

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

September 28, 2020

The meeting was called to order Monday, September 28, 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. Reuben Arvin, Mr. Steve Baitz, Mr. Steve Cash, Mr. Andy Conover, Mr. Sam Clark, Mr. Jerry Liston, Mr. Gary Duncan and Ms. Suzanne Mills.

Approval of Minutes of September 14, 2020:

The minutes of September 14, 2020 were presented to the Board for approval.

Dillinger made the motion to approve the minutes of September 14, 2020, seconded by Altman and approved unanimously.

Bid Opening - Clara Knotts, Park Broadway Drain:

Mr. Jeff Trueblood and Mr. Robert Everman were present for this item.

Howard stated the first bid packet is from Morpheus Construction with all forms included and a base bid of \$358,290.00, Alternate Bid No. 1 at \$315,853.00, Alternate Bid No. 2 at \$374,381.00, Alternate No. 4 \$354,315.00, Alternate No. 5 \$404,019.00 and Alternate No. 6 at \$127,074.00; the next bid is from 3-D Company, Inc. with all forms included and a base bid of \$887,437.35, Alternate Bid No. 1 \$768,323.85, Alternate Bid No. 2 \$232,189.45, Alternate No. 3 \$714,757.55, Alternate No. 4 \$650,403.15, Alternate No. 5 \$784,966.10 and Alternate No. 6 \$425,076.25. This appears to be all the bids on this project. Do any persons know of any other bids; none appearing I recommend the bids be referred to the Surveyor's Office for review and recommendation on October 12, 2020.

Altman made the motion to refer the bids to the Surveyor's Office for review and recommendation at the Board's October 12, 2020 meeting, seconded by Dillinger and approved unanimously.

Williams Creek Drain - Jackson's Grant Section 7 Arm:

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"August 13, 2020

To: Hamilton County Drainage Board

Re: Williams Creek Drain; Jackson's Grant Section 7 Arm

Attached is a petition filed by Jackson's Grant Real Estate Co. LLC, along with a non-enforcement request, plans, calculations, quantity summary and assessment roll for the Jackson's Grant Section 7 arm of the Williams Creek Drain to be located in Clay Township. I have reviewed the submittals and petition and have found each to be in proper form.

Upon reviewing these plans, 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:

12" RCP-1,184 feet	21" RCP-164 feet
15" RCP- 571 feet	6" SSD-1492 feet

The total length of the drain will be 3,411 feet.

The subsurface drains (SSD) to be part of the regulated drain are those main lines located in rear yards and common areas. The SSD's in the street will not be part of the regulated drain due to street trees and the Hamilton County Drainage Board discussion on July 9, 2018, (see Hamilton County Drainage Board Minute Book 18, pages 204 to 206). The street SSD will be the maintenance responsibility of the City of Carmel. Only the main SSD lines which are located within the platted easement are to be maintained as regulated drain. Laterals for individual lots will not be considered part the of the regulated drain. The portion of the SSD which will be regulated are as follows:

Rear Yard SSDs

Rear yard lots 322 to 324 from structure 809 to riser located 146 linear feet north of structure 810

Rear Yard lots 325 to 328 from riser located 100 linear feet west of structure 806 to riser located 126 feet west of structure 803.

Rear yard lots 329 to 332 from structure 803 to riser located 36 linear feet east of structure 807.

I have reviewed the plans and believe the drain will benefit each lot equally. Therefore, I recommend each lot to be assessed equally. I also believe that no damages will result to landowners by the constructor of this drain. I recommend a maintenance assessment of \$65.00 per lot, \$10.00 per acre for common areas, with \$65.00 minimum, and \$10.00 per acre for roadways. With this assessment the total annual assessment for this drain will be \$1,235.00.

The petitioner has submitted surety for the proposed drain at this time as well as a surety for all monumentation work needed for the section. The sureties which are in the form of a performance bond are as follows:

Agent: Standard Financial Corporation
Date: Aug 10, 2020
Number: 1396JG7
For: Storm Sewers
Amount: \$185,581.52

Agent: Standard Financial Corporation
Date: Aug 10, 2020
Number: 1396JG7
For: Monumentation
Amount: \$3,888.00

I believe this proposed drain meets the requirements for urban drain classification as set out in IC 36-9-27-67 to 69. Therefore, this drain shall be designed as an urban drain.

I recommend that upon approval of the above proposed drain that the board also approve the attached non-enforcement request. The request will be for the reduction of the regulated drain easement to those easement widths as shown on the secondary plat for Jackson's Grant Section 7, as recorded in the office of the Hamilton County Recorder.

I recommend the Board set a hearing for this proposed drain for September 28th, 2020.

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 along with a non-enforcement request for Jackson's Grant Section 7, seconded by Dillinger and approved unanimously.

"FINDINGS AND ORDER

CONCERNING THE MAINTENANCE OF THE

Williams Creek Drain, Jackson's Grant Section 7 Arm

On this **28th day of September, 2020**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Williams Creek Drain, Jackson's Grant Section 7 Arm**.

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"

Thor Run Drain, Springs of Cambridge/Bee Camp Creek Arm - Sanctuary at Steeplechase Section 5 Shed Correction:

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"August 3, 2020

To: Hamilton County Drainage Board

Re: Thor Run - Springs of Cambridge/Bee Camp Creek, Drainage Shed Correction, Sanctuary at Steeplechase Section 5

Due to the development of the Sanctuary at Steeplechase Section 5 a revision to the drainage sheds for the above referenced drains are needed. Prior to the development the property drained south into the Springs of Cambridge/Bee Camp Creek Drain. Due to development the property of the drainage has been re-directed to drain north and outlet into the Thor Run Drainage Shed.

The drainage shed needs corrected to change the assessment from the current Springs of Cambridge/Bee Camp Creek Drainage Shed to the Thor Run Drainage Shed. The lots in this subdivision will be assessed at the Un-Regulated Subdivision rate of \$5.00 per acre with a \$35.00 minimum. The road acreage will be assessed at \$10.00 per acre. The total to be collected for this subdivision is \$385.70. The first assessment for these lots will be due in the Spring of 2021.

I recommend a hearing be set for September 28, 2020.

Sincerely,

Kenton C. Ward,
Hamilton County Surveyor

KCW/pll"

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

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

"FINDINGS AND ORDER

CONCERNING THE MAINTENANCE OF THE

**Thor Run - Springs of Cambridge/Bee Camp Creek
Drainage Shed Correction
Sanctuary at Steeplechase Section 5**

On this **28th day of September, 2020**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Thor Run - Springs of Cambridge/Bee Camp Creek, Drainage Shed Correction, Sanctuary at Steeplechase Section 5**.

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 "

Overman-Harvey Drain, Village Farms Arm - Adios Pass Reconstruction:

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"August 7, 2020

TO: Hamilton County Drainage Board

RE: Village Farms Arm, Overman Harvey Drain, Adios Pass Reconstruction

Attached is the Village Farms pond and dam drainage study dated June 2020 completed by Clark Dietz, Inc. The study was commissioned by the Board due to chronic flooding problems on Adios Pass and Amkey Way which closes those streets during storm events. The report was reviewed by this office and the City of Westfield. A meeting was held on August 6, 2020 between county, city and Clark Dietz. Minutes of that meeting are also attached. During this meeting the four (4) alternatives were discussed. Upon discussion it was agreed that Alternative 1 was the recommended alternative. Alternative 1 is outlined on pages 8 and 9 of the study.

The cost estimate for this work is as follows:

Construction Estimate	\$ 98,000.00
15% Contingency	\$ 14,700.00
	<u>\$112,700.00</u>
Design	\$ 32,600.00
Total Cost	<u>\$145,300.00</u>

Construction staking, inspection and asbuilts will be completed with Surveyor's Office personnel.

The Village Farms Arm, Overman Harvey Drain is now part of the Cool Creek Drainage Area. This area collects \$426,343.12 annually and has a current balance of \$1,752,212.75. I recommend the Board utilized funds from the maintenance fund as allowed under IC 36-9-27-45.5 for the proposed reconstruction hearing.

I recommend a hearing for the proposed reconstruction be set for September 28, 2020.

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.

Altman stated you're proposing to pay it completely from the Cool Creek Fund.

The Surveyor stated yes.

Altman asked don't you have a limit on how much we can pay out of maintenance for a reconstruction?

The Surveyor stated it's 75% of the total balance in the fund.

Altman asked balance of the fund, not the cost?

The Surveyor stated right.

Heirbrandt stated I wanted to commend the Surveyor's Office and the City of Westfield. We sat through several meetings with Clark Dietz trying to resolve this issue and find out exactly what was going on there. I'm pleased to see this moving forward.

The motion had been made and seconded to approve the Surveyor's report 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
Village Farms Arm, Overman Harvey Drain, Adios Pass Reconstruction

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the **Village Farms Arm, Overman Harvey Drain, Adios Pass Reconstruction** came before the Hamilton County Drainage Board for hearing **on September 28, 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 **Village Farms Arm, Overman Harvey Drain, Adios Pass Reconstruction** 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"

52.5 Hearing - William Baker Drain, C. B. Jones Arm Reconstruction:

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"To: Hamilton County Drainage Board

September 15, 2020

Re: William Baker Drain, C.B. Jones Arm Reconstruction
Hamilton County Highway

Attached is a petition and plans for the proposed relocation of the William Baker Drain, C.B. Jones Arm. The relocation is being proposed by The Hamilton County Highway Department. The petition was filed with this office June 12, 2019. The proposal is to reconstruct the William Baker Drain, C.B. Jones Arm as shown on plans prepared by RQAW, contract R-37741, Project #1400760, dated July 1, 2019, sheets 19-27. The reconstruction will replace the existing tile from the original location constructed in 1899 from station 0+00 to the terminus at station 26+28 which is the confluence with the William Baker Drain.

The new drain will begin 529 feet west of station 0+00 of the existing C.B Jones Drain which is shown on the RQAW plans as station 86+00 and will include the cross pipes under 236th Street at stations 99+50, 102+31 and 104+46. The reconstruction will continue to the east and follow the existing tile to the outlet at the William Baker Drain at station 117+58 per the RQAW plans, which is station 26+23 of the original C.B. Jones 1899 description. The new tile will not connect to the William Baker drain tile; it will be constructed to discharge through the west side of structure #56, the new culvert being installed under 236th Street at road project station 117+61. The box structure #56 has been designed to be compatible with the planned reconstruction of the William Baker Drain from a tiled drain system to an open ditch. The original length of the C.B. Jones drain between station 26+23 to station 26+28 falls within the new structure and will be vacated as it will be within the width the William Baker open ditch. The new drain shall consist 3285 feet of reinforced concrete pipe.

This line will consist of the following:

12" RCP - 109 feet
15" RCP - 520 feet
18" RCP - 948 feet
24" RCP - 427 feet
30" RCP - 796 feet
36" RCP - 485 feet

This will add 657 feet to the overall length of the drain.

The cost of the reconstruction is to be paid by the Hamilton County Highway Department as part of the 236th Street reconstruction project. The new portions of the system from station 91+35 to station 117+58 of the RQAW plans will be parallel to the original C.B. Jones drain between station 0+00 and 26+23 of the original 1899 description and will be constructed within the existing statutory regulated drain easement. The new portions of the tile between stations 86+00 and 117+58 of the RQAW plans along with the lengths of the cross structures #32, #33 and #34; structures #39, #37 and #38; structures # 44, #43 and #42 shall be within the road right-of -way.

Because the proposed reconstruction will be done within existing and recently purchased county right-of-way and at the county's expense it meets the requirements of I.C. 36-9-27-52.5 for a hearing. I recommend approval by the Board.

Sincerely,

Kenton C. Ward
Hamilton County Surveyor

KCW/adc"

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

"FINDINGS AND ORDER

CONCERNING THE PARTIAL VACATION OF THE

William Baker Drain, C. B. Jones Arm Reconstruction

Station 26+23 to Station 26+28

On this **28th day of September, 2020**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **William Baker Drain, C. B. Jones Arm Reconstruction (Station 26+23 to Station 26+28)**.

Evidence has been heard. Objections were presented and considered. The Board then adopted an order of action. The Board now finds that the costs of continued maintenance to the portion of the above drain exceed the benefits to the real estate benefited by the portion of the drain to be abandoned and issues this order vacating the above section of the **William Baker Drain, C. B. Jones Arm Reconstruction (Station 26+23 to Station 26+28)**.

HAMILTON COUNTY DRAINAGE BOARD

Mark Heirbrandt

President

Christine Altman

Member

Steven C. Dillinger

Member

Attest: Lynette Mosbaugh "

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

BEFORE THE HAMILTON COUNTY
DRAINAGE BOARD
NOBLESVILLE, INDIANA

IN THE MATTER OF THE
RECONSTRUCTION OF THE
William Baker Drain, C. B. Jones Arm Reconstruction (Hamilton County Highway)

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the **William Baker Drain, C. B. Jones Arm Reconstruction (Hamilton County Highway)** came before the Hamilton County Drainage Board for hearing **on September 28, 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 **William Baker Drain, C. B. Jones Arm Reconstruction (Hamilton County Highway)** 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"

Professional Services Agreement - Hortonville Drainage Study:

The Surveyor presented a Professional Services Agreement to the Board for their approval on the Hortonville Drainage Study, Easement Preparation in the amount of \$9,000.00. The title work will be a separate contract. I'm working with Pinnacle now to get that before them.

Dillinger made the motion to approve the Professional Services Agreement with Banning Engineering in the amount of \$9,000.00 for easement preparation on the Hortonville Drainage Study, seconded by Altman and approved unanimously.

Certificate of Insurance - Request for Waiver Denial:

The Surveyor stated the Board is going to be hearing this later today as Commissioners. I wanted to bring it before you today because this is a waiver of a portion that was denied of the insurance requirement for pollution. I was wondering if the Board had time to look at that and make a decision as to whether that is germane to the drainage contractors or not.

Howard stated I looked at this and asked the COI group to contact their liaison at Walker. I think the questions that I still have and has not been answered is this pollution protection liability protection if the excavator or the maintenance contractor finds pollution or is it applicable if they caused pollution. If they caused pollution that means that maybe their gas tank leaked on their equipment or their oil. If they find pollution and we've found pollution in several cases. Up by Sheridan there was a huge gasoline or fuel oil or diesel dump 20 years ago and then up around Hortonville.

The Surveyor stated it was Atlanta. There was a gas tank in the middle of road.

Howard stated yes and the Atlanta Town Board voted unanimously that they weren't liable. These are issues that we run into just because we're digging in the ground, but whether or not that becomes a problem of the contract.

Altman stated that doesn't make any sense at all that it's a contractor issue.

Howard stated it would not be the contractor. I think that's it. I think if in fact we are talking about pollution insurance caused by the contractor it would seem that those liabilities would be relatively small. It might be one and it's up to you and your discretion to determine at your meeting this afternoon because you'd have your Commissioner's hat on, your thoughts on whether or not that...

Altman asked did you look at the Walker memo?

Howard stated I have not seen the Walker memo.

Altman stated there's a memo on it and it says it's a high risk to dig.

Howard stated I saw that. There is risk if you dig, but I'm not sure that risk should be...

Altman stated their recommendation just didn't line up with anything we just talked about.

Howard stated in all due respect, the analogy is carpenters fix things by hitting it with a hammer and insurance people fix things by getting an insurance policy paid for by others. I think you in your discretion have the ability under the policy to waive the risk allocation of this problem and decide whether or not you want to totally waive and/or substantially limit the pollution liability for the contractors. In factually, that's the legal issue.

Heirbrandt asked the Surveyor, what's your concern or do you have any?

The Surveyor stated I just don't understand what pollution they're talking about. It's one thing, like Howard said, a gas tank leaks, they spill some oil, or they have a hydraulic line that breaks and sprays hydraulic fluid all over the place. That's one thing. They know that they have to clean it up. The other is if they're digging and they run into one of these unforeseen circumstances that we have no idea that they were there and the person that put it there is long dead usually. How are we responsible for finding that?

Altman stated you'd have to shift the liability contractually and we're not doing that. It doesn't make any sense that we would have them carry insurance unless we've shifted the risk.

Heirbrandt stated I'd like you to look into that a little bit more.

Howard stated I just can't believe that the excavator who does our maintenance contract is going to have the wherewithal to insure a risk which is totally; it's foreseeable, I know there was another instance. Noblesville built a fire station at 196th Street & SR 37 and it was a residential farm lot and evidently the farmer left the hose in the tractor one afternoon and there's \$40,000.00 clean up cost, but we run into that when we do Highway projects. We run into these issues all the time, you dig it up, you send it to a landfill, it becomes a cost of the project and it's just one of those unforeseen circumstances that if you're digging in the dirt you're going to find it, but I don't see how you make that the risk of the excavator.

Altman stated it doesn't make any sense. The only concern I have is if their hydraulic line blows and there's a clean up that general liability would cover that; that there's no carbon and maybe that ought to be our policy on this stuff, is their GL has to cover whatever they do.

Dillinger stated why would it not.

Altman stated that's my question. Why do we have special coverage if it would not?

Howard stated I believe that Walker's advice on this and this goes back six to eight months was that a general liability policy excludes pollution coverage, whatever that is. The memo that you read, I read that one six months ago and I had the same reaction you did.

The Surveyor stated my issue was there was no definition. What's pollution?

Heirbrandt asked who did you ask for that definition?

The Surveyor stated the insurance company.

Howard stated yes, but our insurance agent tells us it's pollution coverage.

Altman stated maybe the insurance agent needs to come and say what pollution coverage is.

Heirbrandt stated that's just wiggle room to me.

Howard stated my suggestion would be we would check with them and ask them if there is general liability coverage or nominal coverage for pollution caused by a contractor. I think the nexus of causation and if there are no policies that do that maybe we decide we'll buy that risk as part of working in the ground. If they find pollution in the ground that's in our regulated easement or in land that we acquire...

Altman stated it's not their fault.

Howard asked can you clarify that before our Commissioner meeting?

Altman stated I just think we bring in Walker and tell us what GL covers. If it covers a hydraulic leak or a pollution issue caused by the contractor, why bother with the other coverage.

Howard asked do you want me to send a memo out to them expressly outlining the issue and we'll see them at noon two weeks from today at the Drainage Board meeting?

Heirbrandt stated yes.

Howard asked does that make sense?

The Surveyor stated yes.

Howard stated Highway has the same issue.

Altman stated I'm having a hard time figuring out why this is an issue.

2021 Drainage Board Meeting Dates:

The Surveyor presented the 2021 meeting dates to the Board for their approval.

Altman asked have we set the last meeting in December?

Heirbrandt stated no, I think it is to be determined.

Dillinger stated just put a date there because until we get closer and know what's going on, we're going to change it anyway.

Dillinger made the motion to approve the proposed Drainage Board meeting dates for 2021 as presented, seconded by Altman and approved unanimously.

Findings & Order - Sly Run Drain, Beals & Cox Arm - Northpoint Commerce Park Phase 1:

The Surveyor presented the findings and order for reconstruction on the Sly Run Drain, Beals & Cox Arm, Northpoint Commerce Park Phase 1 to the Board for signature.

Final Reports:

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

"To: Hamilton County Drainage Board

September 23, 2020

Re: Long Branch Drain - Waterfront of West Clay Sec. 2C Arm

Attached are as-built, certificate of completion & compliance, and other information for Waterfront of West Clay Section 2C Arm. An inspection of the drainage facilities for this section has been made and the facilities were found to be complete and acceptable.

During construction, changes were made to the drain, which will alter the plans submitted with my report for this drain-dated April 25, 2018. The report was approved by the Board at the hearing held June 25, 2018. (See Drainage Board Minutes Book 18, Pages 185-187)

The changes are as follows: the 12" RCP was shortened from 300 feet to 164 feet. The 15" RCP was lengthened from 227 feet to 427 feet. The 18" RCP was lengthened from 269 feet to 274 feet. The 6" SSD was lengthened from 2055 feet to 2078 feet. The length of the drain due to the changes described above is now **2943** feet.

The non-enforcement was approved by the Board at its meeting on April 25, 2018 and recorded under instrument #2018055029.

The following sureties were guaranteed by Lexon Insurance Company and released by the Board on its January 13, 2020 meeting.

Bond-LC No: 1133427
Amount: \$105,619.20
For: Storm Sewers & SSD
Issue Date: March 14, 2018

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

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor "

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

Morse & Geist USGS Bathymetric Survey:

The Surveyor stated the volume for Morse is 23,136-acre feet which equates to 7.54 billion gallons with a surface area of 1,439 acres. The computed volume for Geist is 21,146-acre feet which equates to 6.89 billion gallons with a surface area of 1,853 acres. They found that the mean increase elevation of the lake bottom in Morse of 0.32 feet between 1996 and 2016. In Geist the mean increase elevation is 0.27 feet. The sedimentation was higher in Morse of half an inch per year and in Geist 0.2 inches per year.

Howard stated obviously because there's more agriculture and erosion into Morse where around Geist its contained yards.

The Surveyor stated a lot of it is agriculture, but I think it probably falls out way before it gets there.

Big Cicero Creek Joint Drainage Board:

The Surveyor presented the minutes of the Big Cicero Creek Joint Drainage Board of August 26, 2020 to the Board for their information.

Preliminary Variance Request - Cool Creek, Wheeler & Beals Arm, Fill in the Floodplain:

Clark presented his report to the Board for preliminary approval.

"September 15, 2020

To: Hamilton County Drainage Board

RE: Little Eagle Creek Drain
SEP---**Preliminary Floodplain Permit Request**
161st street and SR 31, Westfield

Attached is a letter from Brad Schrage of American Structurepoint, requesting a defined amount of fill be permitted within the floodplain of the Wheeler and Beals Drain, for the SEP office building project, as set out in the Floodplain Management Ordinance 09-26-16-A.

Additional Information:

The proposed project is a commercial development in the southeast corner of SR 31 and 161st street. The proposed design is intended to allow for a small portion of the structure to be constructed within the currently delineated floodplain for the Wheeler and Beals drain.

Staff Recommendations:

Grant preliminary approval, set mitigation ratio at 3 to 1, and require review by Drainage Board Watershed Consultant Clark Dietz, for the project to move forward.

Sincerely,

Samuel T. Clark
Hamilton County Surveyor's Office"

Dillinger made the motion to approve the preliminary variance request, seconded by Altman.

Altman asked what are they putting in there?

Clark stated it's going to be an office building; it's not zoned industrial.

The motion had been made and seconded to approve the preliminary variance request and approved unanimously.

Construction in a Floodplain - Nethery Property:

Mr. Tim Nethery and Ms. Arlene Nethery were present for this item.

Altman asked what was the exchange that was going on with respect to the State Law versus our local ordinance? I wasn't clear on that.

The Surveyor asked you saw the email from Linda (Burdette) on that?

Heirbrandt stated yes, we saw it. Per our last meeting did you have any additional conversations with anybody from IDNR?

The Surveyor stated I have messages down there. Once you get through their telephone chain you have to leave a message now and I've not received a call back. I do not have any confirmation on that yet.

Conover stated Nethery's are asking for a variance to build a barn within the floodplain. At the last meeting we talked about the compensatory storage to build the barn up and I think where we're at right now is Mr. Nethery; all of our standards require and the FEMA standards require to make the floor elevation two feet above the 100-year floodplain. Nethery wants to get a variance from that two-foot freeboard there. The proposed barn is going to be in the floodplain, and they had removed a barn out of the floodway on the same parcel of ground. They want to build a new barn and move it out of the floodway into the floodplain. The big question right now is the two-foot freeboard that he's asking the variance from. We're trying to get some sort of answer back from the State on whether that will affect our FEMA participation rating in the county.

Altman stated the affect of the rating as I understand it the higher rating the lower the rates are for your flood insurance for everyone within the county, correct or not? What is the significance of the rating?

Heirbrandt stated we are at a Class 7, which is the highest you can achieve.

The Surveyor stated the highest currently in the State.

Heirbrandt stated which would reflect we have the lowest insurance rate.

The Surveyor stated if we were a Class 6 the insurance rates would be lower, but no one in the State is a number 6.

Altman stated so it's inverse. The lowest rating is the best.

The Surveyor stated yes.

Altman asked what's the significance of the rating?

The Surveyor asked as far as insurance cost?

Altman asked why do we care about the rating?

The Surveyor stated the rating is something the County is based on. If you're in the insurance program and we have a rating of 7 your cost among other counties would be lower.

Dillinger stated that's what Altman asked a minute ago.

Altman stated yes, is it for everyone that's got property that needs flood insurance or is it just our personal, county personal, county government?

The Surveyor stated it would be the flood insurance policies within that county.

Altman stated so it's everyone that requires flood insurance.

Dillinger asked if we allowed this and then the State downgraded us from a 7 to an 8 then everybody's cost for their flood insurance would go up? Is that correct?

The Surveyor stated yes.

Howard asked is that countywide or is that by governmental unit?

The Surveyor stated that is governmental unit so it wouldn't affect people in the incorporated area of Noblesville, Fishers, Carmel, Westfield.

Dillinger stated just the county.

The Surveyor stated just the county.

Howard asked are the towns affected by our rate? If they don't participate in the Federal Flood Insurance Act...

The Surveyor stated you participate per entity.

Howard stated their question it looks like even though Nethery may be in violation with a new structure it would seem moving it out of the floodway into the floodplain, one being conveyance and the other being storage, would be a positive even though it doesn't totally get him out of violation it would be a positive move in the whole scheme of things.

The Surveyor stated I would believe so, yes. He would be out of the floodway now. After the last meeting the INAFSM Conference went virtual. That's the Indiana Association for Floodplain and Stormwater Managers and one of the sessions was by James Sink who is the FEMA Region 5 Flood Insurance Liaison for the State, his comment was "if jurisdictions allow too many variances within that jurisdiction, being the county or Cicero or Carmel or whoever, that jurisdictional flood insurance rate will increase. We also have to be cognizant of that because you can affect the insurance rates for the other people within the County Plan Commission area.

Howard stated in the unincorporated area.

The Surveyor stated yes.

Dillinger stated but we don't know for sure if this would do that if we allowed it.

The Surveyor stated correct and that's why I wanted to talk to the State to see what their feeling was.

Howard stated it would not make the rate better, but it could not adversely affect it.

Nethery stated you said if there's too many. How many have you given out so far?

The Surveyor asked within the county?

Nethery stated you said if there's too many.

The Surveyor stated I couldn't tell you off the top of my head. I'd have to go back and look.

Howard stated the problem is when you're dealing with the Federal Government you don't know until it's too late. They don't objectively say if you grant exceptions for a certain percentage of your area, that's the problem, you don't know. What's the square footage? The footprint of the new barn.

The Surveyor stated 72x42.

Howard asked what was the old barn?

Nethery stated roughly it's the same.

Howard stated there are two issues, one do you permit it with the lowest level two feet above or would you allow him to put it lower than that which means he personally would not be eligible for flood insurance, but he probably doesn't care about that because it's a barn. The other issue then is, is this something we're going to worry about? We don't know whether we're going to worry about it because we know what the Feds are going to do. In all due respect, when you contact them did you really perceive an objective answer or do you perceive that it's not good, but we don't know how bad it is. That's going to be your answer.

The Surveyor stated it depends on who you talk to.

Heirbrandt asked what's your recommendation as an attorney?

Howard stated I think if you do grant it, I think you want some findings in there that the situation in the subsequent condition because he's moving from floodway to floodplain is better than the prior condition which he would be entitled to do to leave the old spot as a matter of law. If they come in and say "hey, you did this on this day" you come in and say yes, but he was in the floodway, impeding the floodway and those models I've seen them, you put a flagpole there and it floods downstream. This is a reduction in storage.

Altman stated just to clarify, is your barn currently intact that you want to replace?

Nethery stated no, it's been disassembled, it's gone.

Howard asked how long ago was it gone?

Nethery stated it was last fall.

Howard asked did you make it gone with the intent to replace it?

Nethery stated yes. I really didn't know there was going to be a big deal. We might have went a different direction. We had a couple of different contractor's come in. The barn was in bad repair. We had some contractors come in and they gave us the price of a new barn to fix the old barn and the old barn was till going to be an old barn. We were going to make this barn our barn. We want bigger doors.

Dillinger asked what do you use the barn for?

Nethery stated storage, shop, garage, hay storage. I have a few pieces of farm equipment I'd like to get out of the weather.

Howard stated you understand if we allow you to build this barn and you probably know this because of your previous barn that nothing in there would be insured from flood damage.

Nethery stated we have no intentions of getting flood insurance.

Altman stated the one thing I would like clarified is whether you need to do any permitting through IDNR to get this done because some of the email chain indicated a violation of State regulations.

Nethery stated when I went through the BZA process and Linda and Chuck told me that we could take the State out of it if we moved it back into the floodplain out of the floodway. That's why we're moving it back to keep the State out of it.

Altman stated the memo looks different and I don't understand.

The Surveyor stated he's right in that respect. The State doesn't want things in the floodway.

Dillinger stated I would think they would look at this positively.

The Surveyor stated they leave it to the locals on the floodplain.

Howard stated the State regulates the floodway, we regulate the floodplain, but the Feds have this insurance umbrella.

Nethery stated there's not going to be any living quarters, there might be a coffee pot out there.

Dillinger stated don't misunderstand us, it's not us objecting to this, it's us not knowing what the Fed's will do with everybody's insurance rate if we allow it. That's the big question here as I understand it. Is that correct?

The Surveyor stated that's correct.

Howard stated to you it appears how could there be a ripple effect. Well, welcome to dealing with the Federal Government, there could be a ripple effect.

Dillinger asked shouldn't our Plan Commissioner have been here to address this?

Howard stated they don't have the authority.

Dillinger stated they're the ones that told him to move it.

Howard stated they told him to move it out of the floodway.

Nethery stated they did approve it 100% that I could build this barn.

Howard stated in the floodplain.

Nethery stated right.

Howard stated from a zoning standpoint.

Altman stated they do zoning and we do drainage.

Howard stated you're the gate keeper on construction in floodplain.

The Surveyor stated I would ask the Board to let me keep trying to get something from the State, to get some kind of definitive answer one way or the other and try to get that answer in writing if we can.

Howard stated because it's not a conveyance issue, it's a capacity of storage issue. Is there a proposal of mitigation on this site?

The Surveyor stated yes.

Howard asked at what rate?

The Surveyor stated 3:1.

Altman asked that would be conceded that it would be 3:1?

The Surveyor stated yes because there's nothing downstream. When you're talking about White River it's a bump in the road.

Howard stated it's probably a bump in the road in the floodway, but the accumulative effect of a lot of bumps in the road is what we're looking at.

Dillinger asked Nethery, are you on a timeline?

Nethery stated no, I gave up on the timeline.

Dillinger asked you gave up getting it built this fall?

Nethery stated FBI will be the contractor building the barn and I've not been in contact with them as far as a build date or anything. As far as the earth work that's got to be done that's been set back; call me when you get it ok'd and all that. We do have fill. We're not going to have to bring in fill from the outside.

Altman stated just so I'm clear you're going to mitigate 3:1 on this?

Heirbrandt stated yes, in the past records that's what it said.

Altman stated that's fine because I wouldn't want to vary from the 3:1 compensation.

The Surveyor stated and that was what the preliminary had on it.

Dillinger stated I'd like to make a motion to allow you to go ahead and do it, but I think that might not be prudent on my part without hearing from the State because if we do that and everyone's rate goes up we made a grave error. I would really like to have some kind of an answer from the State.

The Surveyor stated I'll keep trying to get somebody to answer the phone.

Heirbrandt stated when you send the email why don't you copy our attorney and copy us on it too.

Howard stated I'll put on my task list to prepare findings of fact.

Heirbrandt stated I want to get Nethery an answer so he can move forward.

Howard stated findings of fact that he's mitigating 3:1, that he's moving from floodway to floodplain so as to improve the flow capacity of the floodway, etc.

Altman stated plus with the mitigation there's not...

Howard stated the storage is 3:1.

Dillinger asked do you feel differently than what I said?

Heirbrandt stated no, I want to do what we can to help Nethery, but then again not at the expense of everyone else.

The Surveyor stated that's my concern.

Howard stated I'm going to throw out the fact that you're probably not going to get a definitive answer and you prepare the findings of fact to reflect your thinking and attempts to substantially mitigate if not eliminate any adverse effect. That's why you put "where as" clauses in there so ten years from now somebody may ask you "Mr. Dillinger, why did you approve this" and you can read "where as" clauses. Can you get me a parcel number and legal description?

The Surveyor stated yes.

Howard stated get that to me and I'll attach it as an exhibit.

Dillinger asked Nethery, do you understand what we're going to do?

Nethery stated yes.

Dillinger stated Howard is going to give all the positive things about what you're trying to do so that when the Surveyor sends it down it's not just can we or can we not and our suspicion is that the State won't give us a definitive answer on it.

Nethery stated if they don't, then what?

Dillinger stated if they don't, but they don't object strenuously then we'll have to decide if with those circumstances we want to go ahead and allow it. My personal preference is I probably would. I know you're tired of jacking with this and I don't blame you, I would be too, but you're dealing with several arms of government that has no control over each other. We don't have control over this without jeopardizing potentially, the rates of everyone in the county jurisdiction. Obviously, we could not allow that if they come back and say "okay, if you do this, then we're moving you to an eight rather than a seven". That wouldn't be fair to everybody else, but outside of that if they don't say that then I would think that we might be able to make an exception.

Nethery stated that goes back to my first question to the Surveyor, how many have they done? Your statement was if we allow too much of this it will affect it. That led me to believe that you have in the past allowed this to happen.

Dillinger stated that's a legitimate question. We need that answer.

Altman stated I can honestly say in the almost 20 years I've sat on this Board I don't recall allowing a variance such as this. Do you?

Dillinger stated I don't remember.

Howard stated we have at the 100-year floodplain, but not when it was contiguous to a floodway. We do mitigations from time to time.

Altman stated the variance is from the freeboard. I take that back, I think we were considering that on S.R. 32 at the gas station or car wash site or whatever it was because they wanted to have a variance from the freeboard and I don't know whether we allowed it finally or if the deal just didn't go through. On S.R. 32 in downtown Noblesville.

Heirbrandt stated that wasn't a car wash.

Howard stated that was O'Reilly Auto Parts Store.

Altman stated it wasn't the building I don't think, it was the parking lot or some improvement.

Howard stated yes, but I think we mitigated on site.

Dillinger stated based on our discussion, I hate to put you off again, but I don't know how we can make a decision today without some kind of response from the State.

Dillinger made the motion to table this item based on our previous discussion and put it back on the agenda for October 12, 2020 and push to get an answer by then and Howard to put the mitigating circumstances together.

Howard stated in case we don't get an answer which is about in the 99th percentile.

Altman seconded Dillinger's motion to table this item based on our previous discussion and put it back on the agenda for October 12, 2020 and push to get an answer by then and Howard to put the mitigating circumstances together and approved unanimously.

Violations:

Big Cicero Creek - Conover stated I received a call last week about a property owner on Big Cicero Creek just south of 281st Street having built a gazebo and deck right on the bank of the creek.

Dillinger stated you won't have to worry about it long because it will be washed down the creek shortly.

Conover stated it will be a Highway problem when it washes up on the next bridge downstream. I did send a violation out to the property owner.

Dillinger asked where exactly is this located on Big Cicero Creek?

Conover stated at Ott Road and 281st Street on the southeast corner.

Dillinger asked how did we even discover it?

Conover stated I was contacted by someone from a local jurisdiction, but not this jurisdiction. They have piers in the ground. When I showed up the property owner was still out there working on it.

Dillinger asked what did he have to say about it?

Conover stated we talked for a while out there. He was wanting to know if there was any way he could get a variance and I told him I did not believe so. You're in the floodway. You'd have to get approval from the State, you have to get approval from the Hamilton County Drainage Board and I don't think they would do that and then you would need to approval through the Big Cicero Creek Drainage Board. I don't think any of them would approve that.

Altman asked how far back does he have to go to get out of the mess?

Conover stated he'd have to move back at least 75 feet out of the drainage easement and that would be the floodplain.

Heirbrandt asked why wouldn't he have to file for a building permit?

Howard stated he probably should.

Baitz stated there's also a pipeline easement.

Howard stated so he's got to build it instead of the clear view of the creek he's got to move to the middle of the woods.

Altman stated if he put it up on piers and did the freeboard, did the mitigation in theory he could put it closer.

Dillinger asked what's our options here?

The Surveyor stated he just has to move it.

Dillinger made the motion to have the property owner move the gazebo, seconded by Altman and approved unanimously.

Altman asked we sent the notice to him that he needed to move the structure, right?

The Surveyor stated yes.

Altman stated so he's just got to comply with the notice.

The Surveyor stated yes, and he was told that by Conover on site.

Altman asked what's the timeframe for him to get the structure out?

The Surveyor stated the Statute says ten days, but as long as we're working with them.

Vermillion Drain, Woods at Vermillion Arm (Owen Fence) - Liston stated the Owens did pay for the fence removal. It was created by the violation where they reinstalled the fence. I also want to point out if you noticed on the non-enforcements, they are also back on the docket today to replace their fence again and it's going to be a self-reinstall. Last time it didn't go too well.

Non-enforcements:

Clark presented a non-enforcement request for the Sly Run Drain, Beals & Cox Arm filed by Stellhorn Northpoint LLC for Northpoint Commerce Park Subdivision. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Cool Creek Drain, Springmill Ponds Arm filed by Richard & Susan Kruse for parcel #17-09-23-01-06-024.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Crooked Creek Drain, Weston Ridge Arm filed by Scott & Darlene Mundy for parcel #17-13-06-00-09-013.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Maple Knoll Arm filed by Brian & Denise Meyer for parcel #08-09-10-00-14-020.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Heritage at Springmill Arm filed by Jeremy & Abby Coons for parcel #17-13-03-00-10-025.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Park Meadows Parks at Springmill Arm filed by Kent & Sarah Welch for parcel #16-09-26-00-04-019.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, West Rail at the Station Arm filed by Dairen Eggers for parcel #08-09-10-00-20-025.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Woodside at West Clay Arm filed by William & Sally Zafian for parcel #17-09-21-00-23-040.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, English Oaks Arm filed by Bantwal & Sneha Pai for parcel #17-13-05-00-15-016.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Oliver Shoemaker Drain, Woodberry Arm filed by Adam Nicksch for parcel #19-11-20-01-08-045.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Thorpe Creek Drain, Barrington Estates Arm filed by Chad Hannah for parcel #13-12-29-00-04-010.000 for an inground pool with concrete deck. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Bluffs at Flat Fork Arm filed by Mathew & Melinda Potter for parcel #13-16-05-00-04-003.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Woods at Vermillion Arm filed by Brian Owens for parcel #13-16-08-00-20-012.000 for a fence. The Surveyor's Office recommends approval.

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

Surety Acceptance:

Liston stated that at this afternoon's Commissioners meeting the Board would be accepting the following surety: Subdivision Performance Bond No. 60138526 in the amount of \$45,660.00 for Legacy Bible Church, erosion control.

Surety Release:

Liston stated that at this afternoon's Commissioners meeting the Board would be releasing the following surety: Payment Bond No. 999046397 in the amount of \$413,076.00 for the Clara Knotts Drain, 96th & College Reconstruction.

Construction Updates:

William Krause Drain Reconstruction Phase 3 - Conover stated the contractor is going to be doing the paving this week. They did come to an agreement with the Masonic Lodge there and will be paving the entire parking lot.

Ellis Barker Drain Reconstruction - Duncan stated the last item for this project is the relocation of the underground utility owned by Frontier Communications. I had a lot of phone calls last week because they apparently got Howard's letter. Things are moving forward.

Howard stated we're starting November 15th whether you're out of the way or not.

Heirbrandt stated they've been slow on everything, even 236th Street.

Duncan stated it is moving forward and I gave an update to that effect last week to Morphy, the contractor.

Altman stated lesson learned, I think on every project where we have a conflict, we give them a date.

Heirbrandt stated I agree.

Altman stated a reasonable date, get it out and probably consider it before we bid it.

The Surveyor stated on this one it took a while to get somebody to confess who owned it.

Pending Asbuilts:

F. M. Musselman Drain, Burnau Arm Reconstruction - Liston stated we are in discussion with VS Engineering and should see revised asbuilts very soon.

Pending Final Reports:

Anchorage Drain, Reconstruction of a portion of Section 1 - Liston stated the final report has been written and is under review in the office.

Crawford Wetland Mitigation - The Surveyor stated this report is currently on my desk going through it's third review.

William Krause Drain, Phase 1 - Conover stated the report is done and every time the Surveyor goes through it, he finds something else.

William Krause Drain, Phase 2 - Conover stated good news, on Friday we received the release from Mr. Ogle, and he picked up his check.

Clara Knotts Drain, Pipe Lining - The Surveyor stated I was waiting for the surety release so now I can finish it.

Heirbrandt asked how's that project, everything go good?

The Surveyor stated I should bring in photos.

Heirbrandt stated I'd like to see it. I knew it was in pretty bad condition and we were trying to save it.

The Surveyor stated they're showing a quarter up against what they lined it with and it's pretty substantial, the lining. Was that three-quarter of an inch or an inch?

Baitz stated three-quarters, close, but it's amazing how durable and hard that stuff got.

Budget & Permit Update:

The Surveyor presented the budget and permit update to the Board for their information. He asked if there were any questions.

There were no questions.

Pending Items (Attorney):

New Drainage Ordinance - Howard stated one thing that's jumped off the page though in our General Assembly on Ordinance Violations we decided to put procedures in about four different spots. One of them gives the right, it would have applied in Jerry's (Liston) case to make the cost of removal of a fence or an obstruction a lien against the property subject only to taxes. To do that we have to notify all persons with an interest of record. At your last meeting you designated Pinnacle Title to do some work for the Surveyor. This would mean we would have to get the mortgage companies, but when we give them notice that should be a very good persuasion for people moving things out of the easement.

Altman asked why does it have that requirement to place the lien?

Howard stated the lien ahead of everyone but taxes so basically the mortgage company is going to be subordinated to you, so we have to give them notice.

Altman stated I've never seen that before on those kinds of statutory liens because they get notice when you're about ready to sell it because of a drainage lien or a tax lien.

Howard stated it would almost be like a mechanics lien, but you have to give notice to the owner and you can only recover up to \$2,500.00 from owners of land that's used for single family or multi family, but you can go up to \$10,000.00 commercial. In looking at obstructions making that an ordinance violation that might put some teeth in it for like people that dump grease in their storm drains etc., etc. Removal of obstructions, the more you incorporate the problems you hear here with a drafting of an ordinance it just gets gross exponentially.

Proposed Engineer's Contract (Pollution Liability) - Howard stated this is not a new issue. In acquiring right of way for the County in 700 to 800 different cases, if it's near a gas station or if it's near somewhere we would get an environmental engineer to check to see how bad it is, especially if we're in condemnation because it reduces the value of the land. In almost all other areas if you hit pollution or spills that are not anyone's fault it becomes a change order; they haul it away and it's gone. As I try to think about this problem and what we're going to do with it, it seems like the logical way to handle it is to limit the contractor's liability to what they cause. I'm going to phrase those questions to our insurance agent differentiating substantially rather than just wholesale "pollution" insurance we've run into.

Heirbrandt stated for the next meeting, we're going to get to having one full page of pending items if we don't watch it. There's a lot of them on here.

Dillinger stated I won't be present at the October 12, 2020 meeting.

Altman stated we're moving the last meeting from Monday, October 26, 2020 to Wednesday, October 28, 2020.

Heirbrandt asked if you could make sure from a notice standpoint that we get that addressed.

Dillinger stated especially make sure Nethery knows that.

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

Mark Heirbrandt - President

Lynette Mosbaugh
Executive Secretary