

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

January 11, 2021

The meeting was called to order Monday, January 11, 2021 at 12:02 p.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. Steve Baitz, Mr. Andy Conover, Mr. Sam Clark, Mr. Jerry Liston, Mr. Gary Duncan and Mr. Steve Cash. The Board's attorney, Mr. Michael Howard, was also present.

Approval of Minutes of December 21, 2020:

The minutes of December 21, 2020 were presented to the Board for approval.

Dillinger made the motion to approve the minutes of December 21, 2020, seconded by Altman and approved unanimously.

Re-Organize the Board:

Altman made the motion to appoint Commissioner Dillinger as President of the Hamilton County Drainage Board, seconded by Heirbrandt and approved unanimously.

Heirbrandt made the motion to appoint Commissioner Altman as Vice-President of the Hamilton County Drainage Board, seconded by Dillinger and approved unanimously.

Appoint Attorney, Secretary and Alternate Members:

Heirbrandt made the motion to reappoint Michael Howard as attorney for the Hamilton County Drainage Board with Conner Sullivan as Alternate Attorney in Howard's absence, seconded by Altman and approved unanimously.

Heirbrandt made the motion to reappoint Lynette Mosbaugh as secretary for the Hamilton County Drainage Board, seconded by Altman and approved unanimously.

Heirbrandt made a motion to recommend Steve Holt and Jerry Rulon as Alternate Members for the Hamilton County Drainage Board, seconded by Altman and approved unanimously.

Designate Surveyor for Claims:

Altman made the motion to designate the Surveyor for claims, seconded by Heirbrandt and approved unanimously.

Appoint Big Cicero Creek Joint Drainage Board Representative:

Altman made the motion to reappoint Commissioner Heirbrandt as Hamilton County's representative to the Big Cicero Creek Joint Drainage Board, seconded by Dillinger and approved unanimously.

Appoint White River Alliance Board Representative:

Altman made the motion to reappoint Kent Ward as Hamilton County's representative to the White River Alliance, seconded by Heirbrandt and approved unanimously.

Insurance Discussion - Pollution:

The Surveyor stated I received the amended requirements, but I have a question. Per the original policy we were to put the original policy in all the contracts. Do we take out the original policy and replace it with this one or keep the original policy and put this one in as an amendment to it?

Howard asked does it have all the coverages, but just excluded..

Altman asked did it restate the policy? Is this a restated policy?

The Surveyor stated it didn't restate it.

Altman stated maybe we need to restate the policy.

Sullivan stated all we did was change the pollution and workers comp part of the policy. The rest of the policy, the limits and coverages, are still in the updated policy so I think you can just use that one.

Howard asked does the updated policy actually have a list of what coverages are required?

Sullivan stated yes.

Howard stated you can put that one in.

Crawford Wetland Mitigation - Year 1 Monitoring Report:

The Surveyor stated we received the one-year monitoring report from V3 Engineering and everything looks good.

Heirbrandt stated except there are some things that say "not met".

Altman stated they said that's normal early on.

The Surveyor stated right.

Drainage Funds in the Red:

The Surveyor stated Altman asked for this last October, but I wanted to wait until the December settlement was done. These are the drains that are in the red. In March we'll start having some hearings.

Heirbrandt stated there doesn't look like there's that many.

The Surveyor stated there isn't, but one of the problems is some of these are so small.

Heirbrandt stated the Anchorage Drain, we knew that.

Altman asked what about the Elwood Wilson Drain?

Heirbrandt stated that's always been kind of in the red.

The Surveyor stated that's mainly because of the engineering that we've been doing on the studies.

Heirbrandt stated the Symonds Drain is the Sheridan part of it.

Hearing Requests:

The Surveyor asked the Board to set the following items for hearing on February 22, 2021: Frank Huffman Drain, Cyntheanne Road Extension; Carmel Creek Drain, Keystone Parkway Extension; Morrow-Follett Drain, RJ Follett Arm, Duke Energy Carmel 69 Substation Reroute; Little Cicero Creek Drain, U.S. 31 Extension; Little Cicero Creek Drain, 266th Street Extension; Little Cicero Creek Drain, Anthony Road Extension; Little Cicero Creek Drain, Dunbar Road Extension; Elijah Jay Drain, 256th Street Extension; Elijah Jay Drain, 261st Street Extension; and Elijah Jay Drain, 246th Street Extension.

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

Non-enforcements:

Clark presented a non-enforcement request for the Hunters Creek South Drain, Rohrer Meadows Arm filed by Nicholas Wynne for parcel #16-09-24-01-11-008.000 for a fence. The Surveyor's Office recommends approval.

Heirbrandt 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, West Rail at the Station Arm filed by Brandyn Ludlum for parcel #08-09-10-00-17-009.000 for a fence. The Surveyor's Office recommends approval.

Heirbrandt made a 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, Jackson's Grant Arm filed by Kevin Wayman for parcel #17-09-34-00-12-005.000 for a fence. The Surveyor's Office recommends approval.

Heirbrandt made a 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, Spring Farms Arm filed by Keith and Brittany Ziolkowski for parcel #16-09-27-00-14-022.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Fox Hollow at Geist Drain filed by Michael and Amy Espich for parcel #13-15-11-00-14-018.000 for a playhouse and storage building. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by Matthew and Katelyn Gibson for parcel #13-16-08-00-21-005.000 for a fence. The Surveyor's Office recommends approval.

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

Surety Release:

Liston stated that at this afternoon's Commissioners meeting the Board would be releasing the following sureties: Performance Bond No. CMS331418 in the amount of \$122,362.62 for Copper Run Section 1, storm sewer improvements; Irrevocable Letter of Credit No. 1356WVRM5 in the amount of \$380,816.70 for Woods at Vermillion Section 5, storm sewers.

Construction Updates:

Ellis Barker Drain Reconstruction - Duncan stated Howard prepared a letter before the holidays for Frontier to notice them and I just received on Friday the information necessary from the contractor. We are still finalizing that, and we will issue a letter to Frontier. He wanted to insert into that letter the costs for putting a structure over the existing line and we're also going to break out utility delays and remobilization costs and some other costs that the contractor has to realize in order to complete that. Normally we do not pay for utility delays and remobilization, but in this case given the circumstances we wanted to identify those costs. Morphey Construction has said they would like to get up to the site after they are done with Village Farms. Maybe about a month would be the timeframe that they could get back up there to finish that project.

Howard stated Duncan is going to have those numbers, we're sending that out. We had one contact for Frontier and we think he was pretty far down the pecking order so we're sending a copy of this to the resident agent as listed in the Secretary of State's Office because the remedy is fairly drastic. We are saying that a) we're going to go ahead and relocate their lines, but we're not liable for them and we're going to charge you for any additional costs. If we happen to tear up your line too bad, so sad because I think there's one line that goes to Lafayette and has an affect on Purdue University and I've heard there's another one that goes to Kokomo. We want to give Frontier ample time. Utilities are usually bad, but these people are unbelievable. No responsiveness whatsoever.

The Surveyor asked do you know if the Highway is still holding all the permits?

Howard stated yes, they were notified of our last action and I'll send them a letter that confirms that they should hold all permits. They don't get permits anyway, that's why we have problems.

Duncan stated I'll touch base again with Morphey and I'll get the numbers today.

Clara Knotts Drain, Park Broadway Arm - Duncan stated Morphey Construction has not started on this yet. We received shop drawings to review on Friday. We'll get those reviewed and order the structures.

Overman-Harvey Drain, Adios Pass Reconstruction - Duncan stated Morphey Construction is there presently working.

Intracoastal at Geist Drain - Liston stated Agricon is our contractor and they have not started the work yet. Duncan and I met with them on site right before Christmas hoping we could find a way that they could get started, but we have Duke Energy in the way with one of their transformers and we are working with Duke to get that relocated temporarily. Our office can no longer do permits through the City of Fishers for our contractors. The contractors have to do the permitting process for the right of way. I just learned this morning that Fishers charged our contractor \$100.00. Those fees should have been waived so I'll work on trying to get that money back for our contractor.

Burnau Arm Reconstruction (Pending Asbuilts) - Liston stated I received an email from Amy Moore at VS Engineering. She assured us that she would get the asbuilt drawings to us sometime this week.

William Krause Drain Reconstruction Phase 3 (Pending Asbuilts) - Conover stated we did receive acceptable asbuilt drawings on Friday. I'll be moving that project along towards the final report.

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):

146th Street Project (Drainage Funds Refinance) - Howard stated a big part of your drainage funds has been loaned to Highway for 146th Street West. I am meeting with the new County Council Finance Subcommittee on Friday with the Auditor, Mike Royder and Chris Jeeter and we will be talking about the refinancing. If you recall, there's some debt service reserve funds which will be released at cash at closing in April and those funds will immediately be applied back to that \$10.5 million liability. It looks like if interest rates don't go too far awry, we're going to be able to fund that deficit at the level of about \$2,000,000.00 per year at least for the first year and then our TIF will probably go down substantially because of appeals for retail. The Assessor is estimating that retail could go down; large retails could go down 25% to 30% because of vacancies. It depends, that's an average, but Village Park...

Heirbrandt stated I know there was another case, that appeal was just one.

Howard stated yes, the big box. Somebody finally won a big box.

Heirbrandt stated there's three now. There's been one in Bloomington, one at Lake County and one here recently in Boone County.

Howard stated but that addresses the way that the appeals have been looked at for big boxes. This is going to be retail just based on reduction of rents and vacancies. For example, in Village Park, that Marsh has been vacant for three years. We're working on that. Hopefully get the Surveyor repaid because that TIF District ends in 2030 so we've got to get that revenue coming in.

Vermillion Drain, Rivas Lawsuit - The Surveyor asked where's the Rivas?

Howard stated we sent an email to Jerry (Liston) for the entire packet. We had it over to our office and then he came and got it and we're getting it back. Sullivan doesn't know it yet, but he's going to work on filing that record with the court and we'll set a hearing.

Liston stated we have that file; we'll make a copy of it and bring it back to you.

Howard stated and its everything including the minutes, I think we've got the minutes. If you could reduce those minutes down to 8.5x11 it would be a lot easier to file with the court.

Liston stated that will include a notice of violation because there was no non-enforcement ever approved.

Howard stated right, it was a violation. They never even applied for a non-enforcement.

Liston stated no, they just did it.

Lake Stonebridge Agreement (Backflow Preventer) - The Surveyor stated we need to get the agreement back to the Homeowners Association.

Howard asked did you get me the numbers on cost last week?

The Surveyor stated no, it was before Christmas.

Howard stated okay, that's the only thing I had to do was fill those in.

Heirbrandt stated that does need to get done.

J.C. Ringer Drain Tile Reconstruction (Agreement with Moore) - Howard stated I need to talk to the Surveyor on this item.

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

Steven C. Dillinger - President

Lynette Mosbaugh
Executive Secretary