reflect pertinent comments regarding the design.

The following drain complaints and work orders are on file at the Hamilton County Surveyor's Office. To date, all the work orders have been addressed or completed.

Landowner (at time of complaint)	Date	Complaint
Blackwell, Regina R	1/28/2005	Culvert under drive is rusted through
Noblesville Multi School Building Corporation	9/5/2007	Erosion into drain
Church, Manson E	9/5/2007	Sediment
Hamman, Sean & Janice	6/29/2010	Sink hole
Gollner, Michael E & Teri J	3/13/2012	Clogged on east side of ditch
Crystal Lake Homeowners Assoc Inc	5/3/2013	Hole at inlet
Heinzman, Edward C	6/2/2016	Trees down in ditch near road
Bozell, David R & Rachel C	11/15/2017	Tree down between Noblesville West Middle School & Bozell property
Bozell, David R & Rachel C	4/11/2018	Water coming from the East
Minniear, Robert E	5/16/2018	Small hole over SSD at box structure

MAINTANANCE

The maintenance assessment rates were last revised for the 2013 collections. The current rates are as follows:

1. Maintenance assessments for platted residential / agricultural tracts set at \$4.00 per acre with \$15.00 minimum.
2. 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 shall be assessed at \$5.00 per acre with a \$35.00 minimum.
3. 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 shall be set at \$10.00 per acre with a \$65.00 minimum.

4. Maintenance assessment for commercial, institutional and multi-family residential tracts to be set at \$10.00 per acre with a \$75.00 minimum.
5. Maintenance assessment for roads and street be set at \$10.00 per acre.

With above rates the drain collects \$16,280.54 annually.

I recommend the rates be increased to the following rates:

1. Maintenance assessment for agricultural tracts be set at \$5.00 per acre with a \$35.00 minimum.
2. Maintenance assessment for non-platted residential tracts be set at \$5.00 per acre with a \$35.00 minimum.
3. Maintenance assessments for platted lots in subdivisions whose drainage system will not be part of the regulated drain shall be set at \$45.00 per lot/minimum. Common areas within the non-regulated drain subdivisions shall be assessed at \$6.00 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 shall be set at \$75.00 per lot/minimum. Common areas within the regulated drain subdivisions shall be 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 \$20.00 per acre with a \$90.00 minimum.
6. Maintenance assessment for roads and streets be set a \$25.00 per acre.

With above rates the drain will collect \$23,887.06 annually. These collections rates will begin in May 2021.

EXISTING CONDITIONS

The Surveyors Report dated September 28, 2012 and presented to the Drainage Board at the meeting of November 26, 2012 stated the following:

"Although the Mallery-Granger Drain is on the reconstruction list, I am recommending that it be placed on maintenance at this time. The drain shall remain on the reconstruction list until plans can be finalized and a reconstruction hearing held to reconstruct the drain. By placing the drain on maintenance at this time when the reconstruction plans are prepared the Board can utilize up to 75% of that fund under IC 36-9-27-45.5 to offset reconstruction costs.

At this time the open ditch is heavily overgrown and is need of clearing. The drain is susceptible to jams caused by debris which cases backwater and localized flooding. It is possible for large woody debris to collect on road crossings. This creates a threat to the bridge/culvert structure and can redirect flow causing erosion."

These conditions still remain.

Additionally, the report states the following:

"Although not specifically noted in the NPDES Phase II General Permit Application, Storm Water Quality Management Plan Part C: Program Implementation Report, The Mallery-Granger Drain is within the drainage shed for the White River which is identified on Page 2 of the report as an MS4 receiving stream.

The Mallery-Granger Drain is mentioned in the NPDES Phase II General Permit Application Storm Water Quality Management Plan Part B: Baseline Characterization Report. The drain is listed on the following pages of this report:

- Page 7 as #05120201070030 Watershed within the MS4 Area.
- Page 16 as being an impaired waterbody due to E. Coli.
- Page 32 as being a priority watershed.
- Page 44 as being a priority watershed due to multiple impairments and as a recreational watershed.

This drain is listed on the 2012 303(d) List of Impaired Waters for Indiana on pages 130 and 246. The impairment listed is for E. Coli." (see Hamilton County Drainage Board Minutes Book 14, pages 387-395)

The total current watershed length of the drain is 27,585-feet.

The open ditch portion of the drain was inspected visually in December 2014. The inspection identified that the open ditch portion of the drain is heavily overgrown with vegetation and has a high amount of accumulated sediment in the channel. This sediment compromises both the hydraulic capacity of the road crossings and the ability to effectively drain the root zone of the adjacent agricultural lands. An adequately drained root zone relieves stress on plants and also provides aeration to the root system, which potentially increases production/yield of the acreage.

RECONSTRUCTION PROJECT

The project was designed by VS Engineering.

The project lies with Sections 13, 24 and 25 of Township 19 North Range 4 East in Noblesville Township and is located within the Mallery Granger Watershed. The project comprises the reconstruction of the entire Arm 1 between Stations 0+00 and 86+60 and the portion of the Main Drain between Stations 18+69 (approximately) and 66+00. The total length of the Drain to be dredged is 13,391-feet. The project consists of the widening and lowering of the open ditch to restore the capacity of the open ditch.

The Main Drain between Stations 6+23 and 18+69, the North Arm, the Feather Cove Arm, the John Deere Arm, and the State Road 19 Extension Arm are not included in this project.

Arm 1 begins at the north line of the Northwest ¼ of Section 13 (at 216th Street) and continues downstream generally south and generally along the half section line through Section 13 and Section 24 to the confluence with the Main Drain in the Southeast ¼ of the Northwest ¼ of Section 24.

The portion of the Main Drain to be dredged is from the western side of the railroad (at approximately Station 18+69 of the Main Drain) to Station 66+00 of the Main Drain, approximately 560-feet south of 196th Street. The portion to be dredged starts approximately in the Southwest ¼ of the Northeast ¼ of Section 24 and runs west and then south through Section 24 to the Northwest ¼ of Section 25.

The field surveyed length from the VS constructions plans dated January 31, 2018 is 8,817-feet for Arm 1 and 4,822-feet for the portion of the Main Drain for a total length of 13,639-feet. This distance is 248-feet longer than the total distance noted above based on the historic stationing. This distance of 248-feet represents a 1.85% difference and is considered negligible for the purposes of this report.

A new channel was recommended for the entire length of the project. The recommended bottom width of the new channel was 4-feet.

The side slopes of the new channel in all segments is 2-foot horizontal for each 1-foot vertical.

Due to the existing elevation of the open ditch being below the proposed elevation of the open ditch, there will be no channel work on Arm 1 between Stations 43+18 and 43+78, 46+42 and 47+36, and 48+20 and 56+39.5.

The project includes the replacement of a drive crossing, the replacement of 4 road crossings, the extension of 39 private tile outlets, the installation of 18 surface water pipes, and the installation of rip-rap armoring at various locations and bends along the open ditch. The existing 42" CMP crossing of the Main drain at James Road and the bridge crossing at 196th Street will remain in-place. Each of the five crossings to be reconstructed are being lowered to match the proposed flow line and are being increased in size.

The existing 24" CMP under 211th Street at Station 30+56 of Arm 1 will be removed and replaced with a 48" CMP. The existing 48" CMP under James Road at Station 56+60 of Arm 1 will be removed and replaced with a 38" x 60" CMP. The existing 60" CMP under 206th Street at Station 58+42 of Arm 1 will be removed and replaced with a 60" CMP. The existing 60" CMP under an existing driveway at Station 72+82 of Arm 1 will be removed and replaced with a 60" CMP. The existing 48" CMP under James Road at Station 75+49 of Arm 1 will be removed and replaced with a 60" CMP.

The project will include tree removal and clearing of debris. 75-foot conservation clearing will take place to facilitate an operational side for equipment access for the project and for future maintenance. The operational side will also be planted with a 20-foot filter strip. The operational side is outlined below.

The operational side for Arm 1 between Stations 0+00 and 30+56 and between Stations 58+42 and 87+75 will be on the west bank.

The operational side for Arm 1 between Stations 30+56 and 58+42 will be on the east bank.

The operational side for the Main Drain will be on the north/west bank between Stations 18+91 and 66+00.

FILTER STRIPS

In order to protect the drain from siltation, I recommend that a twenty (20) foot filter strip be installed and established on the operational side of the Mallery Granger open ditch. The work shall include the installation of filter strip markers. The side of the open ditch and the parcel across which the filter strip will be installed is as follows:

West Bank of the Drain

10-06-13-00-00-002.004	Green, John W. & Linda M.
10-06-13-00-00-018.000	Fortgang, Ronald & Delibero, Renee; jt/rs
10-06-13-00-00-018.001	Breining, Michael
10-06-24-00-00-003.001	Carnevale Family Rev Trust
10-06-24-00-00-013.504	Blackwell, Regina R.
10-06-24-00-00-001.000	Cruzan II, Robt (1/2int);

	Bloehs, Angela (1/4 int); Coletto, Scott (1/4 int)
10-06-24-00-00-021.000	Noblesville Multi School Building Corp.
10-06-24-00-00-015.003	Hoover, Chalmer & Andrea
10-06-24-00-00-015.004	McCarty, John & Linda

East Bank of the Drain

10-06-13-00-00-019.000	RCM Farms, LLC
10-06-13-00-00-020.000	RCM Farms, LLC
10-06-13-00-00-015.000	Russel, Lawrence A. & Geraldine A.

North Bank of the Drain

10-06-24-00-02-001.000	Reiger, Mark A. & Ashley C.
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EASEMENTS

The drain is being reconstructed in place. As currently designed, the reconstruction of this drain will not require acquisition of new easement. All work will occur within the existing 75-foot easement from the top of bank per IC 36-9-27-33.

PERMITS

Permits have not yet been submitted for this project.

CHANGES TO THE DRAIN

There are no changes proposed to the length of the Drain.

QUANTITIES & COST ESTIMATE

VS Engineering, Inc., was hired by approval of a Professional Services Agreement for Survey and Design in the amount of \$42,750.00 on January 26, 2015 per Hamilton County Drainage Board Book 16 Page 96. This Contract was paid from the Mallery Granger Shed Maintenance Fund and this amount will be repaid when settlement from the reconstruction assessments are received. VS Engineering will also be hired to provide Professional Survey Services for Construction Staking, Periodic Elevation Checks, and As-Built drawings if the reconstruction project is approved.

The construction cost estimate for the project is outlined in detail as follows:

Regulated Drain Work				
Item Description	Quantity	Unit	Unit Cost	Total Cost
12" CMP Surface Drains	18	EA	\$2,250.00	\$40,500.00
Tile Outlets	39	EA	\$ 450.00	\$17,550.00
Rip Rap, Revetment	5,100	TON	\$ 45.00	\$229,500.00
Dredging	13,639	LFT	\$ 16.00	\$218,224.00
Restoration and Mulched Seeding	35,100	SYS	\$2.25	\$78,975.00
60" CMP; Drive Crossing [Arm 1 Sta: 72+82]	19	LFT	\$534.00	\$10,146.00
Compacted #53 Stone	13	TON	\$34.00	\$442.00
60" End Section	2	EA	\$6,074.00	\$12,148.00
Pavement Restoration	100	SYS	\$91.00	\$9,100.00
Erosion Control	1	LS	\$30,371.00	\$30,371.00
Clearing	10	ACRES	\$3,515.00	\$35,150.00
Maintenance of Traffic	1	LS	\$6,974.00	\$6,974.00
Subtotal				\$689,080.00
15% Contingency				\$103,362.00
<i>Reconstruction Total</i>				<i>\$792,442.00</i>

City of Noblesville Work				
Item Description	Quantity	Unit	Unit Cost	Total Cost
Scour Protection [196th Street]	1	LS	\$7,593.00	\$7,593.00

Subtotal	\$7,593.00
15% Contingency	\$1,138.95
Total lump sum to City of Noblesville	\$8,731.95

Hamilton County Highway Work				
Item Description	Quantity	Unit	Unit Cost	Total Cost
48" CMP; 211 th Street [Arm 1 Sta: 30+56]	47	LFT	\$382.00	\$17,954.00
48" CMP End Section [211 th Street Culvert at Arm 1 Sta: 30+56]	2	EA	\$ 4,556.00	\$9,112.00
38"x60" CMP; James Road [Arm 1 Sta: 56+60]	41	LFT	\$416.00	\$17,056.00
38" x 60" CMP End Section [James Road Culvert at Arm 1 Sta: 56+60]	2	EA	\$ 6,074.00	\$ 12,148.00
60" CMP; 206 th Street [Arm 1 Sta: 58+42]	50	LFT	\$534.00	\$26,700.00
60" End Section [206 th Street Culvert at Arm 1 Sta: 58+42]	2	EA	\$6,074.00	\$12,148.00
60" CMP; James Road [Arm 1 Sta: 75+49]	34	LFT	\$534.00	\$18,156.00
60" End Section [James Road Culvert at Arm 1 Sta: 75+49]	2	EA	\$6,074.00	\$12,148.00
Compacted #53 Stone	115	TON	\$34.00	\$ 3,910.00
Pavement Restoration	400	SYS	\$91.00	\$36,400.00
Subtotal				\$165,732.00
15% Contingency				\$24,859.80
<i>Total lump sum to County Highway</i>				<i>\$190,591.80</i>

COST SUMMARY

Item Description	Cost
VS Engineering Survey and Design	\$ 42,750.00
VS Engineer Staking and As Built [Estimate]	\$ 40,000.00
Regulated Drain Reconstruction	\$ 792,442.00
City of Noblesville	\$ 8,731.95
Hamilton County Highway	\$190,591.80
<i>Total Project Cost</i>	<i>\$ 1,074,515.75</i>

The total cost of this project is estimated to be \$1,074,515.75.

The cost of the new pipe and culvert work at 276th Street will be paid by the County Highway Department per IC 36-9-27-71. The lump sum cost to be charged to the County Highway will be \$190,591.80. The cost of the scour protection at 196th Street will be paid by the City of Noblesville per IC 36-9-27-71. The lump sum cost to be charged to the City of Noblesville will be \$8,731.95. At this time the maintenance fund has a balance of \$146,335.05. As mentioned above, per IC 36-9-27-45.5, the Board may use up to 75% of the fund to offset reconstruction costs. I recommend the Board utilized \$109,751.00 of the maintenance fund to help offset reconstruction costs. The remaining \$765,441.00 will be spread out to the entire drainage shed. The drainage shed for this reconstruction project is 1,110.98-acres and 162-lots. I have reviewed the benefitted drainage shed and upon considering each parcel individually, I believe each parcel within the drainage shed will have equal benefits as provided by the drain. Therefore, I recommend each tract be assessed on the same basis equally.

I also believe that no damages will result to landowners by reconstruction of this drain. I recommend a reconstruction assessment of \$589.38 per acre with the minimum assessment set at \$589.38.

I recommend that the Board set a hearing for this proposal for January 25, 2021.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor's Office

KCW/pll"

Dillinger stated just as a point for clarification because I've had a couple of questions in emails concerning this where people say "the drain is not even on my property". Under Drainage Law if you're in the drainage shed, whether the drain is on your property or it's not on your property, you are responsible for the maintenance and the reconstruction of that drain. I wanted to make a clarification of that.

The Surveyor stated as I was reading the objections there were a couple of things that stood out that people do not realize. One, Commissioner Dillinger just mentioned that you do not have to have the drain on your property to be assessed. If you are within the drainage shed under Indiana Statute you are determined to be benefitted by that drain and therefore assessed. One question was why are we clearing that particular side and putting the filter strip in on the operational sides? For a reconstruction we look at the side that's the easiest to get to between roads. We do it from road to road, so we do not have to pack the equipment up and go back and forth between sides and that saves costs. This is payable over a five-year period by statute with interest. The Board has from time to time extended that. This is on a drain project by drain project basis and determined by the Board. Also, the interest rate is usually determined by the Board. Maintenance would start in May of 2021 and the reconstruction assessments would start in May of 2022. Also, if there is a drainage problem on your property and you can't get to the ditch because it's not on your property under Section 66 of the Drainage Code you can petition the Board to create an arm to the regulated drain and get drainage for your property then. Those particular items stood out as I was reading the objections.

Howard stated the term "within the drainage shed" was used both by Commissioner Dillinger and the Surveyor and to bring it back to an even more simple term if your surface water goes to that drain directly or indirectly you are considered within the drainage shed and considered to be benefitted by the drain and therefore eligible for assessment.

Dillinger stated I received a couple of emails concerning this and I told the folks that emailed me that we would have an explanation of what was being proposed, why it was being proposed and that you would have a chance to speak and this is going to be your chance to speak. There are certain things the Board has discretion over. One thing that is not debatable is the Statutes under the Drainage Law, which we have to go by. It's not a tax, it's an assessment and those are the drainage laws. We can't do anything about that, that's set by the State.

Dillinger opened the public hearing.

Church stated I'm here seeking clarification as I haven't owned this property very long. You mentioned that it would be a five-year assessment or a five year payout starting in, did you mention May of 2022?

The Surveyor stated yes.

Church asked is there a prescribed interest yet or is that to be determined at a later time?

Heirbrandt stated I think the Statute says 10% but we have the discretion to be able to lower that rate.

Church asked how are the bids solicited to come up with the number for the work in general? Are they taken by specific contractors or how do you come about assessing and determining that number?

Altman stated those are just estimates that we have at this point. Once we determine to go or not go then we'll put a public bid out available to all contractors.

Church stated we don't have a guarantee that this number could be either lower or higher depending upon that bid process.

Altman stated no, we'll find out and some processes we've done we determine to go ahead with reconstruction, but the bids came in too high and we went back to the drawing board.

Howard stated the notice that you have is a not to exceed number. If that doesn't fund the project then we have to re-advertise and start all over, we have to reduce the scope of the project or something has to be done to do that.

Church asked is everybody that's a property owner along this property were they to receive this letter?

Heirbrandt stated yes.

Dillinger stated everyone in the drainage shed.

Church stated my brother, my son and I own this property together and I was the only one of the three of us that received it.

Altman asked are you the one that handles the tax billing?

Church stated I mail in all of our checks.

Altman stated that's probably the address of record.

Howard stated it's the first name on the tax records.

Blackwell stated for fear of sounding completely illiterate or stupid about this I've lived there since 1989 and not one time other than up at the culvert that goes underneath James Road in the front of my property has anyone ever come out there, other than when they did the survey a few years ago, and did anything or looked at anything about my property. Several years ago, I asked about replacement of the drain that goes underneath my driveway and I was told that was not my problem so we just kind of let it go. However, the one time, whoever it was that came out and worked on my property or did anything up toward the front of the road in the 30 plus years that I have been there my property was never flooded, never flooded. It's approximately up toward my house from Center Creek to straight top of the bank on average runs probably eight to ten feet. The water has maybe come up to the top a couple of times in all those years. I try and my son tries to keep the majority of it clean, but wild property like that you're always going to have underbrush and it's difficult to get to. The one time that they came out the first good rain we had I almost lost my bridge, which is the only access back to my property unless I go through my neighbor's front yard. I'm not understanding, I am a wildlife person and I planted every tree in my yard. I try to make it look homey and keep it open for all of the animals and everything that we have around out there. My concern is and please correct me if I'm wrong, does this mean that you will come in and take down all of my trees along my property out there along the creek? Is that what that's going to entail is taking down all of my trees? Those were nothing more than brush when I moved in there 30 years ago and that property means a lot to me. That is my little piece of heaven out there and I try to maintain it. I'm single, I live there alone, I do what I can to take care of it, but when I call and ask for someone to come out and look at something I'm told it's not our problem, it's been in existence for centuries, there's nothing we can do about it. The first good rain that comes along, they came out there, it backed up at the pass; all the brush and stuff that was cut right there at James Road and the culvert that went underneath James Road, the brush and stuff backed up there because it wasn't cleaned out properly. My whole front of my property is under two to three foot of water for the first time in all of the years that I've lived there. Now it's like my part of the creek is reasonably clear. We try to keep it that way and at least try to keep the debris and stuff out. I did not see a sediment problem. It's an aged culvert that my driveway goes across, but because of the water and everything now it's lost its solidity and dexterity so really any time we have any kind of a good rain I'm losing more edges of my driveway. I have put in railroad ties to try to keep it from caving in. I can't remember that storm we had that flooded me, but it washed out several of my railroad ties, it was that deep and that strong of a current that went through there. My main concern, I understand everything about this, I read the entire literature that was given out on the internet. My main concern is loss of my trees. I know that sounds stupid, but that is my main concern. I have fox, I even have a Bald Eagle that has been out there on my property. I've turned my entire backyard into basically an animal sanctuary because I see so many dead things on the road, but it just means so much to me. Maybe it doesn't add value to my property to have those trees. My property was a cornfield. Every tree, I planted over 100 trees on my little 5.5 acres out there and the second part of my complaint part of it is the fact that I gave up 0.4 acres across the front of my property when they installed water and a hydrant and everything. I was excited, that's great, I've got a water hydrant. My house sits 400 feet back off of James Road, the Fire Department said we're not going back there, but I've got a fire hydrant. That's great. I'm the one and I heard what you were saying about my responsibilities. I'm the one that goes out and cleans around the fire hydrant to keep all the weeds and everything down. They put two big access pipes a little ways away where the pipeline actually goes through my property I'm assuming and if it doesn't grow up; that comes as quite a shock when you're flying down through there on a lawn mower and all of a sudden you have pipe sticking up out of the ground. I keep that clean. They took out one of my bushes in order to do the pipe, I didn't say a word. I was happy to get the water through there and the fire hydrant. I don't understand my part of this responsibility. When I bought the property, I remember specifically it said I do not own I believe it's 10 feet either side of the top of the ditch because it belongs to the Mallery-Granger Ditch line. Okay, but that didn't stop me. I still made an attempt to clean out some of the brush and make it presentable and make it part of my home. I hear that now that I pay taxes on it, I'm still paying taxes on the 5.92 acres that I bought even though I've lost, I believe I'm down to 5.6 because of the loss of the front. I work for Noblesville Schools, I'm a school bus driver, I appreciate all of that property out there with tremendous love. My neighbors are great people. I don't understand where my responsibility..

Dillinger stated let me interrupt you. Your responsibility is in the drainage shed. There is a reason your property likely is not flooding and that is because it goes by your property and even though you take care of it the part we're talking about needs to be cleaned out because if we don't do anything I don't care whether you take care of your property or not it's going to back up on you eventually. Am I saying that correctly?

The Surveyor stated yes.

Dillinger asked do you want to address her tree issue?

The Surveyor stated yes, under the Indiana Drainage Code there is a 75-foot easement measured from the top of bank on both sides of the ditch that we have rights to enter on and work in. It's 150 feet plus whatever it is from top of bank to top of bank. That's set up by Statute. What we do during reconstruction is what's called the one side clearing method where we take from the top of bank on the opposite side that we're working from we start at the top of the bank there, we clear that bank, across the ditch, up the other bank and whatever we need on the operation side in order to do the work. That leaves the trees that are on the opposite side of the operation side intact. We do try to take anything that's dead or leaning that will drop in the ditch. We're there, we just go ahead do it, but other than that basically everything from the top of bank back on the non-operational side we keep. Does that help explain?

Blackwell stated yes.

Dillinger stated I'm very familiar with your problem because I used to own the White Farm off of SR 19 and that ditch went right behind my barn. I lost 75 feet on both sides of it too right through my field. I dealt with that ditch myself. Does that answer your questions?

Blackwell stated yes and my last concern would be the cost again. Does that mean I will be responsible to pay for all of this?

Dillinger stated you'll be responsible for paying for your share of whatever's done.

The Surveyor stated I do want to explain one thing also on your private crossing for your driveway. Private crossings, the maintenance of those, are the property owner's responsibility. The road crossings are the responsibility of the owner of that right of way. We will clean it out and so forth if we can, to help with the Highway or the Noblesville Street or whoever's right of way that is.

Dillinger stated what we were explaining before, if you'll notice on here, the Highway Department is assessed so much. Everyone, according to what they own, or control are assessed as a part of that whole including our Highway Department and the Schools.

Blackwell stated okay.

Dillinger asked if anyone else care to address the Board; seeing no one Dillinger closed the public hearing.

Heirbrandt stated this has been an ongoing problem well before I came into office in 2013 when I'm reading through the history of this drain. I've sat down multiple times with the Surveyor specifically on this drain. It's listed as the Number 3 Drain on here and we have a lot of them in the county. I don't know how many actual drains we have. We have a lot of them. This is one that's been set as a priority for several years. It was interesting when I first came into office in 2013 this was on the agenda the first or second meeting that I had, and it was packed in here. A lot of people came up and spoke in opposition of it and then after the meeting there was a whole group of people that didn't say anything at all and then come up afterwards to us and said what are we going to do. All these people are lighting our phones up all the time about all the issues through here. I understand this may not affect your property, but all this Board really does is follow the law and what the Drainage Law states. I understand it's tough, these are trying times right now too and nobody needs any type of assessment on this. The Statute reads that there's a 10% interest rate that's applied to this. I'd really like to see this thing get done. It needs to get done and there's going to be continued water that's going to be added onto this too and people are going to continue to keep flooding. Even though it says five years we can extend this out seven years and we can reduce the interest rate instead of 10% to I would propose 3%. It hits in May of 2022, but I would propose to do something like that to try to help them as much as we can on the pocketbook to even try to get this thing done because it needs to get done.

Heirbrandt made the motion to deny the objections, seconded by Altman.

Dillinger stated unlike Commissioner Heirbrandt I've been here for 32 years, so I've been through all these hearings on this and the trials and tribulations and like I said I owned five acres of the little horse farm so I'm very familiar with it. I agree with Commissioner Heirbrandt this really, really needs to be done.

The motion was made and seconded to deny the objections and approved unanimously.

Altman stated the area benefitted, is that going to open up for development or not? I can't tell from the aeriels what the potential is for the area benefitted.

Heirbrandt stated I think it could.

The Surveyor stated there is one tract owned by Cruzan that's been for sale 30 years and I would assume that sooner or later since it's got water, I don't know about sewer.

Howard stated sanitary is the problem because if it goes to Cicero as we know Cicero's plant is just about at capacity. They're talking about expanding the plant, but I'm not sure...

Heirbrandt stated they are, they've already approved the expansion of the wastewater treatment plant. They've already purchased property and they are going to expand it. That's already in the process.

The Surveyor stated but that's not until 2023 I think.

Heirbrandt stated in the next year.

Altman stated my point is sometimes when we do improvements and then we foresee developers will benefit we structure the deal a little differently.

Howard stated with an Urban Assessment.

Altman stated correct.

Howard stated and that could be a way to adjust it, but you still don't if it is going to; you could make it an Urban Assessment but usually in that situation you have enough to fund the project, it's just a question of whether or not you raise the assessment down the road. That could happen in this case, like you say it's Cicero, but south of 196th Street it's Noblesville and I don't know whether there's capacity in that sanitary because I think that watershed goes towards the river and Noblesville has not come across the river that far north.

The Surveyor stated the other tract that I've heard that is going to have development is the tract from Graystone Village over to the railroad north of 216th Street in Cicero, but that can't happen until Cicero has their plant expanded.

Altman asked but it's in this drainage shed, correct?

The Surveyor stated yes, a portion of it is.

Altman stated I know this area has been problematic since I sat on this Board and developers have been pushed back because there's lack of capacity. So, I don't know whether this expands the capacity sufficiently to avoid that issue and if so, I really think we need to consider an Urban Drain structure.

Heirbrandt stated I agree, and it needs to be passed onto the developer.

The Surveyor stated under the Statute the Urban Drain, what that allows you to do is take that assessment from the five years to 20 years.

Altman stated that may be expanding out the payout so the people who may wish to sell for development can hold off on what they're paying until that happens.

The Surveyor stated they would still be responsible for payment up to that point.

Altman stated correct, but you've stretched it out and if they adjust the interest rate then it's not onerous on the current owners. It's just an idea.

Howard stated the question is what's in GDIF (General Drain Improvement Fund) for available cash because you start deferring this out 20 years then somewhere in your drainage fund you've got to carry; somebody's going to have to carry that loan.

Altman stated but we're looking at the refinance of the bonds to put infused monies that we've borrowed for Highway back into GDIF.

Howard stated you're right, \$10.5 million.

Altman stated so I think we would have sufficient funding to do that.

The Surveyor asked Howard, was that GDIF or maintenance?

Howard stated I don't know where they borrowed those funds.

Heirbrandt stated it was from maintenance from what I remember.

Howard stated the funds that were loaned were loaned to Highway for 146th Street West. The balance on that is about \$10.5 million and we're looking at probably \$2,000,000.00 of that being paid in the next 120 days and then the rest of it will continue to come in and it will pay out over the next seven or eight years.

Dillinger stated just for clarification for those of you who may be a little confused with this. The purpose of this reconstruction and maintenance had nothing to do with the development. What Commissioner Altman has brought up is if there is in fact some development that is interested in this, we could perhaps take a little different avenue towards this.

Altman stated on repayment.

Dillinger stated on financing.

Altman stated the length of time you all would have to repay could be extended out further than the five to seven years to allow you to consider what you want to do with your property long term if you view your property that's prime for sale for redevelopment then you might want to push off the repayment and let the guy who buys it pay this off.

Howard stated and at 3% you may want to take a longer payout no matter what.

Dillinger stated again, this had nothing to do, the project itself had nothing to do with development.

Altman stated yes, we just have certain techniques we can do to in certain circumstances to reduce the immediate burden on the properties.

Dillinger stated we would like nothing better if there was going to be a development to be able to assess that development their fair share and lower your share. That's what we would like to do if that in fact is what's going to happen, but we don't know that's what's going to happen.

The Surveyor stated all we've heard are rumors at this point.

Howard stated Heirbrandt has sat in meetings with the Cicero people on wholly unrelated issue concerning expansion of the plant and I think but for; I think that Cicero has more platted lots now than they have capacity for the sewer system. They're going to have grow or die.

Heirbrandt stated I think they're going to grow because with 236th Street and that interchange happening at U.S. 31 and the expansion of the plant. That's what I see happening.

Altman stated clarification on process. Today if we choose to move along, do we have to establish the means and manner of repayment or can that be deferred to a following meeting?

Howard stated you can defer it to a following meeting, and you do not have to re-notice the public hearing as long as the cost or the terms of the cost, which right now are in media assessment. So as long as the people in the watershed have a lesser impact you can table it, move forward, maybe set a date for those that are interested, but you do not have to re-notice a public hearing.

Altman asked is it a tabling of the entire process or can we proceed and determine to reconstruct and table the portion on interest rates and repayment terms because that's really what we're looking at.

Howard stated I think you're going to have to have a financing plan in place. It's kind of like an appropriation before you go any further with design and bid. If you go ahead and design, there's a risk.

The Surveyor stated we've designed, we're just ready for bid.

Altman stated we're ready to go to bid.

Howard stated I think the financing plan, just like any other project, a contract without funding is void. I think you ought to have a funding plan in place.

Snodgrass stated how do you come up with this 10% interest fee to start with?

Howard stated it's in the Statute, it's in the law.

Snodgrass asked it has to be 10%?

Howard stated no, we can make it less, we can't make it more.

Dillinger stated that's what Commissioner Heirbrandt just said. He would be in favor of trying to lower that maybe to 3%.

Snodgrass with today's times and all this 10% interest that's gone.

Dillinger stated we know.

Howard stated we know, that's why we're looking at 3%.

Dillinger stated we understand that, we're just telling you what the Code says. We can change that.

Snodgrass stated where I live, I see no benefit to this.

Dillinger stated we already had the public hearing and you didn't say anything in the public hearing. That part's shut off.

Heirbrandt made the motion to lower the interest rate from 10% to 3% and also extend it; instead of five years to seven years to help with the burden of the residents.

Altman stated I can't second that because I want to extend the payout longer.

Dillinger stated Heirbrandt's motion dies for lack of a second.

Altman made the motion to propose that we table the project at this hearing so we determine whether we can do an urban assessment in which case we would ask the Surveyor's Office to look at a 20 year repayment option at 3%, seconded by Heirbrandt.

Howard stated for the people out there that may not want to come back would you; I'm just suggesting that maybe you lock in at 3% and the only variable would be the term.

Heirbrandt stated yes.

Altman stated I thought we couldn't proceed. You said that we really couldn't proceed on finalizing anything today.

Howard stated the last gentleman that came up is worried about 10%, you would at least create a comfort level that you're going to look at 3%.

Heirbrandt stated I just want to get the best benefit we can for these people.

Altman made the motion to table this to examine Urban Drain but have a commitment from the Board that we would not exceed 3% interest rate on whatever length of term of repayment we choose.

Dillinger stated there was a second to your motion.

Altman asked would Heirbrandt accept the amendment?

Heirbrandt stated yes.

Dillinger stated we're still in discussion right now. The Surveyor had said before the meeting when I talked to you about this that you were more interested in the maintenance? How does all this fit with what you're technically facing?

The Surveyor stated if we do the maintenance today, we can start collections this year.

Altman stated we can bifurcate the two things. That's all you're asking to do.

The Surveyor stated yes.

Altman withdrew her motion.

Heirbrandt withdrew his second.

Altman made the motion to approve the maintenance schedule requested by the Surveyor's Office as part of this petition, seconded by Heirbrandt and approved unanimously.

Altman made the motion to table the determination of reconstruction to the following Drainage Board meeting of February 8, 2021 to allow the Surveyor's Office to come up with a plan on an Urban Assessment to extend the assessment collection period at a rate not to exceed 3%, seconded by Heirbrandt.

Dillinger asked is there anyone that does not understand what the motion is? This is really, really to your benefit.

The motion had been made and seconded to table the determination of reconstruction to the following Drainage Board meeting of February 8, 2021 to allow the Surveyor's Office to come up with a plan on an Urban Assessment to extend the assessment collection period at a rate not to exceed 3% and approved unanimously.

Altman stated what we determined today is we're going to increase the assessments as petitioned and that's just your maintenance fee. As to the reconstruction, the million-dollar ticket so to speak, we've deferred this to the next meeting of the 8th and asked the Surveyor's Office to determine whether we can extend the payout. If you want to just pay out what's assessed what our timeframe is, we can do that, perhaps up to 20 years, but we have locked in a not to exceed interest rate if you choose to defer your assessment at 3% per annum.

Dillinger stated that's as fair as we can get to you guys.

Altman stated it's the most we can do because we are constrained by Indiana Code and I think this Board will proceed on the reconstruction because it is so badly needed. The no build alternative isn't going to work.

The Surveyor asked if the Board would set the date to receive bids for the second meeting of February?

Heirbrandt made the motion to set the date to receive bids for the Mallery-Granger Drain Reconstruction for February 22, 2021, seconded by Altman and approved unanimously.

**"FINDINGS AND ORDER
CONCERNING THE MAINTENANCE OF THE
Mallery-Granger Drain**

On this **25th day of January, 2021**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Mallery-Granger Drain Reconstruction**.

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

Steven C. Dillinger
President

Christine Altman
Member

Mark Heirbrandt
Member

Attest: Lynette Mosbaugh
Executive Secretary "

Stony Creek Drain - Weaver & Hooke Arm:

There were neither landowner present nor objections on file.

The Surveyor presented his report to the Board for approval.

"December 1, 2020

To: Hamilton County Drainage Board

Re: Stony Creek Drainage Area, Weaver & Hooke Arm

At this time a maintenance work order is being sent out for the dredging of a portion of the open ditch section of the Weaver & Hooke Drain. This section begins at Station 12+43.74 (approximately Station 34+72 of the William Weaver Main Drain per the 1906 description) to Station 40+84.33 (approximately Station 29+98 of the William Weaver Arm 1 per the 1906 description) as shown on the attached plan dated August 28, 2020 prepared by the Hamilton County Surveyor's Office.

In order to protect the drain from siltation I recommend that a twenty (20) foot filter strip be installed on both sides of the Weaver & Hooke Open Ditch on the following tracts:

Irving Materials, Inc.	Tract 12-11-02-00-00-002.000
David & Pamela D. Sweitzer	Tract 12-11-02-00-00-003.000
David & Pamela D. Sweitzer	Tract 12-07-35-00-00-015.000
James R. & Delores L. Galloway	Tract 12-07-35-00-00-014.000
James R. & Delores L. Galloway	Tract 12-11-02-00-00-011.000

The filter strips would be 20 feet in width from the top of bank of the open ditch on both sides of the ditch. They would run from approximately 125 feet west of Pennington Road to approximately 394 feet west of Middletown Avenue.

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

Steven C. Dillinger
PRESIDENT

Christine Altman
Member

Mark Heirbrandt
Member

ATTEST: Lynette Mosbaugh
Executive Secretary "

Mud Creek/Sand Creek Drain, Springdale Estates Arm Partial Vacation:

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for their approval.

"December 8, 2020

To: Hamilton County Drainage Board

Re: Mud Creek- Sand Creek Drainage Area, Springdale Estates Drain Extension, Partial Vacation - Addendum

Thompson Thrift requests to vacate a portion of the Mud Creek - Sand Creek Drainage Area, Springdale Estates Drain Extension. This proposal is to facilitate a re-development project on parcel 15-15-06-00-13-039.000 (The Stations at Fishers District, Lot 40) owned by 116 Stations Fishers IN LLC (Thompson Thrift, developer). Per letter by Adam Fischer of Thompson Thrift dated December 2, 2020, "Upon inspection by the County Surveyor's Office and construction of the proposed development on the site, it was determined that this short 30-ft segment of pipe was no longer needed." Previously, this pipe received storm water from an open ditch that no longer exists. The upstream drainage now is routed to the regulated drain via storm pipe and underground detention.

Per the request, the vacation, if approved, will affect 30' linear feet of regulated drain between the following inlet/manhole structures:

Springdale Estates Extension (2008)

STRUCTURES	LENGTH	SIZE	TYPE
33 - 31	30'	36"	RCP

This vacation will remove 30' from the Mud Creek - Sand Creek, Springdale Estates Drain Extension (2008). It should be noted that this is a partial vacation of the drain. The remaining portion of the drain installed with the 2008 Springdale Estates Extension will remain as regulated drain. The 2008 extension was installed as part of the Kroger Plaza project and is located between the 116th Street right-of-way and Sand Creek.

Springdale Estates Drain was previously inventoried as two separate drains under Drain #347. They were inventoried as follows:

- Mud Creek - Sand Creek Drainage Area, Springdale Estates Arm.
- Mud Creek - Sand Creek Drainage Area, Springdale Estates Drain Extension.

Regarding the historical timeline of this drain, on April 5, 1982 the Board held a hearing to establish the Springdale Estates Drain, per my report dated February 26, 1982, as recorded in Drainage Board Minutes Book 1, pages 467-468. On April 23, 2007, the Springdale Estates Drain was made an arm to the Mud Creek-Sand Creek Drainage Area at public hearing, as per my letter dated March 19, 2007, as recorded in Minutes book 10, pages 220-222. On July 28, 2008, the Board approved the Mud Creek/Sand Creek Drain, Springdale Estates Drain Extension, per my report dated June 6, 2008, as recorded in Minutes Book 11, pages 238-240. On July 10, 2012, the Springdale Estates Drain Reconstruction (2013) was approved by the Board per my report dated November 7, 2012, as recorded in Minutes Book 14, pages 434-436. As noted above, the Board approved a partial vacation (332' of open drain) at public hearing on August 28, 2017 as per my report dated July 21, 2017, as recorded in Minutes Book 17, pages 461-462.

I recommend the Board set a hearing for January 25, 2021 per IC 36-9-27-37.

Sincerely,

Kenton C. Ward
Hamilton County Surveyor

KCW/stc"

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

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

"FINDINGS AND ORDER

CONCERNING THE PARTIAL VACATION OF THE

**Mud Creek/Sand Creek Drainage Area, Springdale Estates Drain Extension
Partial Vacation - Addendum**

Structures 33-31

On this **25th day of January, 2021**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Mud Creek/Sand Creek Drainage Area, Springdale Estates Drain Extension, Partial Vacation - Addendum (Structures 33-31)**.

Evidence has been heard. Objections were presented and considered. The Board then adopted an order of action. The Board now finds that the costs of continued maintenance to the portion of the above drain exceed the benefits to the real estate benefited by the portion of the drain to be abandoned and issues this order vacating the above section of the **Mud Creek/Sand Creek Drainage Area, Springdale Estates Drain Extension, Partial Vacation - Addendum (Structures 33-31)**.

HAMILTON COUNTY DRAINAGE BOARD

Steven C. Dillinger
President

Christine Altman
Member

Mark Heirbrandt
Member

Attest: Lynette Mosbaugh "

Thor Run - Springs of Cambridge/Bee Camp Creek - Drainage Shed Correction:

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"December 21, 2020

To: Hamilton County Drainage Board

Re: Thor Run - Springs of Cambridge/Bee Camp Creek, Drainage Shed Correction, Sanctuary at Steeplechase Section 6

Due to the development of the Sanctuary at Steeplechase Section 6 a revision to the drainage sheds for the above referenced drains are needed. Prior to the development the property drained south into the Springs of Cambridge/Bee Camp Creek Drain. Due to development the property of the drainage has been re-directed to drain north and outlet into the Thor Run Drainage Shed.

The drainage shed needs corrected to change the assessment from the current Springs of Cambridge/Bee Camp Creek Drainage Shed to the Thor Run Drainage Shed. The lots in this subdivision will be assessed at the Un-Regulated Subdivision rate of \$5.00 per acre with a \$35.00 minimum. The road acreage will be assessed at \$10.00 per acre. The total to be collected for this subdivision is \$1,271.30. The first assessment for these lots will be due in the Spring of 2021.

I recommend a hearing be set for January 25, 2021.

Hamilton County Drainage Board
January 25, 2021

Sincerely,

Kenton C. Ward,
Hamilton County Surveyor

KCW/pl1"

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

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

"FINDINGS AND ORDER

CONCERNING THE MAINTENANCE OF THE

**Thor Run - Springs of Cambridge/Bee Camp Creek
Drainage Shed Correction
Sanctuary at Steeplechase Section 6**

On this **25th day of January, 2021**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Thor Run - Springs of Cambridge/Bee Camp Creek, Drainage Shed Correction, Sanctuary at Steeplechase Section 6**.

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

Steven C. Dillinger
President

Christine Altman
Member

Mark Heirbrandt
Member

Attest: Lynette Mosbaugh
Executive Secretary"

George Symonds Drain - Six Points Road Bank Erosion Inspection Report:

Duncan stated the office received an inspection report for an issue on Six Points Road just south of 256th Street on the George Symonds Drain. The project goes back a few years. Erosion of the bank was discussed back in 2014. The flow in the regulated drain is directed right towards the road and it is eroding the bank. If you've driven by there you may have noticed that the guard rail that's in place is kind of leaning towards the creek. At the time the Surveyor's Office recommended that an outside engineer get with the Geotechnical Engineer and look at some options for stabilizing the area. The Highway Department stated they had no immediate plans to improve that section of Six Points Road. We hired Banning Engineering to look at the issue. However, in the interim, we installed some shot rock, we threw some concrete on the bank to stabilize it to limit further erosion until we get that study completed by Banning. The shot rock that was placed in 2014 remains in place. At the end of 2014 Banning had given you the report and recommended redirecting some of the flow from the east side of the road and also stabilize the bank with rip rap and resetting the guard rail. However, due to the fact that the shot rock that has been placed appears to have stabilized the bank the Surveyor's Office recommended to the Board to more or less document the condition, document the angle of the guard rail as well as the top of bank of the open ditch and keep an eye on it. We went out on June of 2020 and established some baselines that we can then use to measure this as years go by to monitor if the bank is moving. If that would be the case, then we can decide if we need to implement the recommendations from Banning.

Pollution Liability Non-Compliance - John Ward Construction:

The Surveyor stated this was brought to my attention last week. John Ward Construction is still having problems with being required to have pollution insurance.

Dillinger asked is there a problem?

The Surveyor stated the COI...

Howard stated the COI Committee is sending them; or is it myCOI?

The Surveyor stated myCOI.

Sullivan stated the last meeting we had we were supposed to have myCOI update with the new policies. I don't know if that came in right before that happened or right after, but I can make sure it's taken care of at our next meeting.

Howard stated why don't we direct myCOI especially on John Ward Construction because he's one of our better contractors.

Investment Interest:

The Surveyor stated we have received notification of the investment interest on the \$10,510,000.00 loan. That interest for 2020 amounted to \$49,397.00. I believe you need to approve this to be put on the...

Howard stated put on the Highway Department's tab.

The Surveyor stated yes.

Altman made the motion to approve the investment interest in the amount of \$49,397.00 for the Hamilton County Highway Department, seconded by Heirbrandt and approved unanimously.

Legislation - Senate Bill No. 389:

The Surveyor stated Senate Bill No. 389 now has 20 Senators that have signed onto this.

Altman asked what is this?

The Surveyor stated this is the one doing away with IDEM's oversight of wetlands. Someone has made somebody mad in a big way.

Dillinger asked is this a good thing?

Heirbrandt stated yes. I think that IDEM has overstepped their boundaries in a lot of cases. I don't think it will get past...

Dillinger asked did Senator Baldwin sign onto that?

The Surveyor stated yes, he's number four. I think it will pass the Senate, but I don't think it will get out of the House, but I think it's going to send a message.

Howard stated there was an article on that this morning and the question is if IDEM gets out of it, this maybe be careful what you wish for, if IDEM gets out of it and Biden gets in it the developers plight and problems will increase exponentially.

The Surveyor stated I think it will anyway.

Howard stated yes, it probably will anyway, but it's a good message sending to IDEM.

The Surveyor stated we had a legislative brief last week for the environmental committee for NACo and the roll back of the wetland rule is on their radar.

Legislation - Senate Bill No. 419:

The Surveyor stated this bill has to do with some modifications of the Drainage Code that would require the county to include, on reconstructions and so forth, environmental issues. I'm not too much in favor of that.

Dillinger asked did Senator Baldwin sign off on that one too?

Heirbrandt stated no.

The Surveyor stated no, it's Yoder.

Dillinger stated you might want to talk with Senator Baldwin on any of these. He calls me constantly wanting to know if we support it or how it effects; we finally have someone in the State House that cares about what the municipalities and the county thinks. He's trying to do the right thing and he's trying to work with us, but you need to tell him if there's something we're in favor of or not because he doesn't know. He is anxious to hear.

Heirbrandt stated he's been calling me too.

Altman stated why don't we have a practice that we send out when we hear of this stuff, you send out after you talk to us an email to our representative saying we do not support this because.....

Heirbrandt stated you send it to everybody in the Senate that's in our area.

Howard stated anybody that represents part of the county should get this.

Dillinger stated I think a good example of that was when several years ago when we had Senator Kenley in here and he sat through Drainage Board, sat through the Commissioners and we would pass something and he would say "why did you pass that?" and I said "because Luke, you mandated that we pass it" and he said "well, that's stupid" and we said "well, we kind of thought it was, but we didn't make the rule". He went back and he changed about three things that we discussed that day. We're trying not to make that mistake anymore and we have a Senator that is open eared and wants to know our position on those things and I think we ought to utilize the heck out of it.

The Surveyor stated okay.

Howard stated he's full of energy.

Dillinger stated and he's smart. We have someone that really wants to hear and help us and we need to utilize that.

Heirbrandt stated I had a conference call with him; I think he walked in my office that day when I had AIC, IACC and our Lobbyist and everything and he's sponsored everyone of the ones that we were..

Dillinger stated he wants to work with us and that's refreshing from my point of view.

Howard stated he's one of the leads for the oversight for the Indianapolis Police Department.

Dillinger stated he's got a lot of experience there too.

Legislation - House Bill No. 1055:

The Surveyor stated House Bill No. 1055 the way it was explained to me was that a representative down south wants to do away with conservation districts having control of drainage. He's basically taken that law and created another board which as I read this, he's explaining what the joint board is or river basin commission. I don't think it's needed.

Altman asked is this something we ought to have Rick Cochran go chat with him about?

The Surveyor stated yes.

Howard stated and maybe Houston. These are what I call my neighbor's uncle's nephew had a problem so we're going to fix it with the law. They call them constituent service bills and Bosna used to spend about three weeks culling the herd of those. I don't know if Todd Houston is up to speed on those, but I imagine he is.

Altman stated I wouldn't mind if they just got rid of conservancy districts personally.

The Surveyor stated that was one of the next things on our list to do under Surveyor's and then it just never happened.

Hearing Requests:

The Surveyor asked the Board to set the following items for hearing on March 22, 2021: Schneider & Pierce Drain, John Schneider Arm, Sylvan Drive Extension; Thorpe Creek Drain, Southeastern Parkway Extension; S. E. Carpenter Drain, 191st Street Extension; Little Eagle Creek Drain, Troy Estates Arm.

Heirbrandt made the motion to set the items presented for hearing on March 22, 2021, seconded by Altman and approved unanimously.

Citizens Energy Group - Service Advisory Board:

The Surveyor presented the minutes of the Service Advisory Board for December 15, 2020 for the Board's information.

Final Reports:

The Surveyor presented the following final report to the Board for approval.

"To: Hamilton County Drainage Board

December 17, 2020

Re: Williams Creek Drain: Springmill Rd - 131st to Williams Creek Reconstruction

Attached are plans, and other information for Springmill Rd - 131st to Williams Creek 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, changes were made to the drain, which will alter the plans submitted with my report for this drain-dated August 30, 2016. The report was approved by the Board at the hearing held October 24, 2016. (See DRB 17, Pages 165-167) The changes are as follows: there was a separate final report written for the Westpark at Springmill Section 1 Arm of the JR Collins # 1 Drain, dated June 16, 2020. There was 38 feet of existing 15" RCP removed with Springmill Ridge Sec. 2. There was 50 feet of 12" CMP removed with Springmill Ridge Section 1. The project also regulated 140 feet of Williams Creek under Springmill Rd.

The length of the drain due to the changes described above is now **52 feet** of additional drain to the overall watershed.

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

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor "

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

Capital Asset Notification:

The Surveyor presented the following Capital Asset Notifications to the Board for their approval: Jonas Rogers Drain, JM Gustin Arm; Springmill Streams Drain, Springmill Ridge Section 2 Arm; William Krause Drain, William Krause Phase 1 Reconstruction (2017).

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

Non-enforcements:

Liston presented a non-enforcement request for the Village of West Clay Drain filed by Christian and Stephanie Meier for parcel #17-09-28-00-66-005.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Springs of Cambridge/Bee Camp Creek Drain, Fox Hollow Arm filed by Stephen and Nicole Bryan for parcel #13-15-11-00-13-027.000 for an inground pool and deck. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Ridge at Flat Fork Arm filed by Timothy Passios for parcel #13-16-05-00-06-005.000 for a retaining wall. The Surveyor's Office recommends approval.

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

Violations:

F. E. Hines Drain, Slater Run Section 2 Arm - Liston stated the office has issued a violation on the F.E. Hines Drain, Slater Run Section 2 Arm. The owners, John and Tina Mann have installed a fence without permission through our office and the City of Noblesville. We are working with the owners to get the correct paperwork into the office. The issue right now is that the fence company that installed the fence for the Mann's is refusing to sign page three of the fence non-enforcement.

Altman asked did they already put the fence in?

Liston stated yes.

The Surveyor stated this is after the fact.

Altman stated forgiveness on the fence.

The Surveyor stated yes.

Altman stated I guess they don't get their variance.

The Surveyor stated that's what I told them.

Altman stated I don't know what else to say.

Liston stated I did reach out to John Mann on Friday and left a message. I did not hear back from him. I'll let them know in order to proceed with this they need page three signed.

Surety Release:

Liston stated that at this afternoon's Commissioners meeting the Board would be releasing the following sureties: Irrevocable Letter of Credit No. 1369ENC4 in the amount of \$244,179.90 for Enclave at Vermillion Section 4, storm sewers.

Construction Updates:

Clara Knotts Drain, Park Broadway Arm - Duncan stated we've reviewed shop drawings and my understanding those are being ordered, fabricated and I think the contractor was looking to start this week on that, which is fantastic news. As the Board knows that area has been in need of drainage for years. I'll follow up with them and find out if they're actually planning to mobilize and get started this week or next week.

Overman-Harvey Drain, Adios Pass Reconstruction - Duncan stated this project is underway. I believe two of the structures are set and we are working through some issues with several of the other structures. The storm sewer system that was installed by the developer back in the day is extremely shallow and doesn't really fit what I'd call customary precast structures. They have to do some digging by hand and we are still working through that.

Ellis Barker Drain Reconstruction - Duncan stated I received a phone call from Steve Baitz last week saying he saw Frontier out on the project doing some work. As the Board recalls we can't finish our project until Frontier moves one of their facilities out of the way. They were actually out doing work. I do not believe it's done, but I'd like to follow up with that here yet today to see if they were able to finish the project. What they had done last week was install the new conduit, but they had not pulled the new fiber optic line through that new conduit so they could then take the one that's in the way out of service. Indications are the conduit they put in is 20 feet in the ground so it should be clear of anything that we're doing. I'll follow up on that but wanted to thank Mr. Howard and Mr. Sullivan on their work to move that along. They got them headed in the right direction and got them out there. I think for the matter with what Mr. Howard was working on is probably not needed anymore. We were going to write another letter to Frontier.

Howard stated and send it to their registered agent. There's just one blank in that letter and has been for three weeks.

Duncan stated I will work with our contractor once we know that Frontier is indeed out of the way to finish that up. I do expect from Morphey Construction one of the things that we had talked with Morphey about in developing the letter to Frontier was what costs they've incurred by the delay. Morphey has presented those costs so we will probably be bringing those to the Board as a Change Order. Their costs are now just about two years old on that and they need to remobilize their equipment out on the project site. I'll work with Morphey to firm up those costs.

Howard stated then we'll come to the Board and decide whether or not we want to chase Frontier for those costs. It may be one of those we're spending more money than the money's worth. When we get those numbers, you can make that call.

Altman stated it might be good to determine whether we can enforce and push that one to figure out where we are. If there is ever a good set of facts, I'd say we have it.

Howard stated when they completely ignore any duty to get a permit to put it there in the first place because it is under a road when they completely ignore any efforts to locate, any efforts; we're right at eight to nine months since first contact. If we're going to try it out this would be a poster child.

Intracoastal at Geist Drain - Liston stated Duke has assigned an engineer to the project and they have begun looking at what it will take to move the transformer out of the way temporarily. We also looked at the shop drawings for the structures and we're working through some issues there. Hopefully within fifteen to thirty days we should see a start by our contractor.

Pending Items (Attorney):

Alternate Members (Circuit Court Order) - Howard stated that petition was filed last week, and the court order is back and it's on Lynette's (Mosbaugh) email, a copy of the court order.

Masthead Drain (McPhail Recorded Document) - Howard stated Mr. McPhail filled in the drainage easement between his house and his neighbor's house. It was a deep swale that ran along his house directly outletting into Geist Reservoir. There was a pipe there that drained the cul-de-sac along the way. I talked to Mr. McPhail, we finally had an agreement, we prepared an agreement that he would sign that in the event there was a problem with that street drain he would pay the cost to construct the discharge. I sent that to Mr. McPhail, didn't hear anything for a while and the last thing we saw in about December was Mr. McPhail had sold the house. I'm sure there was no disclosure to the subsequent owner that there was an enforcement action or a pending issue notwithstanding a vendor's affidavit. My thought would, unless we want to let this go by the wayside, we would contact the new owner and explain the problem and then whatever happens between him and his vendor would be their problem.

Altman stated yes.

Howard stated I see my fellow real estate lawyer kind of smirking because this is probably not going to be a pleasant transaction between the two of them.

Altman stated no, but bad actors ought to be stopped.

Howard stated I'm bringing this to your attention, and I presume you want us to continue to address this issue under a different name.

Altman made the motion to continue with the recorded document under the new owner's name, seconded by Heirbrandt and approved unanimously.

Vermillion Drain (Rivas Lawsuit) - The Surveyor asked Howard do you need anything else from us on Rivas?

Howard stated we got the record from Rivas, that's being worked on. We have to index those and get them and file them. That will then get us a hearing date.

Construction Updates (Continued):

Burnau Arm Reconstruction (Pending Asbuilts) - Liston stated we still have not seen anything from VS Engineering. I did send another email to VS asking for the status last week.

William Krause Drain Reconstruction Phase 3 (Pending Asbuilts) - Conover stated I'm getting information on that. I have a question for Howard on his pending items list, the second one down, William Krause Phase 1 Notice of Intent. Has that been taken care of?

Howard stated that's gone by the wayside.

Private Drain Petition:

The Surveyor stated Andy (Conover) is working with an owner on S.R. 32 west of Westfield on a private drainage petition. He has sent the certified letter or registered letter in this case and the wonderful Post Office System that we have. Whenever Andy looks at the post office tracking it just says, "in transit".

Altman stated it means they lost it.

The Surveyor stated probably so.

Altman stated you have to send it again. When you send it by certified mail, or registered, on this did you send another US Mail envelope?

The Surveyor stated I don't believe the fellow did. I don't believe he knew to do that. What we need to do is change the instructions to add that line there. How long do we wait? Or do we wait for the green card or some response?

Altman stated you have to resend it. You're not going to get it back.

Howard stated you have to resend it. When the Statute requires certified mail it's essentially required delivery of notice. What you might want to do and I'm not sure they'd be jumping up and down to do it, if that doesn't come whether you serve it by Sheriff.

The Surveyor stated this in Pennsylvania.

Conover stated what's in question is...

Altman asked how many weeks is it?

Conover stated since November.

Howard asked what are you notifying them of? Is this of a reconstruction hearing?

The Surveyor stated no, it's of the fact that he has to do something to get rid of the obstruction.

Howard stated he's obstructing a private drain and it's an out of state landowner?

The Surveyor stated yes, who Andy has talked to and the fellow has said he's not going to do anything. So, he knows the problem.

Altman stated he may be dodging the mail too. It may be on fourth notice and they may give them a lot more notice time. Resend it again, send first class mail, take copies of your envelopes because there is a presumption under the Statute that if we don't get the return of the first-class mail it was delivered.

Conover stated the Statute states that upstream landowner has to request from the downstream owner that obstruction be removed. Our standard on that is to prove that this guy received notification. We require the registered, certified mail and so it's not in the State Code, it's in our standard. We also have emails; I have emails from the downstream landowner acknowledging he knows there's an obstruction and he is refusing to remove it.

Altman stated I think he's been asked.

Howard stated if we've got acknowledgement of emails and it's the same person that's on property record card; and this is a private obstruction?

Conover stated yes.

Howard stated I'd set it for hearing sending notice of hearing, at the email, at everything you've got and if it's his obstruction we have to go in and remove it and file a lien against the property.

Conover stated that's what I was looking at.

Altman stated now we get the issue but do send it certified with regular mail.

Howard stated certified, regular mail, email, carrier pigeon, whatever you've got available. Is this an agricultural investment property or something?

The Surveyor stated its development property, but it's farm now.

Howard stated not been developed.

The Surveyor stated correct.

Dillinger stated anytime we have a situation like the Mallery-Granger, I don't know about the other two, but I would like for you to bring my attention to what that issue is before we get to the meeting. I think it was very helpful today having the background. I thought we were very well prepared. Those people were here ready to attack, and I think we were able to diffuse that and turn it around because we had previous knowledge. Anytime you have something like that I'd appreciate if you'd give me, while I'm president at least, heads up and let us discuss it a little bit. I am going to be gone the next two meetings so I've asked Altman, as Vice Chairman, to take the lead, but I will be here virtually and I need to make sure that you send me an invite because I can attend the meeting and I can vote under the current law.

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

Christine Altman - Vice President

Lynette Mosbaugh
Executive Secretary