

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

June 22, 2020

The meeting was called to order Monday, June 22, 2020 at 9:00 a.m.

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

Approve Executive Session Memoranda:

The Surveyor presented the Executive Session Memoranda of May 26, 2020 to the Board for approval.

Dillinger made the motion to approve the Executive Session Memoranda of May 26, 2020, seconded by Heirbrandt and approved unanimously.

Approval of Minutes:

The Surveyor presented the following minutes to the Board for approval: Minutes of March 23, 2020; April 13, 2020; April 27, 2020; May 11, 2020; May 26, 2020; and June 8, 2020.

Dillinger made the motion to approve the Drainage Board minutes presented, seconded by Heirbrandt and approved unanimously.

B.F. Lamberson Drain - State Road 37 Extension:

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"April 22, 2020

To: Hamilton County Drainage Board

Re: B.F. Lamberson Drain, State Road 37 Extension

Attached is a drain map, drainage shed map and schedule of assessments for the extension of the B.F. Lamberson Drain. This proposed drain is located in White River Township.

I have made a personal inspection of the land described below. Upon doing so, I believe that the drain is practicable, will improve the public health, benefit a public highway and be of public utility and that the costs, damages and expenses of the proposed drain will probably be less than the benefits accruing to the owners of land likely to be benefited. The drain will consist of the following:

Open Ditch 62 ft.

The total length of the drain will be 62 feet.

The extension will begin at the existing terminus of the Lamberson Drain per the original 1899 drain description and extends west to the west Right of Way line of State Road 37.

The easements for the drain should be set at 75' from top of bank as set out in IC 36-9-27-33.

I recommend that the Board set a hearing for this proposal for June 22, 2020.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pll"

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

Altman made the motion to approve the Surveyor's report, seconded by Dillinger 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
B. F. Lamberson Drain, State Road 37 Extension

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the **B. F. Lamberson Drain, State Road 37 Extension** came before the Hamilton County Drainage Board for hearing **on June 22, 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 **B. F. Lamberson Drain, State Road 37 Extension** 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

Steven C. Dillinger
Member

ATTEST: Lynette Mosbaugh
Executive Secretary"

Harriet Sheward Drain - Craig Avenue Extension:

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"April 22, 2020

To: Hamilton County Drainage Board

Re: Harriet Sheward Drain, Craig Avenue Extension

Attached is a drain map, drainage shed map and schedule of assessments for the extension of the Harriet Sheward Drain. This proposed drain is located in White River Township.

I have made a personal inspection of the land described below. Upon doing so, I believe that the drain is practicable, will improve the public health, benefit a public highway and be of public utility and that the costs, damages and expenses of the proposed drain will probably be less than the benefits accruing to the owners of land likely to be benefited. The drain will consist of the following:

Open Ditch 88 ft.

The total length of the drain will be 88 feet.

The extension will begin at the existing east right of way line of Craig Avenue and extend across to the west right of way line of Craig Avenue following the existing open ditch.

The current rates for the Harriet Sheward Drain are \$10.00 per acre for roads. The annual maintenance collection for this extension will be \$51.60.

The nature of maintenance work required is as follows:

1. Bank erosion protection and/or seeding as might be required;
2. Removal of debris and/or blockages from existing open drain;
3. Removal of beaver dams;
4. Any other repairs necessary to restore proper flow to the open ditch.

The frequency with which maintenance work should be performed is annually as required by the condition of the drain.

The easements for the drain should be set at 75' from top of bank as set out in IC 36-9-27-33.

I recommend that the Board set a hearing for this proposal for June 22, 2020.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pll"

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

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

"FINDINGS AND ORDER

CONCERNING THE MAINTENANCE OF THE

Harriet Sheward Drain, Craig Avenue Extension

On this **22nd Day of June, 2020**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Harriet Sheward Drain, Craig Avenue Extension**.

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

HAMILTON COUNTY DRAINAGE BOARD

Mark Heirbrandt
President

Christine Altman
Member

Steven C. Dillinger
Member

Attest: Lynette Mosbaugh
Executive Secretary "

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

BEFORE THE HAMILTON COUNTY
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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 **Harriet Sheward Drain, Craig Avenue Extension** be and is hereby declared established.

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HAMILTON COUNTY DRAINAGE BOARD

Mark Heirbrandt
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Intracoastal at Geist Hydraulic Study - Presentation:

Mr. Hans Peterson and Mr. Sam Orr were present for this item.

Peterson stated Intracoastal at Geist is in the southeastern part of the county and is on a small inlet channel to Geist Reservoir. The subdivision was developed in the early 2000's. The street culvert under 113th Street is a 24", 18" and 24". Those drain into the storm sewer system in Intracoastal at Geist. The purpose of our study was to evaluate the performance of the existing drainage system, take a look at what system deficiencies there are because there are problems out there. We looked at alternatives to solve those problems and then come up with recommendations. There's a 24", 18" and a 24" and those flow all kinds of flow by ditch into a 12" storm sewer system. It's pretty obvious there is a bottleneck in the system. Over the years there was a trail constructed along the south side of 113th Street so the drainage system was extended across that trail and the flow comes underneath the trail. Two particular homes are the subject of where the flooding occurs. That gentleman had his basement flooded to the tune of about \$25,000.00 in damages. He said he put some floodproof type basement windows in to help with that problem, but obviously that's not something a homeowner wants to live with in a relatively new subdivision. After that first segment the 12" pipe becomes a 15" pipe and then it's 21" all the way down to the reservoir. That 21" is pretty good size and is adequately sized for what we would like to see for a 10-year storm event, but for some reason those first two pipe segments were put in there at 12

and 15 inch. What we found was that the 12" and 15" pipe segments at the north end of the subdivision were unable to carry that 10-year storm event. When that storm sewer reaches its full capacity flowing over top the trail it flows overland to that property of 15088 Keel Road and gets into his basement during severe events. Between those two homes usually you try to create a little bit of a swale in there, so it flows bigger than a 10-year storm and escape downstream, but this is kind of built up high. We need to fix that swale as well. We've experienced flooding all around that property including his basement flooding. There's kind of a low dip along that trail on the south side of 113th Street and you can see someone has installed sandbags to try to block water. The water comes underneath the road, goes a little bit down the ditch and the low area long the trail water overflows the trail and goes into those properties. There's about 18 acres that drain down the swale to the 12" pipe and is collected in these two inlets behind those two residents and you can see how the overflow swale is built up high from the lot grading and didn't get that shaved down to provide an emergency outlet for water to escape from those backyards. We'd be looking at replacing that system. Our main recommendation was to replace those first two segments of 12" and 15" pipe with 21" segments of pipe, replace the three inlets with some larger, higher capacity inlets that aren't prone to clogging and then regrade the swale between the homes so if we do get a 100-year storm that water can safely pass downstream through the street gutter system without getting into those basements. We also recommended that any future development north of 113th Street should the substation expand or if something happened with the gun club that any flows that are newly developed north of 113th Street to route their flow around the subdivision and not tax that system any further. To the east there's an open easement or open property underneath the high-tension power lines and they could run a storm sewer down there to bypass the subdivision if need be. That's a future recommendation in case the property north of 113th Street ever develops further. The total estimated cost of the work is \$109,000.00 to replace those pipes, do the grading and redoing those inlets. We're also recommending raising that segment of trail where the dip is. It's an added measure of protection to prevent overflow there. In terms of downstream system capacity, once that sewer becomes a 21" it's fine for carrying the 10-year flow event so we are going to be pushing more flow through that system, but less overland flow going through the neighborhood. The system has the capacity to handle that additional flow. There's really not a lot of flow stored around those two homes that flood, it just kind of pools around there so there's not going to be a significant increase in flow. We're just taking it out of the yards and out of the streets and putting it in the pipe where it belongs. We did look at a couple of other alternatives. We looked at some upstream detention options instead of upsizing that storm pipe, we looked at putting a detention basin north of 113th Street, maybe trying to squeeze one in between the trail and 113th Street, but that didn't turn out to be feasible and then maybe between the trail and the subdivision. We found that even with the detention basin we'd still have to upsize those pipes and raise that trail so there wasn't a lot of benefit in those options and that cost was \$286,000.00 to \$346,000.00 compared to \$109,000.00 to upsize the pipes. We also looked at routing the flow to the east down the powerline easement on the east side of the subdivision and taking that directly into the inlet channel to Geist Reservoir, but that was quite a bit more costly too, \$325,000.00. We think we have a pretty good solution to replace the segments of pipe, replace some inlets, do some strategic plot grading and I think we can get this problem solved pretty quickly. The County Surveyor's Office was on board with the solution as well as the City of Fishers, Jason Armour.

Altman asked have we negotiated a contribution from Fishers?

The Surveyor stated not yet, we were waiting for this report. They should at least pay for the increase in height of the trail.

Heirbrandt stated yes, I agree.

The Surveyor stated I was going to ask them if they could help fund the overall cost.

Altman stated I'd like to get some of that on record. Is the trail kind of causing part of the problem or not? Is it acting like a dam?

Peterson stated no, we're going to make it act a little bit more like a dam, but it's not a major contributor. The main problem are the pipes.

Heirbrandt stated I thought this was a very impressive study you put together. What kind of dollar amount do we have in this watershed?

The Surveyor stated the fund brings in \$11,832.00 per year and we have \$48,809.00 in the fund. If go 50/50 with Fishers we'd have enough money to pay for it. The fund only collects for four years. We probably should look at increasing that too while we're at it.

Howard asked are all the pipes in dedicated right of way and/or dedicated drainage easements and are they wide enough to do the work?

Peterson stated those are regulated drainpipes with easements.

The Surveyor stated I will get with Fishers and ask Jason (Armour) what they can do to partner with us.

Bellewood Drain, Glenn Oaks Arm - Presentation:

Mr. Joe Miller, Mr. Max Kolb and Mr. Chris Konow were present for this item.

Miller stated in 2005 Glenn Oaks was platted, in 2006 a builder bought the lot, in 2016 Konow's purchased the property and went through the process of permitting a house. In 2017 and 2018 the house was built and then last year Konow had a pretty significant flooding event in his basement. Soon after he came to the Board and the Surveyor's Office installed an extension of an existing 21" pipe there with an end section. As part of our study we evaluated the pond within Glenn Oaks, there's some other surface drainage and storm pipe drainage into that pond. The primary contributor to Lot 24 is a little over three acres coming from the south to the property on the west side and another seven acres roughly from the east. We looked to see if there was any watershed hopping or jumping. We checked Claybourne because it could potentially jump over there depending on the capacity of the pipes. It appears as though those pipes have reasonable capacity. We contacted some residents on 131st Street and asked if they had any water coming from the front of their house to the rear. They expressed they had not. It seems as though the area that is undeveloped does have some drainage challenges associated with it. We found that the primary contributors were an emergency overflow. The swale in between those lots is a foot to a foot and a half higher than the Konow's basement elevation. That's a primary contributor. No matter what happens with the pipes or the inlets that is an issue. The ordinance says that the building elevation has to be two feet above the emergency overflow elevation. We took survey shots at the curb, we're still six inches higher than what the basement elevation is in the back. The overflow elevation to that point is still a foot higher than what the basement elevation is too. Right now, the emergency overflow goes northerly to the road, but it does pond at least a foot in the basement before it heads that direction. The other issue is that the inlets clog pretty regularly, which washes down into the inlets and exacerbates the issue. The pipes are sized reasonably for a 10-year, but the pipes generally aren't sized for a 100-year and with that, water can't get into the pipes to flow out when they get clogged. The existing lots for the 100-year on our analysis, we evaluated the pond as well, the lot for the 100-year is about 901, the lot basement elevation is 99.2. The pond elevation only routes to 96.1 so the evaluation and study that was done originally is almost right spot on with what we found. There're really no issues with the pond and the drainage from there. The pipes seem to be reasonably sized for a 10-year flow. The primary issue that we have is the basement; the lot curb elevation is at 99.7 and the basement elevation is at 99.2 and the overflow elevation at 900.2. There's a foot difference there. The basement elevation is below any other overland flow.

Altman asked do they have building pads in that subdivision? Did the developer put building pads in?

Miller stated I don't know if they put building pads, but we do have a note on here on the original plans it showed an elevation of 904.3, but it had an asterisk next to it and in looking at the asterisks it basically says that the final elevation is to be determined at time of construction. Typically, that's something that's looked at during the plot plan approval process. I believe the City of Carmel was in charge of that for this particular subdivision. If you look at it the 904.3, which is what the stated elevation was on the plans and 99.2 there's a pretty significant difference between what was on the plans and what got built. That's a five-foot difference. The primary issue is the elevation of that basement coming out. From the picture's in the report you can see that the inlet does get clogged and that does lower the capacity of the water getting into the pipe and able to carry that.

Altman asked should they have used bigger rip rap or what's the solution for that? It looks like its actually getting in the grates.

Miller stated a larger stone or maybe some kind of mats that hold it back a little bit better. Any of those things can work.

Heirbrandt stated I was out there when it was flooding, and I could not believe the water coming off of that land. It was unbelievable the force of that water.

Miller stated there's a lot of flow and it drops four feet or so down to it and that really creates quite a bit force with that gravity. We looked at five different alternatives. Alternative No. 1 was basically raising the low opening elevation into the basement. That's outside the easements as they are currently situated. It's not something we do, working on structures. It would be between \$10,000.00 to \$50,000.00 to do that. Alternative No. 2 was to create a new channel heading to the west, cutting a new swale. The issue with that is that you're keeping the existing 21" pipe in place, lowering that elevation on the lots adjacent to it four feet or more. A couple of issues with that is that you're potentially bringing in 100-year ponding water from the pond onto the properties. You would also have to acquire some additional easements to do that. It would be a pretty dramatic upheaval of those lots.

Heirbrandt asked what do you recommend?

Miller stated in my opinion, if you're going to do something, do both Alternative No. 1 and Alternative No. 3. I think the low opening elevation has to be raised because no matter what you do anywhere else you're going to have that same issue no matter what size pipe you put in there's always a chance of something happening where it gets plugged, clogged or whatever. I think the first one needs to get done; the low opening elevation needs to get raised. There's really no design protocol for Alternative No. 3, which is putting in a 3x4 box to replace that 21" pipe through there. Essentially that would more than double what the needed inflow was from that drainage area, over 10 acres coming into there. We'd be following the same route and then upgrade that channel area with some additional rip rap or some other kind of materials that hold that bank a little bit better. That's closer to \$290,000.00 project.

Heirbrandt asked what do we have in the watershed on this one?

The Surveyor stated not that much.

Heirbrandt asked can we do something relatively cheap to help Konow to relieve him of some of this immediately?

Miller stated to be truthful, I don't see anything that he can really do. The pipes have a 10-year capacity. If you have anything over a couple of inches of rain and that's saying the inlet is going to be taking the water at full flow. As soon as the inlets get clogged that capacity goes down pretty dramatically.

Heirbrandt asked would you say the City of Carmel probably has some part of the blame of why Konow floods? I know I'm putting you on the spot, but the truth is the truth.

Miller stated I would say whoever put together the plans that deviated pretty significantly from what the original plot plan stated. I don't know how. I think the attorney can talk more eloquently about whether approvals by a government agency add liability or not. They did approve it. We did not get a copy of that plot plan as part of this, but a lot of times during the course of this there are things that happen where there are people who have thrown a little money based what they've approved.

Altman asked was it primarily the builder versus the developer? That's what I'm trying to figure out in your discussion.

Miller stated from what I can tell the developer has been out for a long time, so the builder was there and owned the property. I'm not sure who put together the actual plot plan. Whoever put the plot plan together put those elevations on the plan and then actually did that.

Altman stated they're the primary responsible party. They're the ones that had a plot plan that told you do "x" and they did "y". To ask a governmental agency to be the guarantor of someone doing the polar opposite of, from what I understand, what the plot said. It comes back to the builder.

Miller stated I would think whoever's stamp is on the plot plan and whoever hired that work would have responsibility to a great extent.

Howard stated but the primary problem as I understand it is the elevation of this house. Everything else is bailing wire and duct taped to try to fix something that was caused by the builder. It would seem to me that the property owner; it's the property owner's problem now he's going to go after developers, builders, people who stamped, whoever was there. I'm like Commissioner Altman, that private property is not a public problem in my opinion.

Altman asked are we missing something? That's what I want to make sure.

Miller stated staff and I went through it last week. The pipes are sized per the ordinance and to be truthful they would be approved pretty well as they are today. The ordinance that's in place now was approved in 2009, which is eight years probably before the plot plan was approved. Right now, that two-foot elevation above that overflow elevation would be enforced and there would be pad elevations shown and they wouldn't quite have that language that was on there that says "to be assigned at the time of building".

The Surveyor stated that's not done.

Altman stated those are just basic things that you don't want your property to flood. It's just basic.

Heirbrandt stated I can tell you personally from being out there a couple of times and seeing this, I try to put myself in the position of the homeowner and this is one that I think about when I see a torrential rain come. I immediately think of that property from what I saw that day and saw the owner out there. He stayed home while his family went to another place because they didn't even want to be in the house. It kind of made me sick to my stomach and that's why every week I'm asking you about this, where are we at, what are we doing, how are we going to help in this situation because personally it bothers me to see that guys face, Mr. Konow, to see him having to deal with what he's dealing with and seeing our Emergency Management team go out there throwing up sandbags all over the

place to try to help this guy from the water flooding into his house. I wouldn't want to be in that situation.

Altman stated nobody debates this is nasty. Is there any alternative for Konow to build something around to protect that's less costly?

Miller stated we talked about some of those things. You could build it up around like a patio potentially, put a pump behind it because there is going to be water that's collected in there. My personally risk reverse nature as an engineer I really think it would be best to get more stairs on the back end of that, raise it up two foot above that overflow elevation. You can cut the overflow elevation down a little bit, it's just that the curb elevation we're still half a foot above the basement. You can gain a little of elevation wise so maybe you don't have to raise it as much, but at least to me making a pop out where it actually steps up and it might add another six foot onto the back end of the house, but at least your three foot higher than what you were and it all grades away now and it doesn't automatically go in a house before it goes to the pond.

Altman stated if you flow into it as I recall, sliders or something like that. How does it infiltrate the property?

Miller stated it's a sliding window. It's the same thing like the hurricane type barriers on the backside with sandbags around it. To be frank, it's hard to feel very comfortable leaving the house with any kind of rain in the forecast.

Altman asked are there any basement windows that flood? Is it all primarily in that opening?

Heirbrandt stated it's the opening where it's coming in.

Altman stated it seems to me we ought to be looking at, if we're going to help at all, help design some type of poured concrete like you said, barrier system, to protect that opening. What you described may do it, but to charge the watershed I don't see it. It's horrific, but I don't know if the builder is still in business. It seems like a private cause of action.

The Surveyor stated in answer to the Board's question about the funds it brings in \$8,192.00 per year and right now the fund has \$7,313.00 and it's a four-year collection.

Altman stated if I'm in that neighborhood and I get an assessment for this situation I'm not going to tolerate it.

Dillinger asked how is this any different than any area that we have considered a watershed?

Altman stated everything was designed properly, the developer installed it properly. It's not a system problem.

Howard stated it was designed, everything is fine, and you've got one property that the house was built too low. That's not a watershed issue. If our system was inadequate and it was backing up into someone's house, then it's a system deal and you charge everybody in the watershed for the system failure. This is not a system failure. Everything was designed properly, installed properly and other than a bunch of rocks in the grate, I don't know whose property..

Altman stated that needs to be corrected regardless, immediately.

Howard asked is that grate on road right of way or on somebody's property?

The Surveyor stated we put that in. It had an inlet and it wasn't accepting enough water, so we took the inlet off and put the extension of the pipe and the grate on it.

Baitz stated since that photo was taken that area has been redone and we put mesh wire over the top of that and anchored it down.

Heirbrandt asked Howard, with your legal background if that was your house tell me what you would do?

Howard stated I would hope that the builder or whoever stamped the plans is still in business and has lots of insurance.

Dillinger asked and if they didn't?

Howard stated the first rule of complex problem solving, whose problem is it? Is this a watershed problem or an individual problem?

Altman stated and would our actions comply with the State Drainage Code. Those are the three things that we have to do because it's not our money.

The Surveyor stated I feel sorry for the gentleman and his family, but when the plans are done correctly and the city takes a misstep and approves something that somebody has designed incorrectly and then builds it and a problem exists I don't see that as our problem.

Dillinger asked is it the city's problem?

The Surveyor stated I think it's the city's problem.

Dillinger asked then should he not be going after the city?

The Surveyor stated that's one of the people I'd be going after.

Howard stated there are some immunities in the...

Altman stated yes, but they're also collecting a drainage fund that they spend wherever the heck they want. It's just, quite honestly, a slush fund. Maybe they ought to slushy it over to this gentleman.

Heirbrandt stated if that's the case then what I would like to get done is set up an appointment and I'd like to be there myself. I'd like to get the City of Carmel, lets have a meeting with the people from the city, whoever that may be, and I'll come and sit in it to go over what this issue is.

Dillinger stated I think that's the approach. That's the only thing that seems fair to me out of any of this.

Howard stated the property owner needs to be there too. It is a problem. Was one of Banning's numbers what you believed it would cost to fix the house?

Miller stated yes, I threw \$10,000.00 to \$50,000.00 at it. I'm not in the house building and fixing and modifying business. This is my opinion, I'm not sure I'd be comfortable designing a berm around it because then you're still adding a mechanical structure that could potentially fail. I'd be in favor of actually putting stairs on there to get to a higher elevation so that it is inhibited from going in there before it goes around.

Konow stated the only comment I do have and I do appreciate the county coming out and putting in that new drain, but one thing that I have noticed since that's occurred is the amount of water that comes into that space creates a ton of erosion all around that area. I spent close to \$5,000.00 to bring in rip rap and all that rip rap that is there was provided by me because when I first moved into that house that common area was just grass and it was just eroding into that drain. I know the county came back and actually helped to tie some of that stuff down, but I also believe that they were putting a band aid on already an area that I don't feel like is, I just feel like there is some work that could be done to allow for the water to flow into that drain because I just think that the next big storm we have I don't even know if that tie down is going to; I'm constantly out there moving rocks. I'm not talking like small rip rap. There're other rocks that I put out there that are very large and after a storm they're down by the drain. I know there's probably some things it sounds like from this report that has to be done with my house, which I'd love for some guidance on who to go to deal with that if it's the city or my builder. There are some improvements that could be made in terms of how water gets to that drain or how you slow down the water going into that drain or do something different with the rip rap because it goes into a very steep slant into that drain and that rush of water down that hill creates a huge amount of force that I've sat there and watched rock just fly through the air practically covering that drain.

Heirbrandt stated it is like that.

Konow stated I have my phone here where I could show you videos of the amount of water and the force of that water. Like I said, I appreciate what the county has done up to this point in time. Right when all that rock covered my space on Tuesday somebody was out there tying it down, but I do think it's a band aid tie down. They kind of took what exists and tied it back down to where it was and I'm the one that laid that rip rap out there. I don't know if I adequately did it the right way. There's probably a better way to get water into that drain than the way it's set up today, in my opinion.

Heirbrandt asked Miller, why can't we slow that water from that vacant field because it just seems like it is just pouring from there.

Miller stated you've got a little over seven acres coming through there. One of the options we looked at was upstream detention and ironically it didn't provide us much benefit as I anticipated because you have over 30% of the watershed still coming from other areas. That's potential, but there's no easements back there and that's probably a three to four-year process I would think in order to get anything done by having to acquire easements. The two options that we showed, Alternative No. 1 and Alternative No. 3 are really something quite a bit quicker. To elaborate on Konow's discussion on the Alternative No. 3 we're replacing the pipe all the way through that channel it would get reworked in that as well and really bumped up as far as it's ability to handle that overflow just from an erosion perspective.

Konow stated but I think that even some improvement of the channel going into that could help with some of the clogging issues.

Miller stated yes, I would say that, but in my opinion the clogging is a secondary issue from the elevation. There's always going to be risk, now there's more risk when it gets clogged obviously it raised the elevation quicker than what it should. From a day to day perspective, yes.

Konow stated every significant rain that we have I go out the next day and move rock off of that drain. It's a significant effort. I think that what they did to put down the tie on the rock, but it doesn't tie all the rock down. There's plenty of water that comes in there that moves that rock.

Altman asked Miller, was this system designed to handle the outside water? Typically, a developer is not required to design a system or a landowner to accept outside water.

Miller stated it's all within the watershed. It appears as though the pipes were sized, it's 21" pipe now for roughly...

Altman stated so it was designed to accept this flow off?

Miller stated yes.

Dillinger stated I can't see that we're going anywhere to fix the problem anymore than what we've talked about.

Dillinger made the motion that either the Drainage Board, the Surveyor or Commissioner Heirbrandt if he'd like to take the lead on it, set up a meeting with Carmel.

Heirbrandt stated I want to make sure Howard is there and I want to make sure that the Surveyor is there and the owner. Can the Surveyor help to coordinate whoever that person is from Carmel and include us on?

Altman stated you might as well put City Legal in when you're setting it up because otherwise, you'll have a meeting and then have to have a second meeting.

Heirbrandt stated I want to get something going. I'm sorry we couldn't get anything really done today, but we'll see what we can do.

Altman stated nobody is disputing your situation is horrific, it's just who pays the cost.

The motion had been made to set a meeting with the City of Carmel, Hamilton County Surveyor, Commissioner Heirbrandt and the property owner (Konow), seconded by Altman and approved unanimously.

The Surveyor asked would you like Joe (Miller) there also?

Heirbrandt stated I would, yes.

Final Reports:

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

"To: Hamilton County Drainage Board

June 16, 2020

Re: #315 JR Collins #1 Drain: Springmill Road Improvement Project

Attached are plans and other information for the Springmill Road Improvement project. An inspection of the drainage facilities for this project has been made and the facilities were found to be complete and acceptable.

This report will serve as an initial and final report for this construction. This road project began just south of Main Street and ended at the 111th Street intersection. The work done is reflected on the final construction plans by United Consulting- Project Number 16-ENG-52. During this construction several regulated drains were affected. Those drains are as follows:

Plan Sheet 49

JR Collins #1 Drain: West Park at Springmill Sec. 1 Arm:

The project removed 186 feet of existing drain. The existing drain consisted of 94 feet of swale, 45 feet of 12" CMP, 9 Feet of 12" RCP, and 38 feet of open ditch. This existing drain was the outlet for the subdivision. Therefore, a new outlet was needed. This was constructed with the road improvements from structures 304, 303A, and 303E. The drain installed consisted of 126 feet of 18" RCP and 18 feet of open ditch. Therefore, the project removed 42 feet from the drain's overall length.

This project was paid for by the City of Carmel and work was conducted within existing drain easements and road right of way I recommend the Board approve the drain's construction as complete and acceptable.

Sincerely,

Kenton C. Ward,
Hamilton County Surveyor

KCW/SLM"

Hamilton County Drainage Board
June 22, 2020

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

Capital Asset Notifications:

The Surveyor presented the following Capital Asset Notifications to the Board for approval: R. J. Craig Drain; J. R. Collins #1 Drain; Anna Kendall Drain; John Underwood Drain.

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

Big Cicero Creek Joint Drainage Board:

The Surveyor presented the minutes of the Big Cicero Creek Joint Drainage Board of April 22, 2020 to the Board for their information.

Altman asked have you had any requests for an order of the Board to mandate that a parcel be used as an access for crops at no compensation?

Heirbrandt stated no.

Altman asked you don't recall hearing of that?

Heirbrandt stated I don't.

Cover Crop Program:

The Surveyor stated this is a program from the Indiana Soybean Alliance, Indiana Corn Marketing Council, Beck's and Cargill that for the first-year producers it will pay for the total cost of the cover crops for at least 40 acres of that producer's property. If you're in the program prior to this year it will pay a portion of those, I believe its down to \$10.00 per acre for the planting. It's applied aeriually in August. This is a program which I've been trying to get the Big Cicero Creek Board to kind of pony up and put some money towards it. However, this year with a grant they were able to do the no cost for the first-time producer.

Altman asked what's the geographic area of qualifying properties?

The Surveyor stated anything within the Upper White River Watershed.

Altman asked does it have to be active agricultural land? Say that you put a cover crop in, you've got to till it next year and plant?

The Surveyor stated yes.

Masthead Drain - McPhail Encroachments:

Howard stated at the Board's September 28th meeting you had a presentation concerning an encroachment into a drainage easement out by Masthead. I took the minutes from that essentially, Jerry (Liston) went out, the property owner's lawyer wanted an encroachment for a chimney into the easement and it turned out that there were a whole bunch of things in the easement as Jerry will show you in a minute. Mr. McPhail is wanting to sell his property. The document that I sent you Friday was sent to Mr. McPhail on Thursday afternoon. It has all the terms of the encroachment permit that you discussed in your minutes of the 28th including that there is a pipe that has been buried in there and the pipe drains the street and some adjoining lots. If the pipe ever breaks or the tree roots get in it or whatever and it fails, the replacement of that would be the sole cost of the property owner. If the property owner doesn't replace it, we would go in and replace it for them and it would be charged back to the property owner and there could even be a lien against his property. This would be binding on successors. The good news is Mr. McPhail has his encroachment permit, but this document is set up to be recorded to be in his chain of title so that the subsequent purchaser will be on notice of this document probably at his closing when he gets his title policy.

Altman stated I'd like to clarify by the addition the definition of landowners that the landowner definition includes their successors and assigns. I don't want anybody wordsmithing this thing saying that...I see the successor and assigns, I read through the whole document, but we keep talking about at the landowners cost and the landowner is a defined term with just the McPhails and they're selling it, so they won't be around.

Howard stated so we would put the successors and assigns not only in paragraph seven.

Altman stated no, "Whereas", it's the initial "Whereas" definitional landowners.

Howard stated we'll add that front page.

Altman stated I can see someone picking this apart or trying to and we're arguing.

The Surveyor asked Howard, did you put in there that if something fails and it's removed it cannot be replaced if it's within the easement?

Howard stated I think it's in there.

The Surveyor stated and also no further encroachments.

Howard stated Number 1, the Drainage Board allows those landowners shall not replace or install any new encroachments or replace existing encroachments within the drainage easement without the prior approval of the Drainage Board.

Heirbrandt asked do we need to take any action on this?

Howard stated this is an agreement, it needs to be approved by you and it needs to be signed by the property owners and returned.

Dillinger made the motion to approve the McPhail agreement as amended, seconded by Altman and approved unanimously.

Howard stated I'll have it for signatures after the break between meetings and get it to Lynette (Mosbaugh) and we'll send it out.

A.F. Ingerman Drain - Scherer Request:

Howard stated I sent this memo out May 22nd. I think this concerns the gentleman that wanted to build onto his house. He was denied a permit by Cicero. This memo basically cites the code that if there is insufficient outlet that there cannot be a connection. We've interpreted this not only can't there be a connection there cannot be; because any creation of new impervious surface would require additional discharge into the drain and the drain is inadequate. I don't know that this has been sent to Mr. Scherer, but at your direction I would suggest there be a motion.

Altman stated we've got basically the breaks on because of the reconstruction. Is there any alternative like we did with fill in the floodway that if they put onsite detention that's approved and stamped that might be an alternative? Not just 1:1, but we'd want to have an insurance package like 1:2 or 1:3. Is that something we might consider allowing some limited development until someone comes up with the money?

The Surveyor stated it's a possibility. However, I would want the area within an easement.

Altman stated we would put the protections on like we always do, but that might allow some of the commercial stuff that Cicero wants to do. As we're doing these variances, even fill in the floodway, we need to increase our permit fees to cover the additional cost of our reviews.

The Surveyor stated we need to begin the permit fees on the variances.

Altman asked why don't you look at those things. There's got to be some middle ground that we can open up the development and put the onus on the landowner to come up to the space. It's probably not going to help Scherer because he probably doesn't have enough room.

The Surveyor stated he's got a pretty good-sized tract there.

Altman stated it seems like we could figure this out, it's not really rocket science. We might want to look at other watersheds where we have problems.

Crawford Property Wetland Mitigation Project - Change Order No. 1:

Conover presented Change Order No. 1 to the Board for their approval.

"To: Hamilton County Drainage Board

June 16, 2020

Re: Crawford Property Wetland Mitigation Construction
Change Order #1

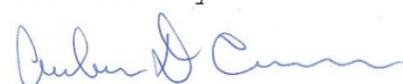
Change Order #1 is three items that were reduced on the project. The reduction is due to the actual disturbed area of the project being smaller than the estimated size in the bid.

Change Order #1

Item 12 - Remove 0.30 acres finish grading -----	(-\$189.00)
Item 14 - Remove 14,700 Sq. Ft. INDOT seed mix -----	(-\$588.00)
Item 17 - Remove 1.75 tons straw mulch -----	(-\$1,435.00)
Cost by Williams Creek of Change Order # 1 -----	(-\$2,212.00)

Contractor's Bid -----	\$79,612.80
Change Order #1 Total -----	(-\$2,212.00)
Williams Creek - Total Construction Cost -----	\$77,400.80

Submitted By:



Andrew D. Conover
Inspector"

Dillinger made the motion to approve Change Order No. 1 for the Crawford Property Wetland Mitigation Project, seconded by Altman and approved unanimously.

Non-enforcements:

Mr. Wade Locklear was present for this item.

Conover presented a non-enforcement request for the Stony Creek Drainage Area, N. H. Teter Arm filed by J. Brooks Properties, LLC for parcel #12-07-26-00-00-011.000 for an electric fence. The Surveyor's Office recommends approval.

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

Cash presented a non-enforcement request for the Mud Creek/Sand Creek Drainage Area, E.E. Bennett Arm filed by Interstate Holdings, LLC for parcel #13-11-23-00-00-011.001 for pavement, rolled curbs and storm sewer. The Surveyor's Office recommends approval.

Altman made a motion to approve the nonenforcement request presented, seconded by Dillinger and approved unanimously.

Clark presented a non-enforcement request for the Elliott Creek Drain, Village at Towne Pointe Arm filed by Sean and Fabiola Clayton for parcel #17-09-28-00-36-024.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Maple Village Arm filed by Masha Belyavski Frank for parcel #08-09-03-00-04-031.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Maple Village Arm filed by Susan Tierney for parcel #08-09-03-00-12-044.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Maple Village Arm filed by Charles West for parcel #08-09-03-00-09-015.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Long Branch Drain, J. W. Brendel Arm, filed by Aaron and Deborah Seeman for parcel #17-09-29-00-04-007.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Albert Shaw Drain, Ashmoor Arm filed by John and Christine Lord for parcel #17-09-30-00-09-043.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Village of West Clay Drain filed by Sumeet and Sumeeta Bhalia for parcel #17-09-28-00-49-012.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Centennial Arm filed by MaryEllen Mascia for parcel #08-09-15-00-06-050.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Ridge at Flat Fork Arm filed by Christina Bennett for parcel #13-16-05-00-06-018.000 for an inground basketball goal. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Heritage at Vermillion Arm filed by Wade Locklear for parcel #13-16-05-00-02-004.000 for a fence. The office will support a 7.5-foot encroachment into the easement, which is our standard for this development. Mr. Locklear is here to ask to increase that to a 10-foot encroachment because of a landscape path.

Altman asked is this landscape path on Locklear's property?

Liston stated it is.

Locklear stated when the landscaper initially put the plan in place, we knew about the 7.5 feet. My landscape contractor knew about the 7.5 feet so that was the intention all along. The fence is four feet and its supposed to stay four feet off of our house. The truth of it is I had a landscaper that just got a heavy hand with his design. He's with a spray paint marking the ground where he needed to be and he just got real creative all of sudden and decided he would go out a little further than he wanted to maintain the serpentine pattern of the path itself. The current encroachment if we were to go where it was is right in the center of the path, 7.5 feet sits right in the center of the path. Being in the military I understand rules and what there here for, they're here to be enforced. I make no apologies. I can't do anything about what they've already done, I can only ask for your consideration.

Altman asked what's the material for your path?

Locklear stated the material is a compacted base, so it's eight inches of compacted 53 stone similar to what you would use on a paver pad and beyond that I used decomposed granite, three inches compacted as well. It's not as simple as a gravel path, it's cut into the soil, it's an engineered path.

Altman asked did your landscaper vary from the plans that you had?

Locklear stated they did.

Altman stated then it's clearly the landscaper's problem if I'm hearing you correctly.

Locklear stated it would be the landscaper's problem, but unfortunately it was upon my approval, approval is acceptances and approval and I've signed off on the papers. I would personally take responsibility for everything that has to happen at this point.

Heirbrandt stated so if someone came in and we had to get access to that area, and we damage it, or we have to tear it out...

Altman stated it's the standard, 7.5 feet.

Locklear stated I understand and I would be willing to give up any rights I need to take responsibility or even move and I'll pay the legal fees and work that document up to say I'll take responsibility for any of it. It was just unfortunate. As you can see, we've got plenty of property, there's plenty of room between us, no drainage issues, nothing has happened. The fence is intended to be black rod iron fence so it won't be anything that will change the grade or flow of water.

Dillinger stated I think as long as the property owner is willing to accept responsibility for it, I'll make a motion to approve his request, seconded by Heirbrandt.

The Surveyor asked you're speaking of on the side of the house and not the back side?

Dillinger stated yes, the side he's talking about. It's already there so if it has to be removed it's either remove now or removed if we need it.

Altman stated it's the precedent, we need to be consistent on this stuff and to me that's not a big enough hardship.

Dillinger stated you have to be consistent, but you also have to have a little compassion and each situation creates its own situation.

Altman stated I agree, it's just that we're putting the Surveyor's Office...

Dillinger stated he has acknowledged that he is responsible for it and he's acknowledged that he will be responsible for paying the bill if it has to be removed and that's good enough for me.

Howard stated essentially, he's just going to hold us harmless for any damage if we have to go in there and do the work.

The Surveyor stated would you consider that the fence be placed at the end of that curve and not on the property line?

Howard stated is there a fence where that red line is going, is that the plan?

Locklear stated the initial plan for the fence is to begin right at the highest point of the curve where it reaches into the easement, where it encroaches.

Liston stated that will leave five feet between that point and the property line.

The Surveyor asked would you consider going five feet?

Dillinger asked is that what you want us to do?

The Surveyor stated that's what I'd prefer.

Dillinger stated okay.

The motion had been made with an amendment to that motion to approve Locklear's request for the fence encroachment so long as the encroachment be instead of the 7.5 feet that it be 10 feet and approved. Altman abstained.

Dillinger stated if he has to tear it up what makes the difference if it's seven or ten feet, it's going to tear the sidewalk up anyway.

Howard asked Liston, are you going to use your regular form?

Liston stated yes, I'll have to revise this and bring it back to the next meeting.

Construction Updates:

Burnau Arm Reconstruction - Liston stated the contractor finished the work last Wednesday and mobilized off the site. I have a final inspection scheduled in the first full week of July to give time to let the grass grow.

Howard asked Duncan, did you work around that pole?

Duncan stated we have. It still needs to be moved, but we'll just keep working with Duke Energy to have them move it.

Heirbrandt asked what are you doing to spur along Duke?

Duncan stated I have a draft letter put together and Howard is reviewing it that we issue to Duke Energy; my draft actually says related to their work plan that they want the Board to sign, essentially my draft says the Statute is clear that you have to move at your cost. We don't need to be involved in that and please move it as soon as you can. We'll start there.

Altman asked let's give them "please move it" by a date. That date will give us another date to decide what we're going to do.

Ellis Barker Drain Reconstruction - Duncan stated they had a meeting last week with the contractor. The contractor actually mobilized from the site and they have returned. They need to do finish grading across the length of the entire project. They were working through with the developer of Lindley Run. We had previously agreed for them to have a place on site for the dirt to be moved. They formalized that location. There is some existing tile that needs to be removed. That should be finishing up and that is the bulk of the project. There is still the issue at the intersection of 196th Street and Grassy Branch Road where Frontier has a fiber line that is in conflict with our project. I sent Frontier a not quite as forceful, I figured I would ask politely for them to move this along to decide if they need to relocate the line or if we can lower it with the slack that's in the line. Their reply was they'd be willing to meet out on site this week so I'm going to work that with Luther (Cline). That utility relocation is holding up our contractor from completely finishing the project. I'll continue to work on that.

Clara Knotts Drain, Pipe Lining - Baitz stated the physical lining of the pipe is complete. The area has been cleaned up, the water is flowing through and we're working on the financials of it now and getting all the permitting.

William Krause Drain Phase 3 - Conover stated the contractor has been off the project since the Covid shutdown and plans on coming back this week. We have one more intersection to get pipe put in and then a lot of clean up and paving.

Pending Asbuilts:

Thistlewaite Drain, California Street Arm - Conover stated the asbuilts are completed for this project.

Crawford Wetland Mitigation Project - Conover stated the asbuilts are completed for this project.

The Surveyor stated we did get the asbuilts from the contractor and engineering company last week.

Anchorage Drain Reconstruction - Liston stated those asbuilts were completed in house by Brian Rayl, our LS in the office.

Pending Final Reports:

Thorpe Creek Drainage Area, Martha Ford Arm Relocation - Liston stated the final report is written and I need to sit down with the Surveyor to finalize that.

William Krause Drain, Phase 1 - Conover stated the report is ready for review.

William Krause Drain, Phase 2 - Conover stated the report is ready for review.

The Surveyor asked Howard, have we heard anything from Ogle?

Howard stated no and we made a motion at the last meeting that we closed that issue. I asked Andy (Conover) I think Ogle is tilling the area. If he's not going to sign the release, he's not going to sign the release. We still owe him the crop damage, which is relatively small, and I'll work with Andy and tell Ogle we've closed out the project and it's done.

Altman asked are you going to tender the check?

Howard stated the check is a separate issue from the release.

Altman stated we have to pay him the money if he wants to cash it, send him a certified check.

Benton Hinesley Drain, Grass Waterway - Conover stated the report is ready for review.

Pending Items (Drainage Board Attorney):

Petition to Circuit Court for Alternate Members - Howard stated that was filed a couple of months ago and we've received that order.

Mosbaugh stated I need a copy of the order.

Howard stated I'll make sure you get it.

Vermillion Drain (Rivas Fence) - Howard stated there is a deadline for the Rivas to sign their admissions. I think it's the sixth of July. They'll either sign those or we'll file a motion to compel them to sign them. They've been placed on notice of frivolous litigation and they may have a new attorney by that time. I'm still working with their existing attorney and we'll have conversations and report back to you at your next meeting.

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

Mark Heirbrandt - President

Lynette Mosbaugh
Executive Secretary