

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

January 24, 2022

The meeting was called to order Monday, January 24, 2022 at 9:01 a.m.

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

Approval of Minutes of January 10, 2022:

The minutes of January 10, 2022 were presented to the Board for approval.

Dillinger made the motion to approve the minutes of January 10, 2022, seconded by Altman and approved. Heirbrandt abstained.

Stony Creek Drain - Nenni Woods Subdivision Extension:

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"October 25, 2021

TO: Hamilton County Drainage Board

RE: Stony Creek Drain, Nenni Woods Subdivision Extension

Attached is a drain map and secondary plat for Nenni Woods Subdivision for the extension of the Stony Creek Drain. This proposed drain is located in Noblesville Township.

I have made a personal inspection of the land described in the petition. 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 new drain will consist of the following:

426 feet of open drain

The total length of the new portion of Stony Creek Drain will be 426 feet.

This drain extension will consist of the section of Stony Creek which runs along the southern portion of Nenni Woods Subdivision as recorded in the Office of the Hamilton County Recorder as Instrument Number 2015003844, Plat Cabinet 5, Slide 308.

The acreage is currently assessed to the Stony Creek Drain.

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 designated as an Urban Drain.

The easement for the drain is shown on the secondary plat for Nenni Woods as an irregular drainage easement. The easement along the drain will affect Lot 1, Parcel 10-11-04-00-00-027.202 owned by Terrance Garrett.

I recommend the Board set a hearing for this proposed drain for January 24, 2022.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pll"

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

Howard asked the Surveyor, is that the existing creek?

The Surveyor stated yes.

Heirbrandt 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
Stony Creek Drain, Nenni Woods Subdivision Extension

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the **Stony Creek Drain, Nenni Woods Subdivision Extension** came before the Hamilton County Drainage Board for hearing **on January 24, 2022**, 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 **Stony Creek Drain, Nenni Woods Subdivision 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

Christine Altman
PRESIDENT

Mark Heirbrandt
Member

Steven C. Dillinger
Member

ATTEST: Lynette Mosbaugh
Executive Secretary"

Williams Creek Drain, Clay Creek Drain Arm - Miller Extension:

There was one objection on file. Mr. Patrick Bourdillon was present for this item.

The Surveyor presented his report to the Board for approval.

"December 2, 2021

TO: Hamilton County Drainage Board

RE: Williams Creek Drainage Shed, Clay Creek Drain Arm, Miller Extension

Attached are plans and petition for the extension of the Clay Creek Drain. The petition was filed by John Michael and Deanne Miller on November 22, 2021. The petition requests the Board to extend the existing Clay Creek Drain across the Miller and Bourdillon properties.

The extension would begin at the terminus of the Clay Creek Drain within High Grove Section 1 established as ending at the east line of Block "A" as shown on the secondary plat of High Grove, Section 1 recorded in the Office of the Hamilton Recorder as Instrument Number 20000007619, Plat Cabinet Number 2, Slide Number 404. This terminus is described in my report to the Board dated November 17, 1999 for the Clay Creek Drain, High Grove Section 1 Arm and approved at hearing on December 27, 1999 (see Hamilton County Drainage Board Minutes Book 5, pages 297-298).

The extended drain will then run downstream following the existing open ditch a distance of 436.7 feet and terminating at the north end of "Block D" as shown on the secondary plat of High Grove, Section 2 recorded in the Office of the Hamilton County Recorder as Instrument Number 200200045032, Plat Cabinet 3, Slide 7. This point is the beginning of the Clay Creek Drain as described in my report to the Board dated December 19, 2001 for the Clay Creek Drain, High Grove Section 2 Arm. This report was approved at hearing on January 28, 2002 (see Hamilton County Drainage Board Minutes Book 6, pages 256-257).

Maintenance of the drain will include removing debris and obstructions, bank restoration and any other work necessary to maintain the flow within the ditch.

At this time the tract owned by Patrick D. V. Bourdillon, parcel 17-09-33-00-12-001.000, High Grove Section 3, Lot 33 has a 30-foot regulated drain easement along the northeast line of the tract. This is shown on the secondary plat for High Grove Section 3 as recorded in the Office of the Hamilton County Recorder as Instrument Number 200300046635, Plat Cabinet 3, Slide 170. The Bourdillon tract known as parcel #17-09-33-00-00-006.111 does not currently have an easement but will require the entire 0.096-acre tract to be covered by regulated drain easement. This tract lies between the drain and the existing platted easement.

The property owned by J. Michael and Deanne Miller, tracts 17-09-33-00-00-006.101 and 17-09-33-00-00-006.121, do not currently have a regulated drainage easement. Both parcels shall be covered by a regulated drainage easement on those portions of the land located to the west of the west bank of Clay Creek, between east and west banks of Clay Creek and east 75 feet of the east bank of Clay Creek.

Clay Creek Drain is an arm to the Williams Creek Drainage Shed. The Miller and Bourdillon tracts shown on the Exhibit "A" of the petition are currently assessed for the Williams Creek Drainage Shed. There are no changes in the current assessments with the approval of this petition.

I recommend the Board set the petition for hearing on January 24, 2022.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pll"

Altman asked, these are platted subdivisions, correct; on the objector's side?

The Surveyor stated yes.

Altman stated the plat shows the drainage easement that it doesn't abut the property line.

The Surveyor stated the drainage easement abuts the property line as platted. Going east there's another 30-foot strip that was transferred from Miller to Bourdillon. It appears that the actual property line on the 30-foot strip to the east is the top of the bank.

Howard asked, Miller is the person to the right; to the east?

The Surveyor stated correct.

Howard asked the Surveyor, go through the easement again under the existing condition and who the grantor was so we know how much; if there's a new...

Altman stated I don't think we have that.

Heirbrandt asked the Surveyor, did anyone talk to Mr. Bourdillon?

The Surveyor stated I believe Janet (Hansen) did.

Howard asked, the existing easement is how many feet onto the platted lot?

The Surveyor stated I don't know.

Altman stated it would be 30 feet because he said the easement edge was at edge of property on the plat from the previous explanation. It appears that there is a strip that is unencumbered unless the transfer encumbered it from Miller, who's the petitioner, to the landowner who is objecting, if I understand that correctly.

The Surveyor stated the platted easement is 30 feet.

Altman stated right.

Howard asked would the establishment of this drain take any more from the property to the west?

The Surveyor stated no.

Howard stated so whatever is platted is there.

The Surveyor stated correct.

Howard stated so the new easement will come from the platted property to the east who is the petitioner.

Altman stated but not the landowner.

The Surveyor stated the petitioner is to the east, but there's also a section of 30-foot strip that is not encumbered presently by the easement. You have easement, 30-foot strip, petitioner.

Altman stated the 30-foot strip belongs to the gentleman who owns the lot who is objecting.

The Surveyor stated correct.

Altman stated and it is not encumbered by an easement presently.

The Surveyor stated correct.

Howard asked, are there any structures or is there an open ditch there at this time?

The Surveyor stated the apparent open ditch, top of bank appears to be the west edge of the 30-foot strip.

Altman stated it doesn't matter, it's not subject to a regulated drain currently.

The Surveyor stated correct.

Howard stated or a dedicated easement.

Altman stated correct. At this time, we'll go ahead and finish what needs to be done and then we'll open the public hearing.

The Surveyor stated from what I was told Mr. Bourdillon's main objection is the clearing of trees along that property line. Any clearing of trees would only be if we need to get in there to remove a tree and we have to get rid of a tree to get to it or to do any bank work for erosion areas. We don't plan to do anything other than that. Just keep the flow going.

Dillinger asked based on what you have seen how many trees would have to be removed, just the one?

The Surveyor stated there are no trees in the ditch now, but we've had that before. Mr. Miller has asked us to remove trees that were obstructing before which he's had to do and this is why he's petitioning, so we would do it. There's a gap between drains. It's regulated upstream and regulated downstream.

Howard stated any existing trees are on the petitioner's side of the ditch?

The Surveyor stated on both sides.

Altman stated one other clarification, the 30-foot strip that adjoins the existing drainage easement, does it go to the center of the creek?

The Surveyor stated it appears to be the top of the bank. We did not do a survey on it.

Altman stated so he controls, in theory, the top of the bank west.

The Surveyor stated correct.

Howard asked is there an existing apparent flowline?

The Surveyor stated yes.

Howard stated so there's a creek there now.

The Surveyor stated yes.

Altman asked is it possible to regulate Mr. Miller's side without touching the objector's side?

The Surveyor stated by Statute, I don't know if you can do that.

Altman stated we could reduce the size of the regulated drain. Right now, we don't have an easement or a right to regulate the objector's side.

The Surveyor stated right.

Altman stated lets just start with that premise.

The Surveyor stated okay.

Altman stated the only thing we could regulate is Mr. Miller's side if that's possible as a petition from the edge of property line to the west.

Howard stated going down the road of problem solving in the event the trees on the west block the drain then it would be subject to the Private Obstruction, the Statute about Obstructions on Private Land of an existing flowline.

Altman stated yes and no because the flowline is on the petitioner's side if I understood correctly.

Howard stated right.

Altman stated so in theory, you chop off the tree at the property line, clear it out, because it's just top of bank and I think we can accomplish what you need to accomplish without effecting the objection's side.

Howard stated if it's something on his property that fell into the creek..

Altman stated that's his problem.

Howard stated it's his problem and subsequent under a whole different Statute.

Altman stated well, we'd still clean up the flowline because that's regulated, but the rest of the tree doesn't get removed, correct?

The Surveyor stated yes, we could do that.

Altman opened the public hearing.

Bourdillon stated I own the property on the southwest side of the creek. I submitted an objection in writing. In 2002 I was here in this room because I moved into the property and built the house it was noticed that the Drainage Board was clearing out that drain and I thought it was an excessive amount of activity in terms of removing vegetation and possibly trees. At that time Dr. Miller on the other side agreed with me that it wasn't necessary to do that. It turned out it had been an error in the surveys and the Drainage Board thought that they had access to it, and they didn't. The platted property line was several feet southwest of that creek. That strip of land you were referring to was what I purchased from Dr. Miller in order to maintain the flow of the southwest bank of the creek myself. At the hearing here at that time it was recognized that an error had been made so the Drainage Board withdrew their activity and it was decided that no further, as far as I can recall and as far as I can understand, withdrew their plans for clearance of that creek. Now, twenty years later, it surprised me that this should come up again, but not totally because there has been some obstruction in the creek. It wasn't, in my mind, excessive and was minor, but apparently Dr. Miller decided to request that the creek get regulated. My concern is not towards the regulation per say except that I'm concerned from the history what happened nearly twenty years ago that an excessive amount of clearance would be planned, would be carried out on both sides of the creek including vegetation, which provides additional buffer between my property and Dr. Miller's property. That is the essence of my objection, but if in fact from what I understand there is no, from the discussion earlier, that there is no easement on my side of the creek in order to do that maintenance it seems like it would be very difficult to make a regulated drain if you don't have an easement on my side of the creek. That's all I need to say at the moment. I would be happy if it were not a regulated drain. I have questions about some of the discussion earlier which related to can we regulate the drain from just Miller's side of the creek. I'm suspicious that that that isn't really a valid solution, but I don't know all the details.

Altman stated before I close the public hearing so you can respond; is it appropriate to respond to some of his concerns?

Howard stated yes.

Altman stated you understand if this is not regulated when a tree falls it is the responsibility of landowner to clear the obstruction on a non-regulated stream. Based on that responsibility it appears that Dr. Miller has decided to petition for Hamilton County to regulate the drain so that the expense falls on the county versus him. I believe that's the nexus of why he asked to regulate. According to the Surveyor, if we allow that petition just as it affects his property, which we believe we can, then we would need to survey and make sure we know where your property line was and stay off of the property line unless you voluntarily gave us an easement or we purchased it. At this point we haven't done any of that, so I don't think that's going to happen.

Howard stated I would think at a minimum we need to survey, table and do the survey and find where that property line is so everybody knows where it is. The petition, as submitted, would allow us an easement on the northeast side to come in and clear and if it's top of bank on the west it's the gentleman's boundary then we can still clear the creek and affect the flow without taking his land and he can have his trees. Whatever trees are on Dr. Miller's property might be removed, if necessary, to maintain the flow.

Altman stated that's a summary. I don't think we can act today because we don't know where your property line is exactly, but we really need to connect, in my opinion, the regulated drain to the extent we can because that's a significant creek in that area and an obstruction in the unregulated part is going to cause problems for the people upstream.

Howard stated and we would have the right to do a non-invasive survey under IC 32-24-1.

Altman stated any survey as long as we properly let you know; we'll let you know when the survey crew comes on so you can expect trucks anywhere on the other side.

Bourdillon stated a survey was done back in 2002 and that led to my purchasing that strip of land from Dr. Miller. It goes right up to the bank but does not include the creek. Dr. Miller wished to retain the creek itself.

Howard asked was that document recorded do you believe?

Bourdillon stated I'm sure it was.

Altman stated recording law didn't go into effect until fairly recently; we're talking twenty years ago. What I would suggest is we table this petition and then we'll locate the pins if pins were set so the Surveyor knows and he can report back to us and you can have a little more discussion if you choose with the Surveyor's Office to decide whether you're interested in regulation or not.

Howard asked do we want to table to a date certain?

Altman stated I assume someone set pins when they did the survey if they're doing it properly.

Heirbrandt asked what if they didn't?

Altman stated well, we'll have to survey it.

Howard stated it will take longer to survey it.

The Surveyor stated we don't have time.

Altman stated that's fine, give me a date because this can pend.

The Surveyor stated I'd say we're six months out.

Altman stated that's fine. When's our meeting that's a reasonable time...

Howard stated in June.

The Surveyor stated the 27th of June.

Bourdillon stated for twenty years the creek has run fine. There's been minimal obstruction, which our other next-door neighbor, Mr. Hoffman, has referred to a couple of times. To my mind would have required very minimal removal of some debris on the northwest end of the creek, just inside the blue area you can see on the creek. The idea that the Drainage Board was going to come in and do some of the major clearing they were attempting to do twenty years ago of vegetation and trees is not what I would like to see. I wanted to make that observation. It's been flowing fine for twenty years and I don't see the need for anything major being done.

Altman closed the public hearing.

Altman stated unless we have to do a reconstruction of that drain, we're not in the business of cutting down trees.

Heirbrandt made the motion to table this item until June 27, 2022, seconded by Dillinger and approved unanimously.

Howard stated you will not receive additional notice.

Altman stated it will be this time, this room on the 27th of June and I'd suggest you have some communication with the Surveyor's Office in the interim if you choose to find out what the plans are.

Dillinger stated I'm curious, they say there are no obstructions in the creek. Why are we doing this?

Altman stated there's a petition and we had to address it.

Dillinger asked is there any situation that you know of that would cause this?

The Surveyor stated probably Ash Trees have been falling, I don't know for sure.

Heirbrandt stated that's why we tabled it, there needs to be further exploring.

Howard stated you never know if you need to get in there and clear it until you get in there and clear it, that's the problem.

The Surveyor stated I know that we've had upstream owners complain about obstructions on this stretch. That's when we talked to Dr. Miller.

Dillinger stated it's easy to talk about just these two properties, but how that unregulated part is affecting other property owners, which is what we're all about, that was never discussed in front of him (Bourdillon).

Howard stated if you look at the aerial upstream does not look like it's been developed yet.

Altman asked when did this subdivision go in? Were they clearing it with the subdivision?

The Surveyor stated I'm not sure what he was speaking of. This particular subdivision he lives in was done in 2003. Bourdillon received that property from Miller in 2004.

Howard stated we need a copy of his deed and his recorded plat.

Altman stated and look at your workorders in that section.

Hinkle Creek Drain:

There were neither landowner present nor objections on file.

The Surveyor presented his report to the Board for approval.

"December 2, 2021

To: Hamilton County Drainage Board

Re: Hinkle Creek Drain

I have reviewed the future needs of the Hinkle Creek Drain. Upon doing so I believe that the period of collections should be extended from 4 years to 8 years as per IC 36-9-27-43. At this time the total annual collection is \$285.00, and the current balance is \$570.00. Currently, the maintenance collection of the drain is omitted when the fund reaches \$1,140.00. If the time period for collections is extended the balance in the fund could be \$2,280.00 depending on maintenance work performed on the drain.

This will provide additional funding in the future for clearing, debris removal or other work needed to ensure proper flow through bridges.

I recommend that this proposal be set for hearing on January 24, 2022.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pll"

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

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

"FINDINGS AND ORDER
CONCERNING THE MAINTENANCE OF THE
Hinkle Creek Drain

On this **24th day of January, 2022**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Hinkle Creek Drain**.

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

Christine Altman
President

Mark Heirbrandt
Member

Steven C. Dillinger
Member

Attest: Lynette Mosbaugh
Executive Secretary"

Intracoastal at Geist Drain Maintenance Assessment Increase & Drainage Shed Extension:
There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"November 30, 2021

To: Hamilton County Drainage Board

Re: Intracoastal at Geist Drain Maintenance Assessment Increase and Drainage Shed Extension

At this time, I recommend that the rates for the maintenance assessment for the Intracoastal at Geist Drain be revised. Currently the rates for this drain are set for regulated drain subdivision at \$5.00 per acre with a \$65.00 minimum/lot and \$10.00/acre for roads. With 47.9 acres and 166 lots in the drainage shed the annual assessment for this drain is \$11,832.10. The fund has a balance of \$9,026.39. Currently there are no drainage complaints and one reconstruction.

I recommend the rates be revised to the following rates:

1. Maintenance assessment for agricultural tracts be set at \$6.00 per acre with a \$25.00 minimum.
2. Maintenance assessment for non-platted residential tracts be set at \$6.00 per acre with a \$25.00 minimum.
3. Maintenance assessments for platted lots in subdivisions whose drainage systems will not be part of the regulated drain shall be set at \$45.00 per lot/minimum. Common areas within the non-regulated drain subdivisions shall be assessed at \$8.00 per acre with a \$45.00 minimum.
4. Maintenance assessment for platted lots within subdivisions whose drainage system will be part of the regulated drain shall be set at \$75.00 per lot/minimum. Common areas within the regulated drain subdivisions shall be set at \$15.00 per acre with a \$75.00 minimum.
5. Maintenance assessment for commercial, institutional and multi-family residential tracts to be set at \$20.00 per acre with a \$95.00 minimum.
6. Maintenance assessment for roads and streets be set at \$15.00 per acre.

I further recommend that the 165.02 acres of which drains into the subdivision be assessed for the maintenance of the drain. The attached map and schedule of assessments shows the area to be included in the assessment.

With above rates and extension of the drainage shed the drain will collect \$15,328.46 annually. These collections at the revised rates will begin in May 2022.

I would recommend the collection period be increased from 4 times the annual assessment to 8 times the annual assessment.

I recommend the Board set a hearing for this matter on January 24, 2022.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pll"

Altman asked the Surveyor, is there maintenance that needs to be done here?

The Surveyor stated Intracoastal is where we're doing the Moore project, the reconstruction and I believe there will be another one sooner or later to the east of the present reconstruction.

Altman asked, and this property drains through that subdivision?

The Surveyor stated it does.

Howard asked the Surveyor, and this is the one we've had the issue with Duke. Because of the construction and multiple conflicting easements, we expect there can be further problems?

The Surveyor stated yes.

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

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

"STATE OF INDIANA)
) ss: BEFORE THE HAMILTON COUNTY
COUNTY OF HAMILTON) DRAINAGE BOARD
NOBLESVILLE, INDIANA

IN THE MATTER OF THE
RECONSTRUCTION OF THE
Intracoastal at Geist Drain, Maintenance Assessment Increase & Shed Extension

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the ***Intracoastal at Geist Drain, Maintenance Assessment Increase & Shed Extension*** came before the Hamilton County Drainage Board for hearing ***on January 24, 2022***, 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 ***Intracoastal at Geist Drain, Maintenance Assessment Increase & Shed 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

Christine Altman
PRESIDENT

Mark Heirbrandt
Member

Steven C. Dillinger
Member

ATTEST: Lynette Mosbaugh
Executive Secretary "

Vermillion Drain - Northwest Fortville Subdivision (Hancock County) Shed Change:

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"December 15, 2021

To: Hamilton County Drainage Board

Re: Vermillion Drain, Northwest Fortville Subd. (Hancock County), Shed Change

Attached is a site map of Northwest Fortville Section 1 received by Susan Bodkin, Hancock County Surveyor. It shows that Lots 1 thru 13 and 70 thru 79 and CA A drain north into Hamilton County and the remaining part of the subdivision drains south and stays in Hancock County.

The portion the drains into Hamilton County drains to the Vermillion Regulated Drain in the Heritage at Vermillion Section 2 Subdivision within Hamilton County. The drains within Northwest Fortville will not be maintained by Hamilton County. They do benefit from the Vermillion Drain and will be assessed at the Un-Regulated Subdivision rate of \$5.00 per acre and \$35.00 per lot and minimum. This assessment is to be collected by Hancock County and the settlement to be forwarded to Hamilton County. The total to be collected is \$840.00.

I recommend the Board at a hearing for January 24, 2022.
Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor"

Howard asked, who captures the money?

The Surveyor stated Hancock County collects the money and sends it over to us.

Howard asked Hancock County will have to do a hearing also, right?

The Surveyor stated I believe they're piggybacking on ours.

Howard asked did we send notice to the property owners?

The Surveyor stated yes.

Altman stated I don't think we have jurisdiction, do we?

The Surveyor stated they waived it.

Altman asked, the developer?

The Surveyor stated the County.

Altman stated I'm talking about the owner of the property.

The Surveyor stated we have been working with the developer over there. They knew it was coming.

Cash stated the developer is the same developer who did Vermillion adjacent to this.

Altman asked, the developer is presently the property owner of the lots to be assessed in Hancock County?

Liston stated the last time I was through there, there was maybe one or two homes under construction.

Howard stated we have a petition from the owner of that entire plat?

The Surveyor stated lots are now owned by NWF, LLC.

Howard asked, the entire subdivision?

The Surveyor stated yes.

Altman stated if they haven't recorded the plat then they couldn't have sold the lots, I don't believe, unless they had a bond.

Howard asked do we have, in our file, a petition and/or consent by the property owner? Did Hancock County have a hearing where they sent notice to people and that petition described that it was going to be assessed as part of our drainage shed because it's a discharge into our shed?

The Surveyor stated it's a discharge into our shed and this paperwork is coming from Susan Bodkin, who's the Hancock County Surveyor.

Cash stated I don't believe we have a petition from the developer to regulated that as a Hamilton County Drain.

The Surveyor stated we're not regulating the subdivision; we're just assessing it.

Cash stated I think the paperwork came from Susan Bodkin. I believe that's what we received. Did they waive their right to a Joint Drainage Board?

Altman stated yes, as I recall in reading this, they did not want one.

Howard stated Hancock County is going to have to do the collections and convey it to us and lets make sure they know; if they had a hearing for these landowners and that petition said that it would be discharged and their collections would be paid to Hamilton County we're fine, but we need to see what their petition; what they told the landowner. If it's a developer and he's in the process of selling lots that probably needs to climb up to 11:00 this morning's problem. If they're selling lots, we've got title problems unless the new lot owners are petitioners.

Heirbrandt made the motion to table this item, seconded by Dillinger and approved unanimously.

Howard asked did we send out notice on this?

The Surveyor stated yes.

Howard stated then we need to table to a time certain, so we don't have to re-notice.

Altman stated certainly we can find this out by next meeting.

The Surveyor asked, why don't we push it to the 28th of February.

Heirbrandt made the motion to table this item to the 28th of February, seconded by Dillinger and approved unanimously.

Mud Creek/Sand Creek Drain, T. J. Patterson Arm - Hyde Park Phase 1 Partial Vacation:

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"November 3, 2021

TO: Hamilton County Drainage Board

RE: Mud Creek - Sand Creek Drainage Area - T.J. Patterson Drain Arm, Hyde Park Phase 1 Partial Vacation

Attached is a petition to vacate a portion of the T.J. Patterson Drain Arm by MAB Capital Investments, LLC to facilitate the construction of Hyde Park Phase 1. The proposal is to vacate a portion of the existing drain that is located in the southeast part of the project site, south of 141st and southeast of Brooks School Road, in the City of Noblesville. This affects the following existing parcel: 13-11-22-00-00-008.000 owned by MAB Capital Investments, LLC. Instr. No: 2019-59131.

The portions of the T.J. Patterson Drain Arm to be vacated will include the following:

- 881' of 16" tile installed in 1901 between existing stations 59+35 and 68+16.
- 173' of 16" tile (Arm 1) installed in 1901 between existing stations 12+72 and 14+45.
- 490' of 20" tile installed in 1901 between existing stations 68+16 and 73+06.
- 402' of 16" tile (Gwinn & Martin Drain Arm) installed in 1930 between existing stations 0 and 4+02.

This request will remove 1,946 feet of existing drain from the drain's total length.

The vacation of this part of the drain will not change the assessment. The parcels affected by this vacation will continue to drain within the watershed of the Mud Creek - Sand Creek Drainage Area - T.J. Patterson Drain Arm.

Previously, in 2014, the drain upstream of this location (Sta. 45+64 to Sta. 59+35) was vacated on parcel 13-11-23-00-00-011.000 and is known as the Mud Creek - Sand Creek Drainage Area, T.J. Patterson Arm, Corporate Parkway Vacation. (Note: The "Corporate Parkway" road name was later changed to Cabela's Parkway at this location). The vacation was approved by the Board on July 28, 2014 as per my letter dated June 9, 2014. (See Hamilton County Drainage Board Minutes Book 15, pages 480-481) for more information.

The original T.J. Patterson Drain was established per Commissioner's Court records dated May 7th, 1901 (See C.R. 13, pages 144-145, 188, 197, 245. and C.R. 14 pages 46, 328). The Gwinn and Martin petitioned to repair the T.J. Patterson Drain, July 22, 1930 &/or March 15, 1930. (See D.R. 4 page 288).

Upon review of the request, I believe the above portion of the drain meets the requirements for vacation as set out in IC-36-9-27-34(d). In my opinion, the vacation will not adversely affect other property owners within the drainage shed. I recommend the Board set a hearing date for January 24, 2022.

Sincerely,

Kenton C. Ward
Hamilton County Surveyor

KCW/stc"

Altman asked is the new drain or the new drainage facilities going to be regulated or what's the plan?

The Surveyor stated no.

Howard asked is this going to discharge into an existing drain?

The Surveyor stated yes.

Howard stated so we will be collecting.

The Surveyor stated it will still be assessed.

Howard stated and we've sent notice out and we have a petition signed.

The Surveyor stated we have a request to vacate.

Howard asked are we going to go back in and do a petition to assess?

The Surveyor stated no, we don't have to.

Howard stated because it's already assessed.

The Surveyor stated yes.

Howard stated so you're just vacating the structure and you've already got assessment against the property, which will go up when it starts getting platted.

The Surveyor stated yes.

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

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

"FINDINGS AND ORDER

CONCERNING THE PARTIAL VACATION OF THE

**Mud Creek/Sand Creek Drainage Area,
T. J. Patterson Arm, Hyde Park Phase 1 Partial Vacation**

**Station 59+35 to Station 68+16/Station 12+72 to Station 14+45
Station 68+16 to Station 73+06/Station 0 to Station 4+02**

On this *24th day of January, 2022*, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Mud Creek/Sand Creek Drainage Area, T. J. Patterson Arm, Hyde Park Phase 1 Partial Vacation (Station 59+35 to Station 68+16/Station 12+72 to Station 14+45/Station 68+16 to Station 73+06/Station 0 to Station 4+02)**.

Evidence has been heard. Objections were presented and considered. The Board then adopted an order of action. The Board now finds that the costs of continued maintenance to the portion of the above drain exceed the benefits to the real estate benefited by the portion of the drain to be abandoned and issues this order vacating the above section of the **Mud Creek/Sand Creek Drainage Area, T. J. Patterson Arm, Hyde Park Phase 1 Partial Vacation (Station 59+35 to Station 68+16/Station 12+72 to Station 14+45/Station 68+16 to Station 73+06/Station 0 to Station 4+02)**.

HAMILTON COUNTY DRAINAGE BOARD

Christine Altman

President

Mark Heirbrandt

Member

Steven C. Dillinger

Member

Attest: Lynette Mosbaugh "

Clara Knotts Drain - CDBG Agreement (Second Amendment):

Aimee Jacobsen was present for this item.

Jacobsen stated this is the second amendment to the agreement for the Community Development Block Grant (CDBG) funds for the Clara Knotts Drainage Project. This agreement is between the Board of County Commissioners and the Hamilton County Drainage Board. The second amendment extends the time to complete the project to November 30, 2022.

Dillinger made the motion to approve the second amendment of the CDBG Agreement for the Clara Knotts Drainage Project extending the completion time to November 30, 2022, seconded by Heirbrandt and approved unanimously.

White River Alliance - Activity Report:

The Surveyor presented the activity report of the White River Alliance for 2021 to the Board for their information.

White River Alliance - MS4 Public Education & Involvement Agreement:

The Surveyor presented the agreement for the educational and public involvement with the White River Alliance for 2022. The cost is \$7,000.00, which is the same as last year.

Heirbrandt made the motion to approve the agreement with the White River Alliance for public education and involvement for 2022 at a cost of \$7,000.00, seconded by Dillinger and approved unanimously.

146th Street Agreement - 2021 Interest:

The Surveyor stated you have before you the interest that has been calculated by the Treasurer, approved by the Auditor and looked over and concurred by Janet (Hansen) in our office. The interest for 2021 for the agreement for 146th Street totals to \$12,584.93.

Altman asked has that been invoiced?

The Surveyor stated not yet.

Altman stated you want us to approve that calculation so we can invoice it.

The Surveyor stated yes.

Dillinger made the motion to approve the interest of \$12,584.93 for the 146th Street agreement, seconded by Heirbrandt and approved unanimously.

2022 Classification List:

The Surveyor presented the 2022 Drain Classification List to the Board for approval.

January 20, 2022

To: Hamilton County Drainage Board

Re: Drain Classification

Under the authority of the Indiana Drainage Code: IC 36-9-27-34, I hereby submit the following drains for classification:

A. DRAINS IN NEED OF RECONSTRUCTION	ACRES	PETITIONED
1. Emily Vestal Drain	6,797.82 ac	
2. Jesse DeVaney Drain (Taylor Creek)	3,425.99 ac	January 4, 2000,
3. E. Clark & S.J. Compton Drain	4,369.70 ac	
4. Wheeler & Beals Drain (Cool Creek)	4,108.00 ac	
5. Clark & Inman Drain	440.00 ac	April 18, 2011
6. William Baker Drain	2,114 ac	February 13, 2013
7. Marion Blanton Drain	1,227.59 ac	October 1, 2013
8. Flora Mendenhall Drain		
9. Wilson-Nagle Drain		December 17, 2014
10. Taylor & Jessup		March 4, 2016
11. Clara Knotts Drain (103 rd , Park, Ruckle, Broadway, 102 nd , Central & New Jersey)		June 23, 2017
12. Vermillion Drain		December 12, 2017
13. Hortonville Drain		June 11, 2018
14. C.B. Jones Drain		June 12, 2019
15. Ed Waltz Drain		December 7, 2020
16. Beaver & Brooks Drain		February 24, 2021
17. Mary Wilson		March 1, 2021
18. N. H. Teter Drain		April 21, 2021
19. William Weaver Arm, Weaver & Hooke Drain		April 21, 2021
20. Adam Ault Drain		April 26, 2021
21. J. M. Gustin Arm, Jonas Rogers Drain		April 30, 2021
22. E. E. Cornthwaite Drain		May 3, 2021
23. Hamilton County Employee Parking Garage		May 11, 2021

B. DRAINS IN NEED OF MAINTENANCE	
1. Guy Guilky Drain	
2. Green Harris Drain	
3. Kline-Miller Drain	
4. A. Stehman Drain	
5. Little Cicero Creek	
6. Hinkle Creek	
7. W.C. VanArsdale Drain	Reconstruction turned down by Board 2/23/98
8. Herbert Billingsley Drain	Maintenance turned down by Board 3/27/06
9. James E. Driver Drain	Maintenance turned down by Board 2/22/10

ALL OTHER REGULATED DRAINS/DITCHES THAT WERE CERTIFIED TO THE AUDITOR OF HAMILTON COUNTY IN 1957, AS REGULATED DRAINS/DITCHES TO BE CLASSIFIED AS DRAINS/DITCHES IN NEED OF PERIODIC MAINTNENACE.

C. DRAINS IN NEED OF VACATION

No drain found to be in need of vacation at this time.

PETITIONS FOR NEW DRAINS

At this time the Board has been petitioned for new drains to be constructed. These petitions are as follows:

<u>Name</u>	<u>Date Petition Filed</u>	<u>Township</u>
1. South Arm, Mallery-Granger Drain	February 13, 1995	Noblesville (tabled 5/22/2000)
2. Hortonville Arm, Henry Plew Drain	June 5, 2002	Washington
3. Ream Creek (Orchard Park Subdivision)	January 5, 2011	Clay
4. Barnette Arm, Harriett Sheward Drain	March 8, 2011	White River
5. Summer Lakes	October 15, 2013	Clay

DRAIN MAPPING PROJECT:

During the mapping project which was completed in 2005 for the regulated drains, eight (8) new drains were discovered. These drains were not listed on the drains which were certified to the Auditor in 1957. The 1957 list has been utilized for the classification list since 1965. Utilizing the 1957 list, plus adding new drains or removing vacated drains over the years, the length of drains which had been reported previously was 1,077 miles. As a result of the mapping project the length of drain miles increased to 1,095 miles. This figure is believed to be very accurate based on the

methodology which was utilized in the creation of the new mapping. This is the length reported to the Auditor in 2004 for the GASB34 reporting of Capital improvements.

The new drains that were added to the classification list in 2005 not on maintenance as yet are as follows:

- Guy Guilkey Drain
- Green Harris Drain
- Kline-Miller Drain
- A. Stehman Drain
- James E. Driver Drain (Hearing held Feb. 22, 2010, Board dismissed report)
- Herbert Billingsley Drain (Hearing held Mar. 27, 2006, Board dismissed report)

At this time these drains have been added to the classification list as drains which are in need of maintenance. As more data is compiled for each of these the classification could change at a later date. Whenever possible these drains should be consolidated with the drain which serves as its receiving stream.

REGULATED DRAIN EXTENTIONS:

Along with the classification list, I also recommend that in the future the following drains be extended or established in length to the indicated receiving streams or County boundaries. This can be accomplished through the petition process as set out in IC 36-9-27-36 and 49 and IC 36-9-27-54.

These extensions or establishments can be done by utilizing IC 36-9-27-34 (b) (3) (E) and IC 36-9-27-49 (b) (2).

Delaware Township

- R.J. Craig Drain to White River
- Castetter & Randall, Shoemaker & Krause Drains to White River
- Lynnwood Hills Drain to White River
- Pines & Roxbury Drain to White River

Fall Creek Township

- Thorpe Creek Drain to Geist Reservoir
- Flat Fork Creek Drain to Fall Creek

Wayne Township

- A.J. Huffman Drain to Stony Creek
- S.E. Carpenter Drain to Stony Creek
- William Locke as Stony Creek to Madison County Line
- William Locke as Stony Creek to White River
- Frank Huffman Drain to William Locke

Noblesville Township

- Schneider Peirce Drain to White River
- Mallery-Granger Drain to White River
- William Locke as Stony Creek Drain to White River
- County-McMahon Drain to White River
- George Booth, Pebble Brook, Beals & Cox, Ellis Barker, Bliss Johnson, Mill Creek Drains as
- Sly Run Drain to Cicero Creek.

Jackson Township

- M.E. Scherer Drain to Little Cicero Creek
- Ed Waltz/Bear Slide Creek Drain to Morse Reservoir
- Whisler & Brenner & H.A. McMullen Drains to Big Cicero Creek
- Marion Blanton, Ed Waltz, & Bear Slide Drains to Morse Reservoir as Blear Slide
- Raymond Briles Drain to Isaac Jones Drain
- Symonds Ditch to Morse Reservoir (Little Cicero Creek)
- Wilson-Nagle Drain to Big Cicero Creek
- Jesse DeVaney Drain to Little Cicero Creek
- Raquet & Ehman Drain to Little Cicero Creek
- William Baker/Baker Jones Drains to Hinkle Creek
- Jacob Yansel Drain to Hinkle Creek
- Sylvester Gwinn Drain to Jesse DeVaney Drain

White River Township

- Frank Shaw Drain to Duck Creek
- Guy Guilkey, Shyrock, Kepner & Cornthwaite Drains to White River
- Hill & Webb and Rebecca Webb Drains to White River
- Harriet Sheward Drain to White River
- George Keck Drain to Bear Creek
- Rebecca Roberts Drain to White River
- Sarah Dentz Drain to Duck Creek
- Bear Creek Drain to Duck Creek

Clara Gintert Drain to White River
Burkhardt Drain to White River
Henry Gunn Drain to Pipe Creek
Vincent Case Drain to White River
Lambertson Drain to Duck Creek

Adams Township

Symonds Ditch to Morse Reservoir (Little Cicero Creek)
Jay Ditch to Symonds Ditch

Washington Township

Stuart Rawlings Drain to Little Eagle Creek
Oak Park Drain to Mary Wilson Drain
Little Eagle Creek to Boone County Line
Bear Creek to Little Eagle Creek
Wheeler & Beals Drain (Cool Creek) to White River
William Knight Drain to Cool Creek
Oak Manor Drain to Cool Creek
Oak Woods Drain to Cool Creek
Harmon Clark & H.G. Kempton Drains to Cool Creek.

Clay Township

Albert Shaw Drain to Boone County Line
Long Branch (J.W. Brendel) Drain to Boone County Line
Brandywine Drain to Crooked Creek
Timber Heights Drain to Carmel Creek
Fertig/Hawkins Drain as Carmel Creek Drains to Marion County Line
Richard Moffitt Drain to Carmel Creek
Hunters Creek Village Drain to Cool Creek
Hunters Creek South & Bentley Oaks Drains to Cool Creek
Spring Mill Run Drain to Williams Creek
Thomas Hussey Drain to Williams Creek
Osborn-Collins as Williams Creek to Marion County Line
Clay Creek Drain to Williams Creek
Crossfields Drain to Clay Creek Drain
Asher Drain to Williams Creek
Clay Springs Drain to Williams Creek
John Osborn Drain to Spring Mill Run Drain

I believe that as the Stormwater Phase II Program progresses in Hamilton County that the above extension will become important. Doing so will allow the Drainage Board better control of the stream not only hydraulically but more importantly in regards to water quality.

DRAINAGE SHEDS:

I recommend the Board continue the creation of larger drainage sheds. By the identification of the main receiving stream and the inclusion of a single rate schedule which blankets the entire drainage shed, main and the various smaller drains which enter into it, will have long range benefits. These are as follows:

1. Reduce the number of funds to be managed. At this time the Board has 368 drain funds for maintenance. Of these 179 funds have now been combined into larger drainage sheds. As an example, when the Mud Creek/Sand Creek basin was created, 23 smaller funds were included within the drain.
2. Reduce the need for the creation of future funds.
2. Eliminate the problem of the smaller sheds, which cannot generate enough funds for maintenance, of being in the red and having to borrow from GDIF.
4. Reduce the number of multiple assessments on single tracts. This became very important when the drain billing was combined on the individual property tax bill.
5. Perhaps if the number of funds are reduced and become more manageable from an Accounting perspective, the Treasurer would add interest to the maintenance funds. Doing so should eliminate a complaint from the landowners that have been heard by the Board and myself many times, in the past. This would also help the funds financially and provide better service to the landowners within the drainage sheds. However, this could be negated if the Board were to be able to utilize the General Drain Improvement Fund interest for Phase II Funding.

At this time the Board should begin collections on the maintenance funds until the fund reaches eight (8) times the annual assessment instead of four (4) times the annual assessment which is currently done. This is allowed under IC 36-9-27-43. This will increase the available balance in the drain funds. The Board would then be able to utilize maintenance funds to partially pay for reconstruction projects. Under IC 36-9-

27-45.5, the Board may transfer up to 75% of a maintenance fund to pay for reconstruction projects. This could reduce, or eliminate, the assessments for future reconstructions.

Currently the following drains are in need of increasing the collection period from four (4) years to eight (8) years.

Benton Hinesley Drain #41	William Thomas Drain #181	George Symonds Arm 3 #323
Henry Gunn #82	Beaver & Brooks Drain #233	Intercoastal at Geist Drain #334
Revis-Carson Drain #83	Carmel Creek #277	Ream Creek Drain #338
J.R.McKinzie Drain #146	Prairie Creek Drain #279	Bellewood Drain #348
Lynnwood Hills Drain #152	George Beam Drain #322	
Highland Springs Drain #165	George Symonds Drain #323	

IC 36-9-27-43

OMMISSION OF ANNUAL ASSESSMENT:

- a. If in any year a maintenance fund established under Section 44 of this chapter has an unencumbered balance equal to or greater than four (4) times the estimated annual cost of periodically maintaining the drain for which the fund was established, the annual assessment for the maintenance of that drain may be omitted for that year.
- b. The County Drainage Board may collect the drain assessment even though the unencumbered balance of the maintenance fund is equal to or greater than four (4) times the estimated annual cost of periodic maintenance of the drain for which the fund was established if the Drainage Board does the following.
 1. Conducts a public hearing in accordance with Section 40 of this chapter.
 2. At the public hearing estimates what the unencumbered balance of the maintenance fund would be, as a multiple of the estimated annual cost of periodic maintenance of the drain, after the collection of the total amount that the Board intends to collect in assessments. However, the annual assessment for the maintenance of the drain shall be omitted if, according to the estimate of the Board, the collection of the intended total amount of assessments would increase the unencumbered balance of the maintenance fund to equal or exceed eight (8) times the estimated annual cost of periodic maintenance of the drain for which the fund was established.

As added by Acts 1981, P.L. 309, Sec.101. Amended by P.L.276-2001, Sec.13.

IC 36-9-27-45.5

EXCESS DRAINAGE MAINTENANCE FUND BALANCE; TRANSFER OF FUNDS:

- a. This section applies when a county surveyor advises the drainage board that in the county surveyor's opinion a maintenance fund has a balance in excess of the amount reasonably needed in that fund for maintenance work in the foreseeable future.
- b. The board may transfer an amount up to a maximum of seventy-five percent (75%) of the money in the maintenance fund to a reconstruction fund that covers the same watershed as the maintenance fund from which the money is transferred.

As added by P.L.154-1993, Sec.6.

ASSESSMENT INCREASES:

In 2005 the Board began increasing maintenance assessments for drains throughout the county to a standard set of rates. Although due to size of the drainage shed, difficulty of access and type or size of the facilities anticipated maintenance costs may vary. The typical standard rates are as follows:

1. Maintenance assessment for roads and streets set at \$10.00 per acre.
2. Maintenance assessment for agricultural tracts set at a minimum of \$2.00 per acre with a \$15.00 minimum per tract.
3. Maintenance assessment for non-platted residential tracts be set at a minimum of \$2.00 per acre with a \$15.00 minimum per tract.
4. Maintenance assessment for commercial, institutional and multi-family residential tracts be set at a minimum of \$10.00 per acre with a \$75.00 minimum per tract.
5. Maintenance assessment for platted lots in subdivisions whose drainage systems will not be part of the regulated drain (those systems maintained by a city or town) set at \$35.00 per lot/minimum. Common areas within non-regulated drain subdivisions shall be assessed at \$5.00 per acre with a \$35.00 minimum per tract.

6. Maintenance assessment for platted lots within subdivisions whose drainage system will be part of the regulated drain shall be set at a minimum of \$65.00 per lot/minimum. Common areas within the regulated drain subdivision shall be set at a minimum of \$10.00 per acre with a \$65.00 minimum per tract.

I recommend the Board continue this process until all rates are adjusted to the above levels. At sometime in the future rates should be increased. This increase can be at a given time period such as every 2, 5 or 10 years so as to keep up with the increasing costs of materials, fuel and labor. This can be done at given percentages such as 5, 10 or 15% on a regular basis. The Board could also utilize IC 36-9-27-42 whereby the Board can increase the maintenance assessment for a drain up to 25% without hearing. Currently the following drains are in need of increases in the annual assessment.

Marion Blanton Drain #9	J.R. McKinzie Drain #146	Prairie Creek Drain #279
Ingerman-Lockwood Drain #21	Highland Springs Drain #165	George Beam Drain #322
Jacob Yansel Drain #22	Harry Herr Drain #173	George Symonds Arm 3 #323
Benton Hinesley Drain #41	Ross-Mann Drain #228	Ream Creek Drain #338
Henry Gunn Drain #82	William Baker Drain #238	Clark & Compton Drain #345
Revis-Carson Drain #83	Anchorage Drain #246	Bellewood Drain #348
Elwood Wilson Drain #126	Carmel Creek Drain #277	Johnson & Gardner Drain #355

IC 36-9-27-42

INCREASES AND DECREASES IN ASSESSMENTS FOR PERIODIC MAINTENANCE OF DRAINS; PROCEDURE:

- a. The Board may at any time increase or decrease the amount annually assessed for periodic maintenance of a regulated drain if the board finds that the county surveyor's estimate of the cost of maintaining the drain was insufficient or excessive.
- b. The Board may decrease the amount annually assessed without notice to the affected owners if the percentage of benefit assigned to all tracts of land affected is not changed from that originally determined by the board.
- c. The board may increase the amount annually assessed once without notice to the affected owners if:
 - a. the percentage of benefit assigned to all tracts of land affected is not changed from that originally determined by the board; and
 - b. the increase does not exceed twenty-five percent (25%) of the amount initially established.
- d. If the Board:
 - a. finds that the percentage of benefit assigned to any particular tract or tracts of land should be increased due to a change in land use or for any other reason; or
 - b. proposes an increase or decrease that would affect all of the lands assessed for the maintenance of the drain and that is not exempted from the giving of notice under subsection (b) or (c); the board shall mail a notice to the owner or owners of the land. The notice must state the proposed change in the assessment, and specify a date, time, and place, not less than ten (10) days after the notice is mailed, when the board will hear objections to the change. An owner may file written objections to the proposed change on or before the date of the hearing. At the hearing, the board shall consider all objections and evidence filed and shall enter an order as justice may require. The board shall mail a copy of its order to the owner or owners affected. If an owner does not request judicial review of the order under section 106 of this chapter within twenty (20) days after his receipt of the copy of the order, the order becomes conclusive.
- e. A joint board that includes three (3) or more counties in a drainage basin that exceeds one hundred thousand (100,000) acres shall publish notice in accordance with IC 5-3-1 instead of mailing notice to the owner or owners of land as required by subsection (d).

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.317, SEC.25; P.L.370-1983, SEC.2.

CLEARING/FILTER STRIPS

As the balances in the maintenance funds increase, the Board should consider clearing contracts for clearing drains which have not been reconstructed and thus not under a vegetation control (spray) program. I recommend that these be done by individual contract by drain rather than being done by work order to the maintenance contractor. I believe that this will give the Board better control of prices if done in this manner.

Per my recommendation, it has been the practice by the Board to establish filter strips along the open drains which are reconstructed. These are done on the side of the drain which is cleared for the project and are usually 20 feet in width. This provides a year-round access for inspection, vegetation control and maintenance without damaging crops. I recommend that when the drains are cleared as discussed above, that a filter strip be established on the cleared side of the open ditch. In order to make the filter strip a part of the drain I suggest that the Board hold reconstruction hearings for this purpose. By doing so the drains specifications would be changed and the filter strips would become a part of those specifications for the future.

DRAINS IN RIGHT OF WAY:

Recently it has come to the forefront that when the regulated drain parallels the roadway that problems are beginning. This is particularly true in urbanizing areas. The following areas should be considered for reconstruction in the future. This could be done by developers as development occurs or thru the regular reconstruction process.

ADAMS TOWNSHIP

1. Thomas Pierce #255- approximately 1,300 feet east of Jerkwater Road on 281st Street
2. J M Endicott #266 -- approximately 1,300 feet east of Ditch Road on 296th Street
3. J M Endicott #266 --- approximately 630 feet south of 296th Street on Six Points Road
4. Mary Parks #287 -- east and west of Dunbar Road along the south side of 276th Street
5. George Symonds #283 --- approximately 520 feet south of 256th on west side of Six Points Road
6. Pearson Drain --- approximately 450 feet north of 236th Street on east side of Ham./ Boone Co. line
7. Pearson Drain --- approximately 2,900 feet south of 236th Street on west side of Ham. / Boone Co. line

JACKSON TOWNSHIP

8. W P Bennett Drain --- approximately 200 feet east of US-31 on south side of 266th Street
9. W P Bennett Drain --- approximately 2,700 feet east of US-31 on south side of 266th Street
10. W P Bennett Drain --- approximately 2,200 feet south of 276th Street along north side of Salem Road.
11. W P Bennett Drain --- approximately 730 feet west of Salem Road along south side of 276th street
12. Hunter Snowburger Drain --- approximately 300 feet south of 296th Street along east side of DeVaney Road
13. Lewis Wright Drain --- approximately 230 feet west of Edmondson Road along south side of 296th Street
14. H A McMullen # 118 --- along Millersburg Road at 281st Street
15. Big Cicero Creek # 249 --- along west side of Crooked Creek Road north of new bridge north of 266th Street
16. Mary Nagle # 140 --- approximately 100 feet south of 231st Street along west side of Toll Gate Road
17. Charles Caylor # 204 --- approximately 1,000 feet north of 256th Street along east side of Lacy Road
18. Jonas Rogers # 84 --- approximately 3,200 feet east of ST RD 213 along the south side of 296th Street
19. OF Beeson Drain --- approximately 75 feet south of 291st Street along west side of Carpenter Road
20. F Beeson Drain --- approximately 1,700 feet south of 291st Street on west side of Carpenter Road

WHITE RIVER TOWNSHIP

21. Duck Creek --- approximately 600 feet west of ST RD 37 along Duck Creek Ave.
22. Duck Creek --- north and south of 276th street along Duck Creek Ave.

WASHINGTON TOWNSHIP

23. Kreager Hinshaw # 108 --- approximately 1,200 feet north of 206th street on east side of Ham. / Boone Co. line
24. Cove Horney # 36 --- approximately 700 feet west of Springmill Road on south side of 193rd Street
25. Isaac Jones Drain --- approximately 900 feet east of Oak Ridge Road along north side of 206th Street
26. Wheeler & Beals Drain --- along the east side of Flippens Road at 191st Street
27. Wheeler & Beals Drain --- along Grassy Branch Road at 186th Street
28. Gardner & Johnson Drain --- approximately 1,900 feet north of ST RD 32 along the west side of Joliet Road
29. Gardner & Johnson Drain --- approximately 2,000 feet south of ST RD 32 along the east side of Joliet Road
30. Osborne Collins Drain --- approximately 1,300 feet west of Springmill Road on north side of 156th Street
31. U G Mitchner # 275 --- approximately 550 feet north of 146th Street on east side of Gray Road

NOBLESVILLE TOWNSHIP

32. Wheeler & Wheeler Drain # 25 --- approximately 350 feet north of Greenfield Ave. on east side of Cumberland Road
33. Schneider-Pierce # 100 --- approximately 1,700 feet west of Creek Road on north side of 206th Street

WAYNE TOWNSHIP

34. Frank Huffman # 190 --- approximately 650 feet north of 211th Street on east side of Cyntheanne Road

CLAY TOWNSHIP

35. Stultz & Almond # 45 --- approximately 1,200 feet west of Ditch Road on south side of 136th Street
36. Moffitt-Williamson # 177 --- along north side of 106th Street between Stratford Place and Haverstick Road

DELAWARE TOWNSHIP

37. R J Craig # 38 --- approximately 1,000 feet east of Hague Road on south side of 106th Street

FALL CREEK TOWNSHIP

38. Sand Creek Drain - approximately 300 feet west of Marilyn Road on north side of 136th Street

FLOOD STORAGE/WETLAND MITIGATION BASINS:

Currently the Board has four areas that have been either donated or purchased for flood storage and/or wetland mitigation. These areas are as follows:

- Cool Creek - North side of S.R. 32. Basin designed by Clark-Dietz
- Sand Creek - Southeast corner of Cumberland Road and 106th Street. Basin designed by Burke Engineering - Two (2) of the three (3) pods completed in 2019 for mitigation needed by Hamilton County Highway on the Cyntheanne Road project at Mud Creek.
- Symonds Ditch - East side of Eagletown Road basin designed by Banning Engineering

East side of Lamong Road - completed 2020 as mitigation for the Drainage Board on the Lockwood Drain.

These basins will help reduce flooding along the drains which they are located. They will also provide areas for wetland mitigation for future county road and drainage projects. As funding allows more such basins should be considered in drainage sheds where flooding has been a problem. Partnerships with either the County Parks Department or local parks should be considered so as to provide maintenance of the basins in the future.

STREAM GAUGES:

On June 23, 2004 I submitted a report to the Board regarding a letter sent by the U.S.G.S. Water Resources Division on October 17, 2003. After seeking input from representatives of Carmel, Noblesville, Cicero, Westfield, Fishers, and consultants Christopher Burke and Clark-Dietz about future stream gauges, it was determined that a prioritized list would be needed to set up an order of when new or reactivated gauges could come online.

The existing stream gauges are as follows:

1. Logan Street over White River in Noblesville
2. S. R. 37 over Stony Creek near Noblesville
3. Atlantic Avenue over Fall Creek near Geist Reservoir
4. Pleasant Road Bridge over Big Cicero Creek near Arcadia (installation 2004)
5. 146th Street over White River (installed 2006)
6. 96th Street over Williams Creek (installed 2007)
7. 196th Street over Locke Drain east of Noblesville (installed 2008)
8. Atlantic Road over Stony Creek (installed 2008)
9. Cumberland Road over Mud Creek (Installed 2012)
10. 116th Street over Sand Creek (Installed 2013)
11. Strawtown Road over White River (Installed 2017)

Below is a prioritized list of proposed gauges or abandoned gauges that could be reactivated to benefit Hamilton County. The gauge is either Proposed or Abandoned and the Priority ranking is High, Medium or Low.

1. 96th Street over White River (Proposed-High)
2. 266th Street over Little Cicero Creek (Abandoned-Low)
3. Hazel Dell Parkway over Cool Creek (Proposed-Medium)
4. S R 32 over Cool Creek near Anna Kendall Drain (Proposed-Medium)
5. Atlantic Road over Pipe Creek (Proposed-High)
6. 296th Street over Duck Creek (Proposed-Medium)
7. S R 38 over Cicero Creek (Abandoned-Low)
8. 225th Street over Hinkle Creek (Abandoned - High)
9. Greenfield Avenue over Mud Creek (Proposed-Low)

Some of the above gauge locations would be ideal sites for both stream and potential water quality gauge monitoring. Existing gauges 2 and 3 would be excellent locations if funding is available for water quality monitoring. If these gauges can be equipped with water quality monitoring instruments, the cost can be justified under Phase II.

Funding for gauges 3 and 4 can be provided through drain maintenance funds for Cool Creek, gauge 11 can be funded out of the Mud Creek fund and gauge Number 6 can be funded out of the Duck Creek Fund. Funding for gauges 2 and 9 can be funded sometime in the future when Little Cicero Creek and Hinkle Creek are placed on maintenance. Funding for gauges 1, 5 and 7 could be cost shared with other entities such as Duke Energy and Citizens Water and/or cities or towns.

I recommend the Board approve this Drain Classification List for 2022 as submitted.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/llm"

Altman asked the Surveyor, substantially the same as last years?

The Surveyor stated yes, some of these are already under construction or going to have hearings on them.

Altman asked the Surveyor, for the next meeting would you asterisk which ones we've got going and hearings and everything else?

The Surveyor asked do you want construction, hearings and design?

Altman stated yes. Just let us know the status. Let us know what we're doing on it and then we'll be little more knowledgeable. There's a lot of moving parts with ARPA and everything else.

Heirbrandt made the motion to approve the 2022 Drain Classification List, seconded by Dillinger and approved unanimously.

Citizens Energy Group - Service Advisory Board:

The Surveyor presented the minutes of December 21, 2021 for the Service Advisory Board to the Board for their information. He asked if there were any questions.

There were no questions.

Non-enforcements:

Liston presented a non-enforcement request for the Village of West Clay Drain filed by Rajat Supta for parcel #17-09-28-00-46-005.000 for landscape material and plantings. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Williams Creek Drain, Jackson's Creek Arm filed by Ilya and Stacy Rekhter for parcel #17-09-34-00-14-023.000 for a fence. The Surveyor's Office recommends approval.

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

Surety Acceptance:

Liston stated that at today's Commissioners meeting the Board would be accepting the following surety: Irrevocable Letter of Credit No. 1454JG8 in the amount of \$325,009.20 for Jackson's Grant Section 8, storm sewers.

Construction Updates:

George Symonds Drain, Two Stage Ditch Reconstruction - Liston stated we've had the preconstruction meeting with Hoosier Pride. Staking has started and I believe completed by Banning. This project should start soon.

Intracoastal at Geist Drain - Liston stated Duke started their relocation last week. I was told it would take five days to complete it. I don't believe the disruption in service has happened, but I know Duke completed the work to move the transformer. We sent notice to Comcast, another utility that's in conflict. Up front we were told they could do a temporary relocate on the ground. We've now been told this will be a permanent relocation because of liability. Lumen is another utility in conflict. We sent notification to them. We were told early on that they can cut the cable since there's no one connected to that facility in that area.

Mallery-Granger Drain Reconstruction - Liston stated I've been playing phone tag with the contractor. I still need to do the final inspection on this project.

Canal Place Drain, Strongbow Gate Arm - Liston stated the last time I spoke with Agricon they were having trouble getting material for this project.

Clara Knotts Drain, Park Broadway Arm Phase 1 - Liston stated the contractor is back on this project and work is proceeding.

Ream Creek Drain Reconstruction, Orchard Park Arm - Duncan stated we've had the preconstruction meeting for this project. At that time the contractor indicated that he would be looking to start the project in February.

Pending Asbuilts (Ellis Barker Drain Reconstruction) - Duncan stated this project is complete. We were waiting on putting in the last 30 feet of drain under the intersection of 196th Street and Grassy Branch Road. The asbuilt drawings are complete and we are moving towards completing the final report, but we still need to have some internal meetings regarding this because the project has been going on for so long.

Pending Items:

Permit Fines - Altman asked, the Surveyor's Office is going to give us a revised fee schedule?

The Surveyor stated yes.

Altman asked do you have an idea of when?

The Surveyor stated I have those on my table. I have to go through and come up with the average times on that and also come up with proposed fines on that. The current fees included the fines and that was in Ordinance No. 07-09-12, but I believe it's the same as what the latest fines were, the \$2,500.00 per day.

Howard stated \$2,500.00 per day is what's in the last ordinance revision they did, maximum.

The Surveyor stated that was the same as the 2012 Ordinance.

Altman stated when you do the fines maybe you do 50% reimbursement, 75%, to give us a range of what the fines would be.

Springmill Run, Crooked Stick West - The Surveyor stated that was the case where the gentleman had a pool and a retaining wall along the open ditch and there's erosion along the open ditch. We went out and the soil was kind of a silt/loam in that area. We asked Burke to look at it and they suggested we get a Geotech firm to look at it. We did, which was APEC and their recommendation was "don't touch it" because we could have the pool slide into the ditch.

Altman asked is the retaining wall in the regulated drain or not?

The Surveyor stated the retaining wall was at the edge of the easement and the pool was beyond that. The Board at the time was talking about a hold harmless from the property owner if we were going to do the work and we have not heard back from the property owner.

Altman stated I think we need to know what our obligations are and move from there.

Howard asked the Surveyor, give us a more detailed report on that.

Altman asked, can we have that in a month, the next full meeting? We need to decide either it's on or it's off.

Springs of Cambridge/Bee Camp Creek (Kendall Law Request) - Altman stated it looks like the property owner installed the fence and didn't do what we asked him to.

The Surveyor stated correct.

Altman asked is it in the regulated drain?

The Surveyor stated it's across the easement.

Altman stated so it's in the regulated drain, so we send a notice of violation.

The Surveyor stated Liston is working on that.

White River (Milestone Variance) - Altman asked when are we going to send the revised language to them so we can keep this moving?

The Surveyor stated I just need to work with Howard or Sullivan to get that done.

Altman stated they only asked for one revision, correct?

The Surveyor stated one sentence.

Altman asked and you were okay with that?

Howard stated yes, we've got that.

Altman stated so that will go out before the next meeting.

The Surveyor stated this is the one where the attorney came in and muddied the waters and it came down to one sentence.

Howard stated we want the right to go in and regulate our ordinance issues and I think the last correspondence they don't have a problem with that.

Drainage Board Attorney (Pending Items):

Sullivan stated there are four items that I believe should be removed.

Utility Non-enforcements (Deadlines for Utilities) - Sullivan stated this was addressed by our utility relocation ordinance. Going back to the meeting minutes the concern of the Board was setting a timeline for the utilities to be moved. I believe in that ordinance we did put 60 days.

Violation Fines - Sullivan stated this also should be addressed by the relocation ordinance. This is just imposing the fines for if they fail to relocate their lines with the time permitted under the ordinance.

Utility Non-enforcements (Penalties/Violation Fees) - Sullivan stated the utility relocation ordinance should have resolved this.

Heirbrandt made the motion to remove these items from the Attorney's pending items, seconded by Dillinger and approved unanimously.

Engineer's Contract (General Contract) - The Surveyor stated I received this from Sullivan on Saturday.

Sullivan stated it was from your last meeting. There was concern about exculpatory language and Altman said she wanted to hold them to at least their professional liability insurance. I went through and added the COI language that our insurance policy now has and put some more strength in that as well. I worked with the Highway and they have similar language too and it will be in theirs as well.

Altman stated so there's no longer a clause in there that we waive consequential damages and everything else. We've removed that.

Sullivan stated yes.

Howard stated we removed that, and we put our COI language in it. Did you get that to the Board?

Sullivan stated I did this morning.

Howard stated we probably want to stack it on top of our next meeting since you haven't had time to look at it.

Altman asked do we need to move forward on this project?

The Surveyor stated it can wait, but I don't think we can go past the first meeting of February though.

Howard stated we'll put it on our first meeting of February.

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

Christine Altman - President

Lynette Mosbaugh
Executive Secretary