

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

February 24, 2020

The meeting was called to order Monday February 24, 2020 at 9:00 a.m.

The members of the Board present were Mr. Mark Heirbrandt-President, Ms. Christine Altman-Member and Mr. Jerry Rulon-Alternate Member. Also present was the Hamilton County Surveyor, Kenton C. Ward and members of his staff: Mr. Sam Clark, Mr. Andy Conover, Mr. Jerry Liston, Mr. Gary Duncan, Mr. Reuben Arvin, Mr. Steve Baitz, Mr. Steve Cash, Mr. Luther Cline, Mr. Brian Rayl and Ms. Suzanne Mills.

Approve Minutes of February 10, 2020:

The minutes of February 10, 2020 were presented to the Board for approval.

Altman made the motion to approve the minutes of February 10, 2020, seconded by Rulon and approved unanimously.

Thorpe Creek Drain - John Underwood Reconstruction:

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"January 7, 2020

To: Hamilton County Drainage Board

Re: Thorpe Creek, John Underwood Reconstruction

The portion of the reconstruction within Madison County assessed to the Town of Lapel is now complete. The cost estimate for this portion was \$17,986.00. Morphe Construction was awarded the contract to do the work and their original bid prize for this portion was \$28,189.00. Change Order #2 added 18' of 24" RCP in the amount of \$2,916.00. Change Oder #3 removed \$2,750 for pavement repair of which 3' (23%) \$632.50 was Lapel's and 10' (77%) \$2,117.50 was Hamilton County's. These changes make the actual cost for the work done in Madison County for Lapel total \$30,472.50 which is an increase of \$12,486.50 for the Town of Lapel.

I recommend the Board set a hearing for February 24, 2020 to increase the reconstruction assessment.

Sincerely

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/jh"

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

Altman stated I don't recall going over budget like this.

Duncan stated we're not over budget on the project. It was simply when we assessed the project based on cost estimate when the bids actually came in those line items were slightly higher than what we had estimated. Overall the project is still under budget.

Altman asked but just the ones related to Lapel?

Duncan stated yes.

Altman asked has Lapel been in contact; have we been working with them on this? Certainly, this could be devastating to the budget.

The Surveyor stated we sent them the notice. I don't know that we've actually talked to them.

Liston stated no, we have not.

Altman stated I don't feel comfortable.

The Surveyor stated they did receive the notice.

Howard stated Lapel is not Carmel or Fishers. It's pretty small.

Altman stated it's a small community and I don't know that it may have gone under their radar. I don't feel comfortable.

Hamilton County Drainage Board
February 24, 2020

The Surveyor stated if you feel more comfortable you could give them five years to pay it off.

Howard stated or if the assessments for the entire project are adequate to fund the project. We always tell upstream people and downstream people you're all presumed to be equally benefitted even though the work was done in Madison County.

Heirbrandt stated I think the five years gives a little bit of leniency.

Howard asked is this assessment actually to the Town of Lapel?

The Surveyor stated yes, it is. This is for the reconstruction of the road.

Howard asked they pay the assessment for the entire community?

The Surveyor stated no, it was for the road.

Heirbrandt stated there was no remonstrance and they were served.

Altman made the motion to table this item and somebody call during the meeting and make sure they got that notice; call the Town Manager, seconded by Rulon and approved unanimously.

Professional Services Agreement - Intracoastal at Geist Drainage Evaluation:

The Surveyor stated at the last meeting the Board asked me to get a Professional Services Agreement with Clark Dietz for the Intracoastal at Geist Drainage Evaluation. I have that agreement.

Heirbrandt asked is everything in order?

The Surveyor stated everything looked good. The cost was not to exceed \$28,000.00. This is a problem that we just want to make sure we get a good handle on it.

Rulon made the motion to approve the Professional Services Agreement in the amount of \$28,000.00 for the Intracoastal at Geist Drainage Evaluation by Clark Dietz, seconded by Altman.

Altman stated the only concern I have is when we do these things, they've have an escalator clause in there for their fees, their hourly rate which I think we need to strike. If they want more they need to come back. Its on the last page of the agreement.

The Surveyor asked under compensation?

Altman stated yes.

The Surveyor stated is says "compensation will be a lump sum not to exceed \$28,000.00".

Altman stated no, the next page there's a page that says they have the right to review their fees no sooner than six months. It's the last page, January 1, 2020.

The Surveyor stated I asked them to put this page in, in case we did find something other than what we needed, or we needed further engineering.

Altman stated that should be a separate assessment. I really think when we do these small contracts it's not to exceed under their existing rates and they come back especially since we have limited funds, some are assessments. It's just dangerous in my opinion.

Howard asked is there a deletion you can make from that document? I don't have it in front of me.

Altman stated just take off that page.

Howard stated you deleted the notes. The hourly rates above could remain in the contract and you just approve deleting the notes on the schedule of general billing rates.

Altman made the motion to amend the motion to delete the notes on the schedule of general billing rates, seconded by Rulon and approved unanimously.

Altman made the motion to approve the Professional Services Contract as amended, seconded by Rulon and approved unanimously.

The Surveyor stated I'll strike that before it goes back.

Altman stated okay and on other ones. I just think we could get into a trick bag when they're moving rates on us.

Howard stated that was capped at 110%.

Stephens & Clark Drain, George Stephens #2 Arm - Emory Trace Section 1 Relocation:

There were neither landowners present nor objections on file.

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

"December 16, 2019

To: Hamilton County Drainage Board

Re: Stephens and Clark Drain, George Stephens #2 Arm-Emory Trace Section 1 Relocation

Attached is a petition and plans for the proposed relocation of the Stephens & Clark Drain, George Stephens #2 Arm. The relocation is being proposed by Platinum Properties Management Company LLC. The proposal is to reconstruct the Stephens & Clark Drain located within the plat. The relocation is as shown per plans by Stoeppelwerth and Associates Inc., having job No. 19358 and dated December 4th, 2019. (See sheets C200, C201, C202, C203, C601, C603).

The relocation begins at existing Sta. 82+55 of the George Stephens #2 Drain's October 1915 description which is new Str. 845 and ends at existing Sta. 96+00 which is new Str. 851. The diameter of the tiles to be replaced is 24" as shown on the plans. The total existing drain to be removed is 1,345 feet.

The relocation shall begin at new Str. 845 per the plans and then run 101 feet southeast with 60" RCP to new Str. 844 per the plans. Then, turning south the existing regulated drain will be replaced by an open ditch within the facility. The new open ditch runs for 978 feet and outlets at new Str. 850. Thence running 37 feet south with 18" RCP connecting to new Str. 852 which is a water quality structure. Thence running 195 feet crossing onto tract 08-05-27-00-00-015.002 owned by David K. & Francis M. Turner II to the south with 18" RCP connects to new Str. 851 per the plans. The newly relocated drain is an overall length of 1311 feet.

The Detention Area located in Block A is not to be considered part of the regulated drain. Maintenance of the area assumed by the Drainage Board shall only include the inlets and outlet and the reconstructed open ditch of the George Stephens #2 Drain as part of the regulated drain. The maintenance of the Detention Area such as sediment and erosion control along the banks, mowing and aquatic vegetation maintenance and control will be the responsibility of the Homeowners Associations. The Board will retain jurisdiction for ensuring the storage volume for which the pond was designed will be retained. Thereby, allow no fill or easement encroachments.

The cost of the relocation is to be paid by Platinum Properties Management Company LLC.

The petitioner has provided the performance bond as follows:

Bonding Company: Great American Insurance Co

Bond Number: 3085887

Bond Date: 10/2/2019

Bond Amount: 48675.60

I recommend that upon approval of the above proposed reconstruction that the Board also approve the attached non-enforcement for Emory Trace Section 1 Secondary Plat. The regulated drain easement widths as shown in the secondary plat as the variable width regulated drain easement (VAR. R.D.E.) within Block A of the secondary plat as shown on Sheet 7 of the plat.

I recommend the board set a hearing for this proposed relocation for January 27, 2020.

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pll"

Altman asked why was this tabled? Do you recall?

The Surveyor stated it was put on the agenda and then when I was looking at the plans I noticed some discrepancies.

Altman stated so that was your request.

The Surveyor stated yes, there were three sheets of the plan that contradicted each other, and I wanted that fixed.

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

"STATE OF INDIANA)
) ss:
COUNTY OF HAMILTON)

BEFORE THE HAMILTON COUNTY
DRAINAGE BOARD
NOBLESVILLE, INDIANA

IN THE MATTER OF THE
RECONSTRUCTION OF THE
Stephens & Clark Drain, George Stephens #2 Arm - Emory Trace Section 1 Relocation

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the **Stephens & Clark Drain, George Stephens #2 Arm, Emory Trace Section 1 Relocation** came before the Hamilton County Drainage Board for hearing **on February 24, 2020**, on the Reconstruction Report consisting of the report and the Schedule of Damages and Assessments. The Board also received and considered the written objection of an owner of certain lands affected by the proposed Reconstruction, said owner being:

Evidence was heard on the Reconstruction Report and on the aforementioned objections.

The Board, having considered the evidence and objections, and, upon motion duly made, seconded and unanimously carried, did find and determine that the costs, damages and expenses of the proposed Reconstruction will be less than the benefits accruing to the owners of all land benefited by the Reconstruction.

The Board having considered the evidence and objections, upon motion duly made, seconded and unanimously carried, did adopt the Schedule of Assessments as proposed, subject to amendment after inspection of the subject drain as it relates to the lands of any owners which may have been erroneously included or omitted from the Schedule of Assessments.

The Board further finds that it has jurisdiction of these proceedings and that all required notices have been duly given or published as required by law.

Wherefore, it is ORDERED, that the proposed Reconstruction of the **Stephens & Clark Drain, George Stephens #2 Arm, Emory Trace Section 1 Relocation** be and is hereby declared established.

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

HAMILTON COUNTY DRAINAGE BOARD

Mark Heirbrandt
PRESIDENT

Christine Altman
Member

Jerry Rulon
Alternate Member

ATTEST: Lynette Mosbaugh
Executive Secretary"

F. M. Musselman Drain, Burnau Arm - Contract:

Duncan stated at the meeting of the Hamilton County Drainage Board of January 27, 2020 the Board approved the project for a reconstruction of a portion of the Burnau Arm of the F. M. Musselman Drain in the amount of \$445,896.31. At that meeting the Board also awarded the construction contract to Hoosier Pride Excavating in the amount of \$387,735.92. There was a 20-day period for judicial review petition filing, which expired yesterday. We're not aware of any filings so we're presenting the contract for signature today.

Altman made the motion to execute the contract with Hoosier Pride Excavating in the amount of \$387,735.92 for a reconstruction of a portion of the Burnau Arm, F. M. Musselman Drain, seconded by Rulon and approved unanimously.

Old Castle - Drainage Easement Acceptance:

Cash stated on December 9, 2019 the Board approved a variance for the Old Castle Beaver Materials that was for fill in the floodplain and their compensatory storage area. One of the conditions was that they needed to dedicate an easement to protect that area that was going to be the floodplain compensatory storage area. The owner has submitted a drainage easement for your acceptance for the Drainage Board and Commissioners acceptance.

Altman made the motion to approve the Drainage Easement Acceptance for the Old Castle Beaver Materials Compensatory Storage Area, seconded by Rulon and approved unanimously.

Ellis Barker Drain Reconstruction - Change Order No. 2:

Cline presented his report to the Board for approval.

"February 13, 2020

To: Hamilton County Drainage Board

Re: Ellis Barker Drain Reconstruction
Change Order #2

Change Order #2 was required due to additional tile connections.

The following item are changes to the reconstruction of the Ellis Barker Drain Reconstruction:

3 additional tile connections at \$250 each - Total Change Order #2 ---	\$ 750.00
Engineer's Estimate -----	\$1,349,266.24
Contract Bid -----	\$ 962,000.00
Change Order #1 -----	\$ 72,866.72
Change Order #2 -----	<u>\$ 750.00</u>
Total Reconstruction Cost	\$1,035,616.72
Difference -----	\$ 313,649.52

Submitted By:

Luther Cline
Inspector"

Altman made the motion to approve Change Order No. 2 for the Ellis Barker Drain Reconstruction, seconded by Rulon and approved unanimously.

Non-enforcements:

Clark presented a non-enforcement request for the U. G. Mitchner Drain filed by Donna Kash for parcel #17-10-21-00-21-005.000 for a fence, deck and pergola. The Surveyor's Office recommends approval.

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

Cool Creek Drain, Wheeler Landing - Waiver of Bonding Requirements:

Mr. John Nail and Mr. Andy Taylor were present for this item.

Clark stated before you is a formal request from the City of Westfield to waive the bonding requirements pertaining to fill in the floodplain occurring at their Wheeler Landing planned unit development. The fill in the floodplain associated with this project is for the regional detention pond. This was formally approved by the Drainage Board in September of 2019 and as of last week we received a formal request from John Nail, City of Westfield Engineer to waive the bond.

Altman made the motion to waive the bonding requirements for the City of Westfield in regard to Wheeler Landing PUD fill in the floodplain, seconded by Rulon and approved unanimously.

The Surveyor stated for the Board's information this is only for the waiver of the bond all the other requirements such as the asbuilts per our specifications, the review of those asbuilts by Clark Dietz and other items that were under the conditions are still in place.

Violations:

Pebble Brook Drain, Pinehurst Village Arm - Liston stated on February 14, 2020 our office issued two violations in the Pinehurst Village Section of the Pebble Brook Drain for fence encroachments into the drainage easement. We have received the green card back on the Eslamirad but have not received anything back on the Smith violation. We sent violation letters by certified mail and also regular mail.

Surety Acceptance:

Liston stated that at this afternoon's Commissioners meeting the Board would be accepting the following surety: Performance Bond No. 82C016695 in the amount of \$90,000.00 for Oldcastle, Variance for White River Fill in the Floodplain.

Construction Updates:

Anchorage Drain, Reconstruction of a Portion of Section 1 - Liston stated nothing has occurred since the last meeting due to weather. The ground needs to freeze or dry up before final grading can be done.

Ellis Barker Drain Reconstruction - Cline stated the contractor has been working on the south side of 196th Street and proceeding to the west towards Grassy Branch Road. The project is moving along pretty good.

William Krause Drain Reconstruction Phase 3 - Conover stated we're currently waiting on Vectren to move a gas line. I heard from them last week and I think it will be within the next week or so they should get their contractor out to move the gas line.

Thistlewaite Drain, California Street Arm Extension - Conover stated we're waiting to get curbs installed. I met with the contractor last week and as soon as weather breaks, they'll get that finished.

William Krause Drain Reconstruction Phase 1 (Pending Asbuilts) - Conover stated we have received the asbuilts and are currently working on the final report for this project.

William Krause Drain Reconstruction Phase 2 (Pending Asbuilts) - Conover stated we have received the asbuilts and are currently working on the final report for this project.

Benton Hinesley Drain, Grass Waterway (Pending Asbuilts) - Conover stated we have received the asbuilts and are currently working on the final report for this project.

Thorpe Creek Drain, Martha Ford Arm Relocation (Pending Asbuilts) - Liston stated we have reviewed the asbuilts and sent our comments back to the engineer and as of Friday we received the revised asbuilts. I will look at those this week.

Thorpe Creek Drain, John Underwood Arm Reconstruction (Pending Asbuilts) - Liston stated we have reviewed the asbuilts and sent our comments back to the engineer and as of Friday we received the revised asbuilts. I will look at those this week.

Waltz, Warman, Booth & Dickover Drain:

Mr. Adam Tragesser was present for this item.

Heirbrandt stated this item is not on the agenda, but I have sent correspondence to the Surveyor last week about vacating this drain. The email also copied Beck's Hybrids, the Board members and the Highway Department. The Highway Department is fine with the vacation. I don't know where the Surveyor is with this vacation.

The Surveyor stated I just want to remind the Board that we typically do not vacate drains if it is attached to a road and has road drainage. The Board has always had the opinion that its good to keep that even if we're not going to maintain it because we'll always have that easement statutorily. If we ever need the easement in the future, be it five years from now, 20, 50 whatever it's always there and it doesn't go away. There's a couple of drains that the Board says we're not going to maintain them so we just let them lie there.

Rulon asked you can abandon a drain, but keep the easement? Is that what you're saying?

The Surveyor stated you can't abandon the drain and keep the easement.

Howard stated if you abandon the drain the easement is gone. If you keep the easement you can always grant an encroachment permit for somebody to do work in the easement, but it's hard to put that toothpaste back in the tube. The perfect example of this is the argument we've got down at the General Assembly that regulated drainage easements were in place at least 50 years before anybody thought about creating IDEM. I think in a lot of cases in the law of first in time, first in right so there is value in keeping it, but there could be circumstances where you were comfortable enough to let it go.

Altman stated basic question, if we keep it as a regulated drain can you abandon the obligation to maintain?

The Surveyor stated we've done that to one drain in Carmel, the Morrow-Follett Drain. It's still a regulated drain, we still keep our easements, but everything that Carmel does we look at it and make sure it follows what our ordinance says.

Howard asked is that a two way agreement? We advocated maintenance responsibilities and they undertook them?

The Surveyor stated that was done back in 1967.

Altman stated I'm just wondering whether we still have an obligation unless we have a two-way agreement.

The Surveyor stated I would recommend some kind of agreement with Beck's Hybrids saying the drain is still regulated, you can do whatever needs to be done, we will not maintain it, but the easement is still there.

Heirbrandt stated we have Adam from Beck's Hybrids here. I know that you've been working on this for several months. Any thoughts?

Tragessor stated along with what the Surveyor just said, would that be for future buildings or parking areas? Where do we stand on that? Will we still have to get permits every time?

The Surveyor stated you would still have to get permits just like we do in Carmel.

Howard stated so there would be a requirement if we maintain the easement that you would need a consent to encroach on that easement.

The Surveyor stated even if the regulated drain wasn't there, you'd still have to give our office the plans for review because you're out in the unincorporated area. You still don't get away from the ordinance.

Howard stated you're still creating impervious surface in the watershed which could increase runoff and decrease the efficiency of the existing infrastructure.

Tragessor stated the physical nature of the tile, regulated drain, currently every bit of it lies upon Beck's Hybrid's property. There are some other properties that are in the watershed, but none of their water actually drains to that drain. Three go north and the only one that possibly might would be Etchisons. I think they have a five-acre parcel that's attached to that watershed. We are planning, in the future, to tile the field around their house so we would make sure they would have adequate drainage at that point. The argument, if you will, is the point of regulated drain, what's the purpose of it? Is it to get equal access to everyone to drain their water?

Altman stated I'm confused, you said all of the regulated drain is on Beck's property. Where does it discharge?

Tragessor stated into Little Cicero Creek. There is one parcel at the outlet, we farm it and have farmed it for several years. The owner is Sylvia Kay Hartley. We farm several of her fields. She's very good partners with Sonny (Beck), Silvia went to school with Sonny. The outlet does cross their field. Aside from that the rest of the ground is Beck's owned.

Altman stated the point is it's kind of like a highway system, that's how I always view regulated drains. It's to assure that nothing is done that interferes with the free flow of water as we've designed it. It's not just giving everyone access, it's giving everyone a point to discharge into the system and it's a system.

Howard stated there's a second issue that's really larger than that. Those drainage easements are in perpetuity and while it is not foreseeable that Beck's Hybrids will be the owner and/or have a possessory right of the parcels in that watershed, things change. It's going to be a long time, I know and it won't be in Sonny's time, it won't be in Kay's time and it probably won't be in my time, but down the road and that's the one good thing about that perpetual easement it is there forever unless you give it away and once you give it away it's really hard to get it back. It's easy to say well then, we have to get a permit here and a permit there. This system is not about tomorrow. It's about the future and Arcadia, someday, will develop.

The Surveyor stated we don't have a crystal ball saying what's going to happen to Beck's ground or the Hartley ground in 10 years let alone 50 years from now. I just hate to give up something that some future Drainage Board or Board of Commissioners is going to have to turn around and buy someday.

Howard stated and it happens quicker than you think. When I first set in this chair in 1989 a lot of 146th Street was a gravel road and the rest of it was chip seal. Nobody would have foreseen this county tripling in population.

Altman asked Tragessor, what is your immediate need on this drain?

Tragessor stated as far as the right of way and draining the water, we've already made substantial upgrades upstream and downstream so I'm not sure what the concern would be with the road because would it not be, even if someone else, something happened down the road they can't block off water, is that not correct, regardless of whether it's regulated or not.

The Surveyor stated that's correct.

Tragessor stated I'm not sure what the threat is if it was not still in the easement. You wouldn't be able to block the flow of the water.

Howard stated you reverse the presumption. The presumption is that this Drainage Board has control over it, if you give it up then it's a question of riparian rights, it takes a year and a half to decide somewhere on the second or third floor of this building.

Rulon stated the watershed doesn't change no matter which direction you run the water. The watershed stays the same.

Howard stated no matter who owns the land that's in the watershed.

Altman asked, but again, what is Beck's immediate need?

Tragessor stated the immediate need is just the constant, because construction is still going to be moving at a pretty rapid pace for the next five years as far as parking lots, new buildings, moving the waterway just changes involved and it's just like a constant permitting process that costs a lot of money and a lot of time.

Heirbrandt stated it takes a lot of time more than anything.

The Surveyor stated what I'm trying to tell you is that even if it wasn't a regulated drain you would still be going through a lot of that process.

Rulon stated they know the rules.

The Surveyor stated you just don't want to go through the rule making process, well, you don't get around that. You're still going to have to have plans in the office, calculations in the office, we're not going to let more water go downstream. We have to be the gatekeeper for that. We have to make sure that our ordinances are in force on Beck's just like it is for everyone else.

Tragessor stated we understand that. It's just that if it was a private tile, we wouldn't have the easement encroachments. We understand the water discharge we'd still have to permit all that as far as the easement encroachment. This tile is obviously undersized. We've already added additional tile parallel so it's like at some point if there are more needs it's going to come down to either reconstructing that tile or adding more additional beside it.

The Surveyor stated right.

Heirbrandt stated I just want to see what we might be able to do to help Beck's out with this construction process. I know that he's been talking about this for three or four months now, but it's really to help them throughout this construction process because everything continues to get delayed and it takes a long time to get it. They have a construction schedule that they need to try to be on and I want to try to be as accommodating as we possibly can. That's why I asked them to come today.

The Surveyor stated I believe we've been accommodating. I don't know that we've actually held Beck's up on a permit, have we?

Tragessor stated on the reconstruction, yes. We've been delayed about three months. We met with Steve (Baitz) and Andy (Conover) and the Highway Department and talked about what was going on at the construction site and time went on and then they came back and said it's more of instead of a crossing it was a reconstruction. That was a month. We turned in what we needed for the reconstruction and then after time went on they said actually we need to know what's the new path of the waterway in relationship to what it is now so we submitted that. We weren't able to do the reconstruction, that was what had to take place first before we got started on the building pad. That delayed us three months.

Howard stated everything you talked about is all about foreseeability. When you foresee things the sooner you get them to the Surveyor's Office the sooner they'll get back out. If the line is going to change it's location, it's foreseeable, but that's going to cause a little more review than just a normal encroachment permit. If you're going to oversize the line and increase the discharge, it's foreseeable that's going to be a problem. It's foreseeability we can't guess when we look at your plans, we have to see what's there.

Altman asked I'm just wondering if there's some way when you have a project like this we sit down or you sit down with the Surveyor's Office and go through the entire project with what you anticipate your surface is going to be and try to do as much notice as possible. We're trying to help you out, but we're not sure how the stops and starts are. It's like Howard said to the extent you know what's going on in the next six to twelve months why don't we sit down and figure out all the permitting and etc. you're going to need. I don't know how else to tackle it and keep the regulated drain.

Tragessor stated I felt like we did that.

Heirbrandt stated it just took a long time to get scheduled.

The Surveyor asked are we talking about just one instance?

Tragessor stated there's been others, but lately that's the most current one. There's a lot more that's going to happen.

Howard stated vacating the entire drain, you're dropping a bomb on a mosquito. That has long-term problems.

The Surveyor stated I think what it is, Beck's isn't a developer. We deal with developers all the time and there's a rhythm. What Tragessor is describing is a stutter step in that rhythm.

Altman stated time is money on your project like anything else. Would it make sense, would you feel more comfortable; who do you use as an engineer? Do you do everything in house?

Tragessor stated no they do not, the engineering is not done in house.

Altman asked who do you use?

Tragessor stated it changes hands. The current project as far as the drainage goes Wyatt Johnson is doing the engineering for the bean processing plant.

The Surveyor stated whether it's Wyatt or Bill Byers we work with both of them. I think both of them know what our rhythm is and it's a just a matter of getting the plans to us as soon as possible in the design process really so we can work out items. When the permit does come, we just sign off on it and I think you've worked well with Andy in the past.

Altman stated I'm just trying to figure out whether the Surveyor feels comfortable with any particular engineering firm for when you're out of the office they can look at things and just say heads up, heads down because you're so busy. I'm trying to figure out a way if Beck's wanted to pay additional funds to get things through.

The Surveyor stated I'd say Burke or Clark Dietz know our system and know it well.

Altman stated I'm just trying to find a middle ground because the delay costs Beck's and it may have been better to spend a couple more bucks to go with an engineering firm that he has a really high comfort level with so if you're out of the office if they call you can say everything's okay and you don't have to have eyes on.

The Surveyor stated we still have to have eyes on, somebody does.

Altman stated correct, but someone on staff with an engineering firm to keep projects going through.

The Surveyor stated Andy is the gatekeeper for that area and I thought they were working well together.

Rulon stated some of this stuff just takes time and they know that.

Altman stated I just don't want the answer to be because you haven't had time to look at it is there somebody, is there a concierge service we can offer when people have tight schedules?

Howard stated I think it's basically foreseeability. If they get their plans done earlier and get more levels of their planning done earlier, it's going to happen probably not as quick as they want to. Dealing with impatient people, I know, we built an airplane hanger with them.

The Surveyor stated its any developer.

Altman stated its any businessperson. I mean they're used to calling someone on the phone and getting their attention and getting it done. Unfortunately, government doesn't work that way. Unless we can figure out a way to have the wheels turn faster.

Heirbrandt stated in the next six months all that you need to get done, do you have all of that we can get working on?

Tragessor stated as far as I know Wyatt is working on the bean processing plant. There are two more warehouses that they're planning on being in the area as well. I don't know if there's drawings on that.

Heirbrandt asked what do you see that we could do from your view to help speed this up a little more for you? I don't know the answer. I'm just asking you because you see this a certain way and we're trying our best to accommodate you.

Tragessor stated I'm from the production drainage so I deal with Andy and Steve more out in the field, not so much the building sites. On that end we've worked well and seems to flow pretty well. On the building site I don't know really what the sticking points are.

The Surveyor asked Conover, when was the last time you talked to Wyatt about the facilities?

Conover stated I think the last time was when we met out there in the field in December. We went over retention for the building pad. I haven't gotten any more design or any more proposed design since then. I do believe what part of where he was talking about the non-enforcements and all that and I understand, but I think where Sonny (Beck) gets frustrated he's going to improve drainage so he puts in new drains that parallel our drains, he crosses all of his properties, it's four or five different parcels and he's wanting to improve the drainage and he has to come to the Drainage Board to get permits for each one of these and then in the process of doing that he finds out that his basements flooding where all these drains backup so he wants to put in another tile and then finds out he has to go back through and to improve some of the drainage on the property and it's basically what he's told me where his frustration is I'm improving my own drainage and improving the County's drainage and installing these tiles on my property and I still have to keep getting all these permits. I think that's where his frustration is, what Sonny has talked to me about in the past. I think that's why he's talking about wanting to try to abandon this drain and get rid of that permitting process there. Other than that on one of the building projects we got really far behind on getting permitting processed, but currently we're working with this on the new east tower, the grain sorting facility he's building up there. It's a huge building, a huge footprint and parking lot and everything and it keeps getting larger on that so he's having to move drains again. I have not heard back from Wyatt Johnson and I think we're moving forward well on that. The permitting process wasn't with the buildings, it required detention. He does a lot of additional drains that parallel, so we don't go through the reconstruction of our drain. It's a lot of ground and a lot of different parcels and each one of those he has to go through all of these non-enforcements to improve the drainage and that's where his frustration is.

The Surveyor asked so it's the process?

Conover stated yes.

Heirbrandt stated we just need to figure out a better process, I think.

Tragessor stated the last reconstruction was five parcels in the line and we had to get a permit for each individual parcel, and it cost \$750.00 just to get permission to put in an additional line beside the drain at 100% our cost. I think that's part of the frustration.

Howard stated if it's one line maybe those could be consolidated and one permit, I don't know, but at the end of the day there can't be review by this office until plans are submitted. It sounds to me like there's a lot of changes on the fly and we're not a changes on the fly organization. We have to see plans and review them. Can the Surveyor figure out anything to expedite? We dealt with this on the airplane hanger. You can always trust, Sonny will over engineer, over build, we know that, but we still have to have records for posterity. We have to look out for future uses. What works on a corn and bean field may not work down the road.

Tragessor stated I guess we're not arguing that the process is broken, that's not necessarily the case. In Sonny's head, if we could vacate this and it not have to be a county tile then we wouldn't have all these extra steps to process it.

Altman stated it goes back to, is it possible to say we won't maintain it, you maintain it, but we retain the easement, but you're going to have to go through the process if you're putting more rooftops on etc.

Howard stated or bigger parking lots or bigger buildings.

Altman asked does that save time?

The Surveyor stated it's still the same process basically. The only difference would be, even if it was still a regulated drain, it would still get the non-enforcement, that's just an administrative/administerial thing before the Board.

Conover stated even though we put the maintenance over to them they would still have the non-enforcements because we would still have the easements.

Howard asked for the construction of new infrastructure.

Conover stated yes and along with the outlet permits and our review of detention and runoff from the project, that wouldn't change at all. It wouldn't change the non-enforcements. I don't know how many non-enforcements he has on that tile. He put in four or five different drains in and each time he has to go through the permit. He probably has 30 non-enforcements on that one tile, and I think that's where his frustration is coming in.

Altman stated to Conover and the Surveyor, if you could figure it out especially with a huge user like this we ought to be able to figure out some other level of permitting if it's a continuous line, whatever your review cost is by linear foot maybe instead of by parcel does that make any more sense when you're looking at a whole line with the same specs or similar specs?

The Surveyor stated that's probably the thing that's less time intensive. The time intensive item is for them to get all the signatures on the non-enforcements for each property they have. We still have that issue.

Howard stated if you have separate ownership of each parcel they might be able to waive the permit fee for four out of five, but at the end of the day you still have to get...this is a land title problem, but you have to have something in the chain of title.

Altman stated they have the legal descriptions if they own it, they have all the deeds, correct? I assume it's under same ownership.

The Surveyor stated if it's the same ownership that's fine, but he was saying if they had to get five different owners to sign it. They're still going to have to get five different owners to sign it.

Howard stated because they're reconstructing on land that's owned by others.

Altman stated that wasn't the impression I got, I misunderstood.

Tragessor stated no, it's all owned by us, but different parcels. Each parcel has to have its own non-enforcement.

The Surveyor stated if you put that on one non-enforcement and sign it.

Howard stated you put the non-enforcement from A to B and you put four document cross reference numbers on it.

The Surveyor stated and we do that all the time.

Howard stated in other words you have one document, but you have document cross reference numbers to the last deed of record of each parcel and surely that wouldn't take real long. I'm sure you've got copies of the last deed of record to everything they own out there.

The Surveyor stated and if they don't, we can look it up in no time.

Altman stated it just sounds like a process problem and I'm not sure what your internal process is in the office, but if you've got a stretch they're doing the same stuff on it seems like they should be able to do one non-enforcement like you said with cross reference.

Howard stated but if they come back in three months and put in another pipe in the same thing you've got the same parcel numbers, you've got that, all you have to do is include it in the permit. You don't have to go back to "go" for each one of these it doesn't sound like, but the office still has to review the plans. The document is easy. The plan review and the sooner the plans hit the door the sooner they can go back out the door.

Heirbrandt stated Adam, I don't know if this helps you or not.

Tragessor stated having the discussion is the biggest thing.

Heirbrandt stated that's the main reason I wanted to bring you in here today so this could get vetted to some extent. I don't know that we're there yet, but I think we need to have an internal meeting and you bring your people. We have the Surveyor's people, I got Mike in there as well and we try to work through these different scenarios because we want to help the best we can. We need that communication to try to help make that happen.

Howard stated we already know that Sonny is the crown jewel of employment and creating value in northern Hamilton County. We're well aware of that, we're cognizant of it every day and we can do what we can do, but we still have to look just a little bit beyond the tip of our nose.

Drainage Board Attorney (Pending Items):

William Krause Phase 2 Reconstruction (Ogle Sign Off) - Howard stated on the Krause Drain in Sheridan we had a temporary construction easement that was granted over 17.502 acres. Two things that happened, one the temporary construction easement ended in April of 2019 and we went a year longer. Conover, at our prior meetings, negotiated a crop damage report of \$4,116.00. I think the bigger issue is that we took the topsoil off these 17 acres and then put it back. We do have for your approval this afternoon a release of the temporary construction easement, we also have a release of liability to be signed on behalf of the property owner, approved by both you as Commissioners and you as Drainage Board with Steve Dillinger's name crossed out and Jerry Rulon's written in longhand. In that release of liability is not only release of crop damage, but it's acknowledgment of the condition of the soil and they waive any and all liability out of our use of that temporary construction easement. That release of liability has a spot for you to sign as Drainage Board and then both documents will be in front of you as Commissioners this afternoon.

Altman asked so the release includes the extension that we had on the use of the temporary?

Howard stated yes. The crop damage and the condition of the soil are both included in the release.

Altman stated the use beyond the easement is included in the compensation.

Howard stated yes. The use beyond the easement period is covered by the crop damage. They lost one year's crop damage.

The Surveyor asked have Ogle or Fox signed that yet?

Howard stated no. Would you like me to get it to them first?

The Surveyor stated it doesn't matter as long as they sign it.

Howard stated I'm going to ask for signatures today and that the check not be released until then.

Altman stated the check goes with the notary and the signature.

Howard stated yes, the check does not happen until we have the signatures on the document.

The Surveyor stated as long as there is a gate keeper.

Howard stated Conover is the gatekeeper because he's going to take these documents out and get them signed and then they'll bring them back.

Altman made the motion to approve the release of temporary construction easement and release of liability as submitted with the procedure of execution as discussed, seconded by Rulon and approved unanimously.

Legislation:

Heirbrandt asked Howard, do you want to make any comments in regards to Legislation at the State House by Victoria Spartz Bill?

Howard stated yes, there's been some comments back and forth. I think the last hit over the wall was that IDEM, first of all IDEM wanted some terms in there that are ambiguous and we know how those would be construed by IDEM in favor of them having jurisdiction. We asked those be removed. The second issue was that they're saying the repair had to be the same depth, the same pipe size, the same width, whatever and I talked to David (Bottorff) and said I think as long as it's in the existing easement, there may be some that there's a reconstruction and we'll just have to deal with that, but I thought that was a fair compromise. If we stay within our easement and I explained to him and I think he'll find it in his memo that our easement pre-exists IDEM by about 50 years in most of these cases. He thought that would be an important part of justifying the waiver of any maintenance or reconstruction within existing easement.

Heirbrandt stated I know that the AIC is pushing this issue as well. Kudos to the Surveyor for bringing that to Senator Spartz attention and kudos to her for biting it. I know you're getting a lot of backlash from IDEM as well as she is.

Altman stated the whole thing was unfair as far as I'm concerned. I think what that whole news article ignored was the fact that we were doing our statutory job in maintaining the regulated drains and it cost the rate payers in that area an exorbitant amount of money. That's what the whole article glossed over and that's what I find offensive.

Heirbrandt stated I totally agree.

Rulon stated and it was prior converted so what's the argument?

Howard stated the whole problem right now is any ambiguity in the language as to what a wetland is will be construed in favor of IDEM and as we were told, we got outside council who had worked there and the ALJ's that are assigned to an agency tend to at least that the agency knows what they're doing.

Altman stated if there was anything else this would be presumed inverse condemnation. If it was anything else, it would be inverse condemnation because there's a Constitutional issue with taking without just compensation and I don't know how wetland's gets through that. That's just abhorrent to me.

The Surveyor stated to Howard's point, I think one of the reasons it's upside down you have administrative law judges that reside within that agency. That's like leading the hens to the fox den.

Set Bid Date - Clara Knotts Drain, 96th & College:

The Surveyor stated I would like to set for March 23, 2020 bids for Clara Knotts, 96th & College. In talking to them they're not going to move off and we need to re-bid. We need to go through this process one more time.

Altman asked can we try to see if we can bundle some other projects like the one contractor I spoke with to see if there's anything else in the area that the City of

Carmel might look at relining? It doesn't have to be so close it's just they indicated within the general geographic area if we can find others so they're not hauling all this stuff over for one project.

Howard asked and carve them out as alternates so we can pick and choose what we want within budgetary restraints?

The Surveyor stated yes, we'll contact Carmel; we'll do the big four.

Altman stated even Fishers and Noblesville.

The Surveyor stated when I said the big four I meant Noblesville, Fishers, Carmel and Westfield.

Altman asked do we have time to do all that and still set the bids for March?

The Surveyor stated we can set it for March. I have the contract ready to go, all I have to do is insert the latest rates and it can go out tomorrow and then we can contact the others and add anything they have as alternates.

Altman made the motion to set the date to receive bids for the Clara Knotts Drain, 96th & College, seconded by Rulon and approved unanimously.

Village Farms/Bellewood Drain/Cummings & Wilson Commercial Subdivision (Mud Creek):

Heirbrandt asked how are you coming with Village Farms?

The Surveyor stated I didn't bring anything today.

Heirbrandt stated I don't need to know here, but I'd like to get an update on Village Farms, on the Chris Konow (Glen Oaks Drain, Bellewood Arm) timeline and also I know you haven't gotten a chance to look at your emails on Clint Wilson (Cummings & Wilson Commercial Subdivision Project, Mud Creek Variance from Detention) project.

The Surveyor stated I saw that email and I didn't understand it because we've basically...

Heirbrandt stated I'd like someone to reach out.

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

Mark Heirbrandt - President

Lynette Mosbaugh
Executive Secretary