

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

February 8, 2021

The meeting was called to order Monday, February 8, 2021 at 12:01 p.m.

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

Approval of Minutes of January 25, 2021:

The minutes of January 25, 2021 were presented to the Board for approval.

Heirbrandt made the motion to approve the minutes of January 25, 2021, seconded by Altman and approved unanimously.

Mallery-Granger Drain Reconstruction:

The Surveyor presented his report to the Board for approval.

"February 2, 2021

To: Hamilton County Drainage Board

Re: Mallery-Granger Drain Reconstruction

At the January 25, 2021 hearing the Board set the interest rate for the payments for the reconstruction at 3% and asked that I come up with a plan on an Urban Assessment to extend the assessment collection period. I went to the sections of the Drainage Code, Sections 67, 68, 69 and 88 to review. As the Board knows the payment period for reconstruction and construction payments is over five (5) years as per Section 88(1). If the Board designates land as Urban Land in its Certification of Assessment the payment period can go no more than 20 years per Section 88(2). Also, the statutory interest established in Sections 85 and 86 of the Code is 10%.

I then found that the "cash on hand" in the GDIF is only \$2,650,909.00. With approximately \$180,000.00 left to pay out on the Krause and Barker projects the amount drops to \$2,470,909.00. The estimated costs for the Mallery-Granger Reconstruction is \$1,074,515.00.

Due to the rapid depletion of the GDIF I recommend that the Board set the payment period at seven (7) years.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/llm"

Altman stated we just got approval from County Council to refinance bonds, in which case the Highway Department/Commissioners will be repaying over \$2,000,000.00 to GDIF.

The Surveyor stated those monies don't go to GDIF; they go to maintenance.

Altman asked is it all in maintenance?

The Surveyor stated yes. When you had that discussion at the last meeting, I asked Janet (Hansen) and she said all of that was out of maintenance.

Altman stated then that won't help.

The Surveyor stated I'm encouraging the Board to keep the 3% interest rate that was set at the last meeting and go with a seven-year payout.

Altman asked have you done payouts on the seven for the most acreage?

The Surveyor stated no, I did not. Are you looking at a certain amount of money? A lot of the assessments are \$580.00, which is the minimum rate.

Altman stated no, I'm trying to figure out on the larger landowners that would have the larger assessments what's the impact on a seven-year payout.

The Surveyor asked, do you have a copy of the assessment roll?

Heirbrandt stated I don't have it. That was in our last packet.

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The Surveyor asked would you like to get a copy of this and go to something else while the copies are being made?

Professional Services Agreement - Clara Knotts Drain:

The Surveyor stated we have a professional services contract with Banning Engineering for the Clara Knotts survey, construction grade checks and the asbuilts. Since this is a federal project, I'd like to read this into the record. RFQ's went out on this project for the survey, grade check and the asbuilts on October 6, 2020. Those went to Banning Engineering, HWC Engineering and Butler, Fairman & Seufert. We had no response from Butler, Fairman & Seufert, we had a partial response from HWC Engineering and a full response from Banning. The Surveyor's reconstruction report dated October 8, 2020 and approved by the Board on November 23, 2020 as a line item of \$41,000.00 for professional services including the services on this particular professional services contract. I'd recommend the Board accept this contract.

Heirbrandt made the motion to award the Professional Services Contract to Banning Engineering in the amount of \$20,500.00 for Construction Staking, Survey Grade Checks and Asbuilt Drawings, seconded by Altman and approved unanimously.

2021 Stop Collections:

The Surveyor presented the 2021 Stop Collection list to the Board for approval.

"To: Hamilton County Drainage Board

February 8, 2021

Date:

The following drain balances are greater than four times the assessed value of its annual assessment and should have collections stopped for 2021 per IC 36-9-27-43.

Herr-Haughey	M0014	Frank Huffman	M0190	Shelborne Greene	M0274
M.E. Scherer	M0018	Henry Bright	M0192	Laurel Lakes	M0276
R.J. Craig	M0038	Hilton Hobbs	M0194	W.W. Forkner	M0286
John Owen	M0043	Mary Hodkins	M0200	Mary Parks	M0287
Krause & Klepfer	M0048	Thomas Butler	M0202	Wendt - Overdorf	M0288
McMahon & Overdorf	M0069	Carefree Estates	M0208	Thor Run	M0309
				Village of West	
Harriet Shewart	M0105	Hunters Knoll	M0215	Clay	M0312
Paulsel, Vance, Paulsel	M0109	Tamenend	M0219	Hidden Bay	M0314
Rebecca Roberts	M0115	Pines/Roxbury New Britton	M0224	Camden Walk	M0316
Margaret O'Brien	M0124	Industrial Park	M0226	Geistview Estates	M0324
				Flat Fork Crk	
Ellen Bishop	M0132	Richard Moffitt	M0229	(Hancock)	M0325
Park Northwestern	M0136	Larkspur	M0232	Treesdale	M0327
A.L. Haughey	M0138	Fairfield Farms	M0242	Highland Prairie	M0339
Tunis Garard	M0141	Bridgewater	M0245	Hampton Cove	M0340
Woodhaven	M0147	Crooked Creek	M0250	Lion Creek	M0342
Moffitt & Williamson	M0177	Lamplighter	M0256	Fox Hollow	M0344
				Flat Rock Creek	
Fox Glen Section 5	M0180	Atlanta Drain	M0260	Farms	M0358
Thomas Fouch	M0187	J.M. Endicott	M0266		

The following drain balances are greater than eight times the assessed value of its annual assessment and should have collections stopped for 2021 per IC 36-9-27-43.

Wheeler & Wheeler Springs of Cambridge/BeeCamp Crk	M0025 M0262	Long Branch	M0331	Kakasuleff	M0357
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Kenton C. Ward,
Hamilton Co. Surveyor

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Heirbrandt made the motion to approve the 2021 Stop Collections, seconded by Dillinger and approved unanimously.

Emily Vestal Drain:

Mr. Paul Lowe and Ms. Betty Lee Cooper were present for this item.

Heirbrandt stated I sent the Surveyor an email on the 13th of January. I had met with Betty Lee Cooper who is here today; a former Boone County Commissioner who's moved here to Hamilton County regarding the Vestal Drain. I also followed up with another email just an update because I want to make sure we get this on the record exactly what's being done on the Vestal Drain. On February 1st I had followed up with a second email and you had responded with Steve Baitz about some of the things that have been done. Can you provide an update on where we're at? I understand that they've been having some issues out there with some of the drainage.

The Surveyor stated at this particular point in time the survey has been completed and plotted between 171st Street and 146th Street. Duncan and I need to sit down and look at the flowline and determine what's needing done to help the pipe at 171st Street. After that we will give that to Baitz with the flowline that's going to be done. He will in turn pass that off as a work order to a maintenance contractor who will then do the work. Its in process.

Cooper stated I am president of the HOA at Willow Lake. I've met with Heirbrandt and we knew that they did the survey and the design. Lowe has been on this project for seven to eight years trying to get the Vestal Ditch cleaned out. We know with the new development coming around that the drain needs to be fixed and flow into the river as the Surveyor said. We kind of want to know what the timeframe is on it since we do have a survey and a design and also just for curiosity sake, I'd like to see what it looked like.

The Surveyor stated the ditch is not designed yet, it's just surveyed, and the survey is plotted. Duncan and I need to sit down, look at the survey and determine what the flowline needs to be. That's what we're waiting on right now is just time for he and I to get together and do stuff.

Cooper asked when you get that completed could you let us know and we'll come up to the office and take a look?

The Surveyor stated yes.

Cooper stated I just want to do it for curiosity just because I haven't seen one for over fifteen years. I used to go into Kenny Hedges Office and look at them and he would explain it all to me.

The Surveyor stated it's in queue right now. There are three or four drains ahead of it right now, but it is something I want to get done this year.

Cooper stated I think our concern is a flap..

Lowe stated the flap valve backflows that are coming into our south pond.

The Surveyor stated that's because of the debris that gets up in it.

Lowe stated the water level is so high that there's nowhere for the water to go so it actually backs up and the valve is open.

Cooper stated our concern is that and flooding. We know that the Surveyor does a good job. I've worked with him before and we know that you'll get this completed.

Hearing Requests:

The Surveyor asked the Board to set the following items for hearing on March 22, 2021: Springs of Cambridge/Bee Camp Creek Drain, Sears/McCord Arm, McCord Pointe Section 3; and Springs of Cambridge Drain, Section 12 Arm.

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

Appointment of Special Members:

The Surveyor presented the motion to appoint Special Members to the Hamilton County Drainage Board for the Board's information. Those Special Members are Steve Holt and Jerry Rulon.

Big Cicero Creek Joint Drainage Board:

The Surveyor presented the minutes of December 16, 2020 to the Board for their information.

Anchorage Drain - Erosion Study RFP:

The Surveyor stated I sent this out last week. This is an erosion problem in Anchorage. Jerry Liston and I went out and looked at this in December. It is unbelievable. I've never seen anything like it.

Heirbrandt stated here are the pictures. I went out there Saturday and looked at it. I concur with the Surveyor, it's really, really bad. I've walked the whole thing with Cecilia Coble and Art Small. I did find a place that you could have access to be able to take equipment in. It's just south of Art Small's house and I have the address.

The Surveyor asked is that on the adjoining property?

Heirbrandt stated yes, it is. That's really about the only place you can easily get in.

The Surveyor stated the problem with that is that's not part of the regulated drain. There's no easement there.

Heirbrandt asked did you see where the storm water was coming in through that...there's a place where it's bubbling up because it's completely become detached.

Altman asked is there any detention above that or does it just funnel in and shoot out?

The Surveyor stated it just goes straight to the reservoir.

Heirbrandt stated I could jump down in that hole and nobody would find me.

The Surveyor stated it's at least head high.

Heirbrandt stated there's a tree too that's very concerning that has shifted. One of them, if it did fall, it might miss a house, but there's another one there that's concerning that could hit the house next to Art Small, it's a big one. It's in that rat trap where all that debris is. It's gotten a lot worse, there's nothing underneath it.

The Surveyor stated yes, you could crawl up underneath the tree.

Howard asked is there anything we can do if it's not regulated?

The Surveyor stated this is regulated.

Howard stated it's just the access point was not regulated.

The Surveyor stated right, we'd have to work with that landowner. I do have the RFP's due back on the 19th of February so the Board can look at them on the 22nd of February. The soils in that area are very loamy. I'd rather have a consultant's expertise that's dealt with them before to tell us the best way to do it. I had a couple of ideas come to me, but I'll see what the consultant says.

Altman stated it doesn't sound like there's much we can do other than fix it.

The Surveyor stated we've never dealt with anything like this before. It has hogged out an area straight down.

Altman asked is that where the water comes out of the pipe and drops?

The Surveyor stated no. It starts eating away a little after the pipe, about 200 feet out of the pipe it starts eating away and then it eats a little bit at a time as it goes down through there until it's a canyon.

Altman stated we had, with Conner Prairie, a meeting with DNR who does the Wetland Restoration Fund, they have the two funds; they have Wetland Restoration that they seek out properties to use the dollars that come in instead of...

The Surveyor stated in lieu fee.

Altman stated yes and they also have a Streambank Restoration Fund that I thought we ought to have them come in and talk to us as Drainage Board to see if there's any applications where we might be able to utilize those funds to correct problems similar to this if it qualifies. I would suggest maybe at one of our meetings or we have a work session before we sit down and talk with those guys to see; they were excited to meet with us. I thought there might be some partnerships that we could do together on some of our drains that would qualify for the streambank restoration and we ought to have those discussions.

The Surveyor asked do you have a name?

Altman stated yes, I'll forward the email.

The Surveyor asked was it Brad?

Altman stated yes, and...

The Surveyor asked Karl Woodrich?

Altman stated yes.

The Surveyor stated I know both of them.

Altman stated they were very helpful. We're trying to work with them for Conner Prairie on some stuff. They have a lot of funding in the Streambank Restoration. I would sit down and chat with them and see what their requirements are because we didn't get into the details that much.

The Surveyor stated I'll send an email out to both Karl and Brad.

William Krause Reconstruction Phase 3 - Final Report:

Conover presented his final report to the Board for approval.

"To: Hamilton County Drainage Board

February 5, 2021

RE: William Krause Phase 3 Drain Reconstruction - Final Report

This is the inspector's final report on the William Krause Phase 3 Drain Reconstruction located in Section 32 of Township 20 North Range 3 East in Adams Township, Hamilton County, Indiana.

The Surveyor's Report for the William Krause Phase 3 Drain Reconstruction dated September 5, 2018 was presented to the Drainage Board and approved on November 26, 2018 (Hamilton County Drainage Board Minutes Book (Book) 18, Pages 285- 293). The reconstruction cost estimate was \$973,277.40 including professional services (Engineering, Surveying, Acquisition, Grant Preparation, Construction Staking, Construction Inspection, As-Built Documents). The contract was awarded to Millennium Construction for the base bid, Alternate Bid No. 1 and Alternate Bid #3 for the amount of \$735,885.00 on March 11, 2019 (Book 18 Pages 382-383).

Alternate Bid No. 2 which was not installed with this contract of the reconstruction will be required to be constructed by the Indiana Department of Transportation as part of their SR38 SR47 intersection improvement project. This will provide the outlet for the drainage of the project.

The deletion of the crossing under SR47 in Change Order #4 is the result of the contractor not being permitted to hydro-excavate under State Road 47 to investigate a possible fiberoptic line conflict. INDOT would not allow the contractor to excavate under the road. As part of the future proposed State Road 47 improvement through Sheridan, INDOT will be required to install this crossing which was deleted from the William Krause Phase 3 project.

The project was delayed from early February 2020 until July 1st, 2020. Initially the project was paused to allow for Vectren to replace a gas main at 9th Street & Bailey Street, during this time the COVID-19 pandemic began and Millennium Construction could not return to the project until July 2020.

There were 6 change orders on this project change order for additional work or field revisions on the project as allowed by IC 36-9-27-80.5. Those change orders are as follows:

Change Order #1

Change Order #1 was for additional 36" HDPE pipe that was required and or repairs to existing subsurface drains encountered during construction. Change Order #1 was approved by the Hamilton County Drainage Board (the Board) on 10/14/2019 (D.B. 19, Page 34)

Change Order #1

36" HDPE w/standard backfill 20 LF @ \$100.00 -----	\$2,000.00
4" HDPE dual wall 80 LF @ \$18.00 -----	\$1,440.00
4" internal couplers 8 @ \$40.00 -----	\$320.00
8" HDPE dual wall 20 LF @ \$25.00 -----	\$500.00
8" internal couplers 2 @ \$60.00 -----	\$120.00
<u>Cost by Millennium Contractors of Change Order # 1 -----</u>	<u>\$4,380.00</u>

Change Order #2

Change Order #2 is for 8 feet additional 36" reinforced concrete pipe (RCP) that was required on the project due to adjustments made in the field. Change Order #2 was approved by the Hamilton County Drainage Board (the Board) on 11/12/2019 (D.B. 19, Page 62)

36" RCP w/standard backfill 8 LF @ \$200.00 -----	\$1,600.00
<u>Cost by Millennium Contractors of Change Order # 2 -----</u>	<u>\$1,600.00</u>

Change Order #3

Change Order #3 is for additional tree removal required on the north side of SR47 for the new placement of structure #316. Change Order #3 was approved by the Hamilton County Drainage Board (the Board) on 12/09/2019 (D.B. 19, Page 78)

Clearing 0.5 acre @ \$10,000.00 per acre -----	\$5,000.00
<u>Cost by Millennium Contractors of Change Order # 3 -----</u>	<u>\$5,000.00</u>

Change Order #4

Change Order #4 was for the deletion of the bore under SR47, deletion of structure #317, the new placement of structure #316 and the change of material from 18-inch SDR 35 to 18" RCP from structure #315 to structure #316. The 18" RCP utilized from structure #315 to structure #316 was the 45 feet of 18" RCP deleted from the original location of structure #316 to structure #317. There was no charge to relocate structure #316. The deletion of the crossing under SR47 is the result of INDOT issue with the crossing permit. Currently INDOT is working on plans for the improvement of SR47 through Town of Sheridan. As part of the SR47 improvement, INDOT will be required to install this crossing which was

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deleted from the William Krause Phase 3 project. Change Order #4 was approved by the Hamilton County Drainage Board (the Board) on 01-27/2020 (D.B. 19, Page 136)

Change Order #4	
Delete STR#317 - 24" x 24" inlet w/casting -----	-\$4,000.00
Delete 30" casing pipe w/grout and bulkheads 60 LF @ \$850.00 -----	-\$51,000.00
Delete 18" SDR25 PVC 139 LF @ \$70.00 -----	-\$9,730.00
Delete dewatering for bore - 50% of Lump Sum -----	-\$2,500.00
Delete Camera & grout existing tile under SR47 -50% of Lump Sum -----	-\$720.00
<u>Cost by Millennium Contractors of Change Order # 4 -----</u>	<u>-\$67,950.00</u>

Change Order #5

Change Order #5 is for the additional dewatering, hauling, time & materials required for removal of the existing unknown private 18" tile encountered on 9th Street in Sheridan. The 18" private tile was almost directly in the path of the new drain. The old 18" is believed to have been installed by the former milk canning plant in Sheridan. The tile was said to have run from the old canning plant site which is bounded by Park Street, SR47 and the Monon Railroad right-of-way to the old headwall at the headwaters of the Symonds ditch. This tile was previously encountered during the construction of Phase 1 of the William Krause drain. It was connected to Structure 103 of the William Krause drain. The old tile was hauled off site to Beaver Materials rather than being placed on the county property where the clean fill is being placed. The downstream end of old tile was plugged with concrete where it left the new construction trench near Structure #310. Change Order #5 was approved by the Hamilton County Drainage Board (the Board) on 02/10/2020 (D.B. 19, Pages 142-143)

Change Order #5	
Labor & Equipment -----	\$7,480.00
Materials (stone, concrete) -----	\$2,956.43
Hauling -----	\$415.63
<u>Cost by Millennium Contractors of Change Order # 5 -----</u>	<u>\$10,852.06</u>

Change Order #6

Change Order #6 was for the additional asphalt required due to the additional width of the excavation trenches. The additional trench widths were needed due to re-alignment of the tile and because of poor soils. Additional #53 stone backfill was required due to the additional trench width. Change Order #6 was approved by the Hamilton County Drainage Board (the Board) on 10/12/2020 (D.B. 19, Page 359)

Change Order #6	
#53 Stone 30 Tons @ \$50.00 per ton -----	\$1,500.00
<u>Time & Materials for pavement repair -----</u>	<u>\$35,413.42</u>
<u>Cost by Millennium Contractors of Change Order # 6 -----</u>	<u>\$36,913.42</u>

Contractor's Bid -----	\$735,885.00
Change Order #1 Total -----	\$4,380.00
Change Order #2 Total -----	\$1600.00
Change Order #3 Total -----	\$5,000.00
Change Order #4 Total -----	-\$67,950.00
Change Order #5 Total -----	\$10,852.06
Change Order #6 Total -----	\$36,913.42
<u>Total Reconstruction Cost -----</u>	<u>\$726,680.48</u>

Engineer's Estimate -----	\$865,902.40
<u>Millennium Contractors Total Reconstruction Cost -----</u>	<u>\$726,680.48</u>
Difference -----	\$139,221.92

Partial Pay Requests for this project submitted and paid as allowed in IC 36-9-27-81 are as follows:

	Date Requested	Date Paid	Billed	Retained	Paid
Pay Request #1	07/31/19	08/27/19	\$71,825.00	\$10,773.75	\$61,051.25
Pay Request #2	08/31/19	09/24/19	\$99,600.00	\$14,940.00	\$84,660.00
Pay Request #3	09/16/19	10/29/19	\$56,725.00	\$8,508.75	\$48,216.25
Pay Request #4	10/01/19	10/29/19	\$85,730.00	\$12,859.50	\$72,870.50
Pay Request #5	10/31/19	10/26/19	\$91,795.00	\$13,769.25	\$78,025.75
Pay Request #6	11/27/19	12/20/19	\$85,860.00	\$12,879.00	\$72,981.00
Pay Request #7	12/16/19	01/14/20	\$17,470.00	\$2,620.50	\$14,849.50
Pay Request #8	01/31/20	02/25/20	\$76,117.06	\$11,417.56	\$64,699.50
Pay Request #9	10/05/20	10/27/20	\$136,558.42	\$20,483.76	\$116,074.66
Pay Request #10	11/09/20	12/15/20	\$5,000.00	\$750.00	\$4,250.00
Pay Request #11	01/08/21	01/26/21	\$109,002.07	\$0.00	\$109,002.07
<u>Millennium Construction Totals:</u>					<u>\$726,680.48</u>

Statement of All Incurred Expenses Paid signed by the contractor as required in IC 36-9-27-82(b) was received on November 10, 2020 notifying the Board that all expenses incurred for labor and materials have been paid in full

The engineering design, plans, construction staking and as-built (record) drawings were prepared by Banning Engineering. The final revision of the as-built drawings were reviewed by the office on January 7, 2021 and indicated that the work was complete and acceptable. The as-built drawings are attached.

William Krause Phase 3 Drain Reconstruction consisted 24 feet of 15" RCP, 335 feet of 18" RCP, 809 feet of 24" RCP, 129 feet of 36" RCP, 1086 feet of 36" HDPE, 117 feet of 36" SDR25, 16 manholes and 3 inlets.

The third phase of the William Krause reconstruction removed existing drain tile. The main William Krause was removed from Station 15+97 to Station 16+42. The Jacob Boyer Arm to the William Krause Drain was removed from Station 1+20 to Station 4+80. Therefore, 45 feet of existing 24" tile and 360 feet of 8" tile was removed with this project.

As part of the overall William Krause project, the portion of the William Krause main tile was removed from Station 46+36 to Station 53+15 and should be vacated. The main tile now outlets into the retention pond at Station 46+36 and was removed from this point to the old headwall at Station 53+15 at the start of the open ditch. This work was done with the William Krause Phase 2 project.

As of December 15, 2020, I hereby attest to and agree that the reconstruction was installed according to the specified plans and change orders and have approved such work under IC 36-9-27-82(a). All inspections have been completed. Final inspection was on December 8, 2020.

Phase 3 is the final phase of the overall William Krause Reconstruction.

The total construction cost for the William Krause Phase 3 was \$726,680.48. The soft costs associated with the construction of Phase 3 was a total of \$104,087.50 for total cost of \$830,767.98 for the project.

Soft costs for Phase 3:

Geotech	\$18,100.00
Fox property final survey	\$7,750.00
Fox -additional 1.2 acre purchase	\$13,000.00
Staking & Inspection Phase 2	\$27,550.00
Staking & Inspection Phase 3	\$37,687.50
Phase 3 soft cost totals	\$104,087.50

The totals for all three phases are as follows:

The Drainage Board received \$2,205,265 from the Town of Sheridan on 6/13/2018 as payment for the Town's purchase of flow capacity in and into the William Krause Drain. The funds were received as part of the Stormwater Capacity Purchase Agreement entered on the 11th day of June 2018 between the Department of Stormwater Management of the Town of Sheridan and the Hamilton County Drainage Board. All costs associated with the reconstruction of the William Krause Phases 1, 2 & 3 was deducted from these funds. Phase 1 had \$544,829.07 of expenses associated with it, however \$92,632.50 will be added back as settlement for INDOT's assessment is paid back from 2019 to 2023. It is unknown how much interest will be paid. Phase 2 had \$1,055,254.08 of expenses. Phase 3 had \$830,767.98 of expenses and \$146,945.00 will be added back from INDOT's assessment 2020-2024. It is unknown how much interest will be paid. The total cost for the three phases of the William Krause reconstruction project was \$2,430,851.13. The total funding for the project was \$2,444,842.50. This total includes \$151,028.13 which was paid from the William Krause maintenance fund and \$3,625.00 paid from the George Symonds maintenance fund before the funding package was received. These maintenance funds should be reimbursed at this time. This leaves a total of unused funds of \$13,991.37 which will be transferred to the William Krause maintenance fund.

I recommend the Board approve the reconstruction as complete and acceptable.

Respectfully,

Andrew Conover
Inspector "

Altman asked does the State of Indiana owe us money for highway portions?

The Surveyor stated yes.

Altman stated I couldn't tell where we were with the resolution of that.

The Surveyor stated Janet (Hansen) has sent them a letter asking for that money. I don't think that she's heard back from them yet. That was about two weeks ago, I think.

Altman stated it's a significant amount so we're upside down unless they pay it, correct?

The Surveyor stated correct.

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Altman asked do you want to go ahead and put that on the bottom of our agenda, pending items? We need to stay on that since we're ready to close out. I don't know whether we're able to do a final report until those monies come in.

The Surveyor stated the State is being assessed through the usual process. We can close it out and then work on the retrieval of that money through the assessment process.

Altman stated okay, you're comfortable with that?

The Surveyor stated yes.

Dillinger made the motion to approve the final report presented, seconded by Heirbrandt.

The Surveyor stated Janet (Hansen) told me today that the Sheridan Drainage Area Project still has arrears in the fund, GDIF (General Drain Improvement Fund), for \$17,000.00. If we could use that \$13,000.00 to help pay that back?

The motion had been made and seconded to approve the final report presented and approved unanimously.

Altman stated we have \$13,000.00 of excess funding. I'm not sure how we apply money that we don't have in the bank.

Howard stated if Janet's working on it, I think we'll be good to go.

The Surveyor stated I think she just note's it on her spread sheets.

Altman stated she'll need to calendar it to make sure that's accurate because otherwise we'll have another fund that's not accurate if we do that.

Dillinger made the motion to apply the \$13,000.00 to the Sheridan Drainage Area Project when received, seconded by Heirbrandt and approved unanimously.

Private Drain Petition - Set Hearing for March 22, 2021:

Conover presented his report to the Board.

"To: Hamilton County Drainage Board

February 4, 2021

Re: Obstruction of Private Drainage Petition

James Sawyer

120 East State Road 32

Westfield, IN 46074

On December 30, 2020 an Obstruction of Private Drainage Petition was received by the Hamilton County Surveyor's Office. The petition was filed by James Sawyer, Parcel # 08-05-35-00-00-024.001, located at 120 East State Road 32, Westfield, IN 46074. The petition was in proper form and all required information was submitted.

The petition identifies the obstruction being on Parcel # 08-05-35-00-00-024.000, located at 160 East State Road 32, Westfield, IN 46074. The blockage is in the natural surface watercourse on the parcel.

The petitioner has indicated that they believe that the obstruction was caused intentionally by the downstream landowner.

I have personally inspected the site and have found that the drainage swale on the parcel at 160 East State Road 32, Westfield, IN 46074 has been blocked with fill.

The petitioner mailed a letter via registered mail on November 28, 2020 to the downstream property owner requesting that the downstream blockage be removed. As of February 4, 2021, the USPS tracking status for the letter is shown as "In Transit".

Although the registered letter return card has not been returned, the downstream landowner is aware that he has blocked the natural surface watercourse and in the attached emails acknowledges the fact that the natural surface watercourse has been blocked and refuses to remove the blockage.

I request the Drainage Board to set a hearing date for this petition for March 22, 2021

Submitted by:



Andrew D. Conover
Inspector"

Altman stated it appears that what's been plugged up is a channel that was created that didn't look like a natural channel. Is that correct?

Conover stated the water flowed through, and with the aerial photography you can see starting in 1998, the channel is where the water flowed. In 1998 the owner started filling this property. You can see the piles of dirt. The owner of the property at that time said he was going to allow that surface water to pass through the project and true to his word he left the channel open. You can see it throughout the years.

Altman stated I still don't know where they filled or where the piles of dirt are. Would you please point that out?

Conover stated the circles on the aerial from 1998 are dump truck loads of dirt. They were still doing some work out there in 2000. In 2001 you can see the channel is defined after doing their work. This continued throughout the years.

Altman stated so but for all the dirt the water would have sheeted to the east across where they mounded it up? I'm trying to figure what's significant here. He's talking about these dump loads of dirt and the channel goes across where they filled in the dirt, right?

Conover stated the owner left this channel open as they filled in, the former property owner.

Altman stated I'd like to know where the water went before they put the dump loads of dirt in.

Conover stated this has all been filled in over the years. You can still see the defined channel right through this parcel.

Altman stated but my point is, before he started filling that in where did the water go before the channel, before the dump loads of dirt?

Conover asked are you talking about the recent fill?

Altman stated no. I'm trying to decide if there's an easement, there's not an easement, whether they have blocked flow, whether they didn't block flow and you have to go back to the preexisting conditions. The preexisting conditions before they dumped in all the fill back in 1998 through 2021.

Conover stated this shows historically from 1998 even when the fill was placed here, this water has always flowed through here.

Altman stated okay, so that's always been the direction of the water.

Conover stated right, which brings us to today. Another property owner has bought this property where the channel was left to allow that water to flow through there. What this petition is addressing is the most recent property owner in the last few months bought this property and he came in, brought more fill in and filled this channel completely. That's why the petition for the obstruction has been filed.

Altman stated so it's not the guy who has the big parcel that says Westfield Washington. It's the guy in between.

Conover stated yes. This property has been filled in and that's why we're requesting a hearing to fulfill the process of the private drain petition.

Heirbrandt asked Howard, have you looked at this?

Howard stated I glanced at it this morning. This isn't the one where the property owner isn't accepting certified mail, etc. is it?

Conover stated yes. The registered letter hasn't been addressed, but the one where the property owner has been in contact with our office with emails saying he doesn't have to let that water travel through there and we don't have the right to come onto him.

Howard stated if he won't accept registered or certified mail we have to; is there a dwelling there?

Conover stated no.

Howard stated so we need the property record card of whoever it is, and we'll send it to the address on the property record card.

Conover stated which is Pittsburg, Pennsylvania.

Howard stated that's a personal problem of his.

Conover stated again, we kind of went through this in the last meeting that guy has acknowledged through the email that he's been requested to remove it and refusing to. Today what we'd like to do is set the hearing date for March 22, 2021 to have the public hearing on this and then we'll do the notification as you said through certified mail, regular mail and email.

Howard stated get the meat of your notice, what you want and let's get together and try to get those out this week.

Altman asked was any of this floodway before he filled it?

The Surveyor stated no.

Howard asked so it's just a watercourse, natural surface watercourse?

The Surveyor stated yes.

Altman stated it looked like a concentrated flow at one point. That's why I'm asking how it used to flow before the changed conditions. So, the guy that really should complain, the guy with the Westfield Washington parcel is not involved?

Conover stated he's the downstream landowner.

Altman stated I know, but that's the concentrated flow that's creating a wetland on his property. That's just observation.

Heirbrandt asked so you have all the details on how you're going to contact this person, send him certified letters, you have a correct address and all of that so we can properly enforce this?

Conover stated we have the address of record on the tax card. We'll send certified letter with standard mail and then I've also been in touch with this property owner via email and send the notification through all those methods.

Howard stated I'll review that with our ordinance and with the Statute so if we have to send our contractor in there to clean it out we have a lien against the property and I believe that lien is on parody with property taxes.

Heirbrandt made the motion to set the hearing for private drain obstruction for March 22, 2021 and that notice be given, seconded by Dillinger and approved unanimously.

Non-enforcements:

Clark presented a non-enforcement request for the Timber Heights Drain, Walden Pond Arm filed by Mark Coates & Natalie Chambers for parcel #17-14-07-01-12-021.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, John Edwards Arm filed by Thomas and Erin Burns for parcel #08-09-10-00-10-023.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Sly Run Drain, Ellis Barker Arm filed by M/I Homes of Indiana for Scofield Farms Section 5. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Springmill Run Arm filed by Barrett and Jessica Way for parcel #17-13-05-00-14-001.000 for a fence. The Surveyor's Office recommends approval.

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

Cash presented a non-enforcement request for the Thorpe Creek Drain, A. J. Myers Arm filed by RREF II-GBG Underwood JV, LLC for Turnberry Section 4. The Surveyor's Office recommends approval.

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

Surety Acceptance:

The Surveyor stated that at this afternoon's Commissioners meeting the Board would be accepting the following surety: Irrevocable Letter of Credit No. 430000003 in the amount of \$584,367.00 for Springs of Cambridge Section 12, storm sewers and monumentation.

Surety Release:

The Surveyor stated that at this afternoon's Commissioners meeting the Board would be releasing the following surety: Subdivision Bond No. 30009196 in the amount of \$233,234.64 for Conner Crossing of Noblesville, Cottage Grove Phase 2, Bliss Johnson Drain Reconstruction.

Construction Updates:

Ellis Barker Drain Reconstruction - Duncan stated last week Luther (Cline) was going to reach out to Frontier and find out what their schedule was to splice in the new fiber line so the one that conflicts with our project could be abandoned. I'm not sure if he was successful on that. I did get a final price from Morphey Construction, our contractor, for the work associated with all the delays and the costs he was going to have to incur to come back out on site to finish the project. I'll share those with Howard. I got those on Friday, and I have not had a chance to look at them myself.

Clara Knotts Drain, Park Broadway Arm - Duncan stated this project is underway. However, we have a utility conflict on the first section we started with. We are going to do, what we determined the base bid, which is the area between College Avenue and Park Avenue on the north side of 103rd Street and then up Broadway and up Park. There's a major telecommunications line in the way. I'm still trying to verify when those may have been installed, but my first inclination was they were installed recently, like within 2020. I'm trying to ascertain from them how deep they are and if they're going to conflict with our project. Right now, our contractor, who is also Morphey for this project, is looking at two other areas to see if he can get started there. Those would be the areas we determined as Alternate No. 2 and Alternate No. 6. If those are free of any utility conflicts he may look to start in those areas.

Howard asked are those utilities in easement?

Duncan stated they are in the right of way.

Howard asked without a permit?

Duncan stated that I don't know if they got one from Carmel or not.

Altman stated the most recent was Verizon and I can't remember who on the fiber. Verizon has been everywhere, and I can't remember who preceded that. It's not within regulated drain? If it's not within regulated drain...

Duncan stated it's in the public right of way and it is in the area we will install a regulated drain, but there is not one there presently.

Howard asked does it show a DU&E on the plat or it's not there?

Duncan stated truth be told I haven't looked at the plat to see. It's still in the right of way for sure.

Altman asked how can we do anything without easement anyway?

Howard stated yes. Are we just going to put the pipe down and say boom it's a regulated drain?

The Surveyor stated it's in right of way.

Howard stated it's in road right of way.

The Surveyor stated yes.

Howard asked does Carmel know about it?

The Surveyor stated yes, they're paying for a portion of it.

Altman asked are we going to have to have Carmel be the pushy guy on this if it's their right of way?

The Surveyor stated it wouldn't hurt.

Howard stated and more importantly have we thought about are we going to then continue to maintain it? Do we want them to have a limited drainage easement?

The Surveyor stated we were going to be maintaining it.

Altman asked is this on College?

Howard stated 103rd Street.

Duncan stated this will be on the north side of 103rd Street between College and Park Avenue.

Altman stated we need to pull that plat.

Howard stated I can probably tell you what there is on it, nothing.

The Surveyor stated this area is from the 1930's or 1940's.

Howard stated probably 1940's maybe even 1950's because it was there before College Meadows was on the other side of College.

The Surveyor stated I would say the houses in this neighborhood are late 1940's.

Duncan stated I'm going to keep chasing down; I assume it's AT&T, that's who I'm in contact with. If they tell me otherwise, I'll pursue whoever does own the facility. At this point I have assumed it's AT&T and that's who I'm trying to reach out to.

Altman stated try Verizon. If it was just stuck in there it's Verizon because they're the latest players that were bad. I think MetroNet was the other.

Howard stated we're in right of way and it's annexed so it's Carmel's right of way. In this situation would we want; it's Carmel's infrastructure, are they going to maintain it after it's constructed?

The Surveyor stated no, it will be part of the regulated drain.

Howard asked and they're going to consent to us having a regulated drain in their right of way?

The Surveyor stated yes.

Howard asked do we have legal's to make some type of a consent or acquiescence or dedication document?

The Surveyor stated no.

Altman stated you guys work out those details.

Overman-Harvey Drain, Adios Pass Reconstruction - Duncan stated this project is underway. The contractor last week had actually come off the site and worked on something else and I understand he's back on site continuing to work on that.

Intracoastal at Geist Drain - Duncan stated this project is being worked out with utilities. Duke Energy is one of the major conflicts and I'm presently working with them to identify a solution. There's a lot of utilities where we want to put our drain.

Construction Updates (Continued):

Burnau Arm Reconstruction (Pending Asbuilts) - Duncan stated we received an email over the weekend from VS Engineering that contains those final asbuilts. We will review those and see if they are complete.

Mallery Granger Drain Reconstruction (Continued):

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

Altman stated we have looked at the assessment list and probably the biggest one that's non-governmental has about \$67,000.00 and there's several that kind of push that amount. Having looked at the detailed list of who's being assessed I represent one of the entities as their attorney. Hence, I think I should recuse myself since we have a full Board.

The Surveyor stated when you say one of the entities, was that one of the non-governmental entities?

Altman stated yes.

Heirbrandt stated the only thing I'll state on here is I know the Highway is taking a big portion of this off that probably needs to be noted for the record that's helped lower the overall assessments. I think that the Board following the Statute that we have to follow has exceeded what normally we would in regard to lowering the interest rate to 3% and also extending the payout to make it less burdensome for the individual. I know how important, this has been talked about for years, way before I came into office and I know that it's still one of the top priorities of the County on our project list to get done.

Heirbrandt made the motion to approve the reconstruction at 3% for seven (7) years, seconded by Dillinger 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
Mallery-Granger Drain Reconstruction

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the **Mallery-Granger Drain Reconstruction** came before the Hamilton County Drainage Board for hearing **on February 8, 2021**, 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 **Mallery-Granger Drain 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

Steven C. Dillinger
PRESIDENT

Christine Altman
Member

Mark Heirbrandt
Member

ATTEST: Lynette Mosbaugh
Executive Secretary "

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.

NACo Regulatory Outlook for the Biden Administration (February, 2021):

The Surveyor stated on page 13 is regarding Waters of the US.

Heirbrandt stated what a travesty.

The Surveyor stated I look at all the projects we've got going and will try to move those that will be impacted to the front and get those done before this happens.

Howard stated the Bill on wetlands, I'm wondering if we need to think about "be careful what you wish for" because if we take jurisdiction away from IDEM as much as we aren't happy about dealing with them, are we creating a vacuum for the Fed's to step in under the new administration and if so maybe the devil we know is better than the devil we don't know.

Altman stated and the timing of getting permits through.

Howard stated if you bring the Feds in on every nickel and dime wetland, development comes to a screeching halt. I know the Surveyor's Association is probably involved in that area. I talked to Scott Baldwin about this about a week ago and I said, "be careful what you wish for".

The Surveyor stated my prediction is it will sail through the Senate and get stalled in the House. The Surveyor's Association is taking a standoffish look at it and we're in the same position I'm kind of worried about what you wish for and we don't have a crystal ball, but we know what we dealt with before and this could make it worse under basically

the 2015 Obama Administration's Waters of the US. Some of that superseded the State and it went a little further than the State so I'm not sure if we would be totally under the gun as far as if this one went through the State if the Feds wouldn't supersede already under the 2015 Rule. You never know because it depends on who's looking at it and making that determination and sometimes it's by district for the Corps, each one's a little different. If you have a bad Corps district and when I say bad, I mean regulatory bad like Detroit or Chicago, you will suffer greatly with or without it. Louisville seems to be a little more common sense, pragmatic. I think you're dammed if you do and your dammed if you don't.

Howard stated probably fight who you can fight with.

The Surveyor stated I'd rather fight somebody local than somebody in Louisville.

Altman asked was this mostly to get someone's attention?

Heirbrandt stated yes, that's all it was. They have significantly overreached. It's so bad.

The Surveyor stated yes. I've seen it firsthand how they treat you.

Howard stated we went down there to try to work through a problem and the goal quickly shifted to getting out alive.

The Surveyor stated yes, I thought she was coming across the table at him and all he did was ask a question.

Altman stated but that's really a Governor's problem. That's my point, you have to look back to the administration of who's in charge basically of that department.

Heirbrandt stated it came close because it was being held up at the very end with the Governor's Office. We were a little leery of how it was going to go.

Howard asked on the drainage easement last year?

Heirbrandt stated yes. There were a lot of us making phone calls to the Governor's Office.

Altman stated so the Surveyor is going to contact our friends at IDNR that have money that want to do streambank restoration.

The Surveyor stated yes.

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

Christine Altman - Vice President

Lynette Mosbaugh
Executive Secretary