

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

February 14, 2022

The meeting was called to order Monday, February 14, 2022 at 12:01 p.m.

The members of the Board present were Ms. Christine Altman-President, Mr. Mark Heirbrandt-Vice President and Mr. Steven C. Dillinger-Member (Virtually). Also present were staff of the Hamilton County Surveyor's Office: Mr. Steve Cash, Mr. Reuben Arvin, Mr. Sam Clark, Mr. Gary Duncan, Mr. Jerry Liston and Mr. Brian Rayl. The Board's attorney's, Mr. Michael Howard and Mr. Connor Sullivan, were also present.

**Approval of Minutes of January 24, 2022:**

The minutes of January 24, 2022 were presented to the Board for approval.

Heirbrandt made the motion to approve the minutes of January 24, 2022, seconded by Dillinger and approved unanimously.

**Bid Opening - Flora Mendenhall Drain Reconstruction:**

Mr. Jacob Ellis was present for this item.

Howard stated the first bid is from White Construction with all required forms present and a bid of \$637,000.00. This appears to be all the bids on this project. Do any persons know of any other bids; none appearing I recommend the bid be referred to the Surveyor's Office for review and recommendation on February 28, 2022.

Heirbrandt made the motion to refer the bid to the Surveyor's Office for review and recommendation on February 28, 2022, seconded by Dillinger and approved unanimously.

**Symonds & Krause Drains - Banning Engineering Task Order Amendment:**

Duncan stated Banning Engineering has completed the work associated with this project. We need to reduce the contract amount. The original contract amount was \$45,500.00 and the work that was not billed for was \$5,960.90. We want to update the final contract amount for \$39,539.10 and this will close out that design contract.

Heirbrandt made the motion to reduce the contract amount for Task Order #4 on the Symonds & Krause Drain by \$5,960.90, seconded by Dillinger and approved unanimously.

**Ellis Barker Drain Reconstruction - Certificate of Deferred Assessment:**

Duncan stated at the July 22, 2019 hearing the Board approved deferred assessments for certain acreage within the Ellis Barker Drainage Shed. The project has taken some time to complete. It is now complete, and we were able to establish what the final assessment rate is. The deferred assessment rate based on the proposed cost estimate at the time of the initial hearing was \$4,289.69 per acre and based on the final analysis the actual rate calculated was \$3,413.25.

Dillinger made the motion to accept the Certificate of Deferred Assessment on the Ellis Barker Drain Reconstruction in the amount of \$3,413.25 per acre, seconded by Heirbrandt.

Howard asked Duncan, that amount was still under the advertised amount when we approved the reconstruction?

Duncan stated yes.

The motion had been made and seconded to approve the Certificate of Deferred Assessment on the Ellis Barker Drain Reconstruction in the amount of \$3,413.25 per acre and approved unanimously.

**2022 Stop Collection List:**

Duncan presented the 2022 Stop Collection List to the Board for their approval.

"To: Hamilton County Drainage Board Date: February 7, 2022

The following drain balances are greater than four times the assessed value of its annual assessment and should have collections stopped for 2022 per IC 36-9-27-43.

Raquet & Ehman	M0029	Thomas Fouch	M0187	Bramblewood	M0269
R.J. Craig	M0038	Thistlewood	M0189	Shelborne Greene	M0274
Oliver Shoemaker	M0042	Frank Huffman	M0190	U.G. Mitchner	M0275
Krause & Klepfer	M0048	Henry Bright	M0192	Laurel Lakes	M0276
Loma Industrial Park	M0067	Hilton Hobbs	M0194	W.W. Forkner	M0286
McMahon & Overdorf	M0069	Mary Hodkins	M0200	Mary Parks	M0287
Kreager & Hinshaw	M0108	Thomas Butler	M0202	Wendt - Overdorf	M0288
Paulsel, Vance, Paulsel	M0109	Carefree Estates	M0208	Valleys at Geist	M0308
Rebecca Roberts	M0115	Hunters Knoll	M0215	Thor Run	M0309
Margaret O'Brien	M0124	Tamenend	M0219	Village of West Clay	M0312
Oliver Armstrong	M0131	Timber Heights	M0222	Hidden Bay	M0314
Ellen Bishop	M0132	Pines/Roxbury	M0224	Camden Walk	M0316
J.R. Dunn	M0135	New Britton Ind.	M0226	Geistview Estates	M0324
Park Northwestern	M0136	Richard Moffitt	M0229	Flat Fork Crk(Hancock)	M0325
John Roe	M0137	Fairfield Farms	M0242	Treesdale	M0327
A.L. Haughey	M0138	Bridgewater	M0245	Highland Prairie	M0339
Tunis Garard	M0141	Bentley Oaks	M0247	Hampton Cove	M0340

Woodhaven	M0147	Crooked Creek	M0250	Lion Creek	M0342
Castetter & Randall	M0154	Lamplighter	M0256	Fox Hollow	M0344
Fox Glen Section 5	M0180	Cottingham Est	M0259	Flat Rock Creek Farms	M0358

The following drain balances are greater than eight times the assessed value of its annual assessment and should have collections stopped for 2022 per IC 36-9-27-43.

Clara Gintert	M0008	Miller-Carson & Whisler-Brenner	M0134	Mud Creek/Sand Creek	M0347
Wheeler & Wheeler	M0025	F.M. Musselman	M0234	Kakasuleff	M0357
Lee Lambert	M0093	Springs Cambridge/ BeeCamp Ck	M0262		

Kenton C. Ward, Hamilton Co. Surveyor"

Heirbrandt made the motion to approve the 2022 Stop Collection List presented, seconded by Dillinger and approved unanimously.

**Drain Classification - In Need of Reconstruction/Petitions for New Drains:**

Duncan presented the drain classifications for 2022 based on prioritized and in need for reconstructions. It's also a summary of petitions for new drains.

Altman stated Item 5, the petition is dated 2011 and on hold due to the developer. We've got several on hold with developer or HOA (Homeowners Association). How long do we let these things pend?

Duncan stated when development is eminent the Surveyor has been hesitant to reconstruct the drain. Some development does get delayed and when do we pull the trigger on that. I guess I can't say. I'm not sure how long some of these have pended before or how long we wait for the developer.

Altman asked let's go through the hold ones. I just don't want to be in a situation where it's so old that the petition doesn't make sense or what we considered doesn't make sense. Sometimes you get those on zoning apps where they put their foot in the door and it's approved, and they never get it done. I just don't want to be in that situation.

Duncan asked would you like us to come back with a summary of what we're holding?

Altman stated yes, just a short summary and recommendation to allow it or not to allow it to pend.

Duncan stated I know for the Clark & Inman Drain the development has been filed, but it hasn't moved forward, so I'd have to check on the status of that one. We're working on several designs for the Clark & Inman to accommodate that reconstruction.

Howard stated when they're delayed is the worse thing that happens is the developer doesn't have to incur the cost; are these areas where we're deficient and we're going to have serious problems as rural land? If it's working alright as rural land then I know what you're saying, it seems like they're old, but we would really rather have the developer reconstruct it as part of his project rather than assess it and do a deferred assessment.

Altman stated if the drain is functioning then we don't have that worry.

Howard stated right, functioning and non-functioning would help clarify.

Altman stated I can't believe the petition is still pending for the developer. That's over ten years. Let's freshen up the list and figure out where we are if you would.

**Big Cicero Creek Joint Drainage Board:**

Duncan presented the minutes of December 22, 2021 for the Big Cicero Creek Joint Drainage Board to the Board for their information.

Altman asked was there anything of interest?

Heirbrandt stated no, we're just getting ready to do the shelving project. All the financing's in place and getting ready to start inspection.

**Climate Change - Obsolete Rainfall Records:**

Duncan presented an article from NFR/WFYI dated February 9, 2022 on climate change. The rainfall intensities are increasing. We base our design methodology on these rainfall records so from that standpoint if they're becoming outdated how do we keep up. We'll have to keep an eye on that to see what people suggest. I was at the drainage conference last Thursday at Purdue and there was a presentation on adopting ordinances and stormwater standards. Not all communities have those, we do of course, but justification for adopting those standards and preface for that was rainfall is changing so let's get some standards in place today.

Altman asked is the science clearly behind that? We're facing relatively new trend. It's going to be a balancing act on our part whether we increase the standard so high it puts a huge burden on developers when we need additional housing stock.

Duncan stated we have to find a balance in there if we were ever to up the rates and requirements the impact to development would be that they would have to store more water.

Altman stated it's going to be more expensive plus we already require two feet of freeboard.

Duncan stated the methodology we follow was the one that was being recommended at that presentation.

Howard stated so we're a little bit ahead of the curve?

Duncan stated yes.

**Hearing Requests:**

Duncan presented the following items to the Board to set for hearing on March 28, 2022: Clara Knotts Drain, Park Broadway Avenue Drain Phase 2; Elwood Wilson Drain, E. M. Hare Arm Reconstruction.

Altman asked who has made the petition? The petition isn't attached.

Duncan stated I can't say.

Altman asked would someone from Surveyor's Office check that petition while we're here? I want to deal with it, but I'm a little sensitive after the questions we had on petitions before and certainly if it's warranted there should be a landowner in that area that would do it. Also, some of the proposed use of that money would be to pay back monies that have already been expended for design as I recall. I think it's on the Hare Arm. I think we need to be really careful and get a verification before we proceed that this isn't a repayment of debt that's prohibited by the ARPA funds. That's probably a Clevenger question because we certainly do not want to go against that and taint our ARPA funds. It's just moving the money around, but I want to make sure we're clear on that before we move forward.

Duncan stated I see what you're saying because the money has been expended. We've already paid for that service.

Altman stated the maintenance fund has been depleted and that would be to refresh it, but is that repayment of a debt?

Duncan stated I will definitely check on that.

Heirbrandt stated you may have to get with the Surveyor on the Statute.

Altman stated we'll have to get the Statute because it may be perfectly fine, I just saw that, and it made me a little nervous.

Howard stated since there's ARPA there we may; let me know when you have that meeting because we may be able to designate...

Altman stated they're going to ask for assessments I believe on that particular drain. Landowners are paying for some, ARPA is paying for some, etc. and that may have the deferred on it. It's just moving the deck chairs around.

Howard stated we can get it done; we don't want to taint ARPA.

Duncan stated I think it's important for a lot of these ARPA funded projects that have been proposed are going to have the same circumstance. We've already expended design dollars.

Howard stated the problem is going to be, and this is a Todd (Clevenger) question, that we may have to designate the assessments for stuff that's already been paid like design and use ARPA for actual construction. You just change the pecking order.

Sullivan stated the one thing with the ARPA dollars it's a prohibition against debt service obligation payments, not necessarily all types of debt, but I can get that clarified for you.

Howard stated if it's reimbursement out of pocket arguably it's debt.

Duncan stated there are no petitions for those drains, it's based on the Classification list and long term need of those projects.

Howard stated that's what we've been doing on a lot of them; on these reconstructions where we've got a big drainage deficiency.

Duncan stated I thought the Home Place has been petitioned many times.

Altman stated I'm just saying what we're asked to act on, it says "attached are the petition, plans"...and if it's certainly allowable to do this based on the Classification, but again I think we need an opinion on that. If you can get it today, I'm cool.

Duncan stated I'd have to dig for it, but the Clara Knotts has been an issue for a long time.

Altman stated I'm not questioning the need for any of this, I'm just questioning whether we're in compliance with State Law.

Heirbrandt asked what's the opinion of the attorney?

Howard stated I don't have the Statute in front of me. I'll grab it and have it...

Altman asked can we reconvene Drainage Board after Commissioners so we can get some of these items clarified?

Howard stated yes.

Altman stated I think it is important if we're going to move forward or we get an amendment to this request. There are several ways to deal with it and if we're in compliance, fine, we hold the hearing and send out notice; if we're not we're not.

**Final Reports:**

Duncan presented the following final reports to the Board for approval.

**"To: Hamilton County Drainage Board**

**December 16, 2021**

**Re: William Baker Drain: C.B. Jones Reconstruction**

Attached are as-builts and other information for the C.B. Jones Reconstruction. An inspection of the drainage facilities for this section has been made and the facilities were found to be complete and acceptable.

During construction, changes were made to the drain, which will alter the plans submitted with my report for this drain-dated September 15, 2020. The report was approved by the Board at the hearing held September 28<sup>th</sup>, 2020. (See Drainage Board Minutes Book 19, Pages 336)

The changes are as follows: the 12" RCP was shortened from 109 feet to 91 feet. The 15" RCP was shortened from 520 feet to 440 feet. The 18" RCP was lengthened from 948 feet to 983 feet. The 24" RCP was shortened from 427 feet to 342 feet. The 30" RCP was lengthened from 796 feet to 799 feet. The 36" RCP was lengthened from 485 feet to 491 feet. The project also added 3 feet of 12" PVC, 86' feet of 15" PVC and 25' of 18" PVC. The length of the drain due to the changes described above is now **3,260 feet**. It should be noted that the project removed 2628 feet of existing CB Jones Drain (Sta. 0 to Sta. 26+28).

The work was done within existing regulated drain easement and road right of way; therefore, a non-enforcement was not necessary. The project was paid for by the Hamilton County Highway Department.

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

Sincerely,

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Kenton C. Ward, CFM  
Hamilton County Surveyor "

**"To: Hamilton County Drainage Board**

**Feb 8, 2022**

**Re: J.W. Wagner Drain: Kurt Zigler Relocation (10245 Cardinal Ct)**

Attached are as built and other information for the Zigler Relocation. An inspection of the drainage facilities for this section has been made and the facilities were found to be complete and acceptable.

During construction, changes were made to the drain, which will alter the plans submitted with my report for this drain-dated September 7, 2021. The report was approved by the Board at the hearing held September 13, 2021. (See Drainage Board Minutes Book 20, Pages 150-151)

The changes are as follows: The 130 feet of 18" HDPE was shortened from 130 feet to 128 feet. The length of the drain due to the changes described above is now **128 feet**. It should be noted that the project removed 106 feet of the original JW Wagner Drain.

The relocation occurred within the existing regulated drain easement. A non-enforcement was also submitted and approved by the Board on November 20, 2020 and recorded under instrument #2021067003. This project was paid for by the petitioner, Kurt Zigler. Mr. Zigler provided a personal guarantee to the Board in lieu of a performance bond. This can be found in Drainage Record Book 19, pages 424-425.

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

Sincerely,

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Kenton C. Ward, CFM  
Hamilton County Surveyor "

"February 14, 2022

TO: Hamilton County Drainage Board

RE: Final Report on 2021 Vegetation Control Contract

The Hamilton County Drainage Board received bids for the 2021 Vegetation Control Contract at the March 22, 2021 Drainage Board Meeting. Puddle Jumpers Aquatics was the only responding bidder.

The Hamilton County Drainage Board at the April 12, 2021 Drainage Board Meeting awarded Puddle Jumpers all 25 of the drains at a cost of \$20,264.00. The contractor was able to satisfy the contract specifications.

After receiving a request from property owners to spray poison hemlock, an additional area was added via work order. This was the George Symonds Drain #283 at a length of 700 lineal feet.

Puddle Jumpers completed application to 26 drains totaling, 112,312 lineal feet sprayed at a cost of \$20,506.00.

Page two of the report lists the drains sprayed, footages, date sprayed, gallons used, and check amount.

At this time the Performance Bond for this contract should be released.

Please consider this final report on the spray contract for 2021.

Sincerely,

Kenton C. Ward, CFM  
Hamilton County Surveyor

KCW/pll"

Heirbrandt made the motion to approve the final reports presented, seconded by Dillinger and approved unanimously.

**Appointment of Special Members:**

Altman stated we have the court order appointing Steve Holt and Jerry Rulon to the Board for substitutes.

**Set Bid Date - J. S. McCarty Drain:**

Duncan stated the office is requesting approval to set the bid for the first phase of the J. S. McCarty project for April 11, 2022. The plans are completed for this project. We're still working through the easements.

Howard stated we have the easements, we've approved it and we're just word-smithing it, we'll get it out.

Altman asked do we have the easements in place?

Duncan stated we do not have them in place yet.

Howard stated it is a unique situation because our drainage easement is going to be included in a Duke easement and the Surveyor and Duke acknowledges that. Duke's easement is only the width of their poles. The Surveyor is comfortable with going ahead and doing our open ditch within their easement. The Surveyor has talked to Duke and they're fine with us having the easement as long as it's clear that we're subordinated to their easement to work. They're not going to interfere with our ditch. We're working on word-smithing back with Duke and sometimes it's cumbersome.

Altman stated that's my concern. How long's the bid hold?

Duncan stated we would hold the bids for 120 days to make sure we had enough time built in to do notices and have a hearing.

Heirbrandt made the motion to set the bid date on the J. S. McCarty Drain Phase 1 for April 11, 2022, seconded by Dillinger and approved unanimously.

Hamilton County Drainage Board  
February 14, 2022

**Variance Request - White River Fill in the Floodplain (Milestone):**

Mr. Scott Cornelius was present for this item.

Cash stated this is a follow up to the Milestone Contractor's White River Floodplain variance that was tabled in August of last year. The logjam was the drainage easement language that Milestone Attorneys had concern with. It went to the Army Corps of Engineers and you should have a copy of that in your packet with the wording highlighted that was acceptable to the Army Corps of Engineers attorney. We're coming before the Board today requesting that this language be acceptable and okayed by the Board to be submitted to Milestone for their signatures and notarizing of the easement.

Howard stated this was the one where initially the only enforcement entity was the Army Corps, now they're acknowledging that we have the ability to go into that easement to inspect and/or replacement or repair of our two issues which are basically capacity and flow characteristics.

Heirbrandt asked Howard, you're good with everything?

Howard stated I've looked at it more than I would Have liked to.

Heirbrandt made the motion to approve the variance requested, seconded by Dillinger.

Cash stated also this was the one sticking point that was left. Does the Board want to sign off on the variance contingent upon receiving the easement document or do you want to get that first?

Altman stated I think we wait until we get that.

Howard stated the motion is to approve the variance request and the discussion now is do we want to withdraw that motion until we get the final paperwork.

Heirbrandt withdrew his motion to approve; Dillinger withdrew his second.

Heirbrandt made the motion to table the variance request until final paperwork on the easement is received, seconded by Dillinger and approved unanimously.

**Flora Mendenhall Drain Reconstruction:**

Heirbrandt asked Duncan, would you let me know what the engineer's estimate is?

Duncan stated yes.

**Variance Request - Morrow Follett Drain - Duke Energy:**

Clark presented his report to the Board for approval.

"January 31, 2022

Hamilton County Drainage Board

RE: Morrow Follett Drain

Northwest Corner of Smoky Row and Rangeline Road, Carmel IN.

Attached is a letter from Luke Edmonson of Leidos dated January 21<sup>st</sup>, 2022, requesting a variance from the adopted structural standard for utility crossings as set out in Ordinance 3-25-02-A. The structural standard in question requires a 10-foot separation between a utility and a regulated drain during a crossing.

**Additional Information:**

The proposed utility crossing is a public project and part of a larger project by the city of Carmel to renovate the Carmel 69 substation located at the Northwest corner of the intersection of Smoky Row and Rangeline Road. This project affects the reconstructed portion of the Morrow Follett regulated drain which was approved by the Drainage Board meeting on February 22, 2021 (Minutes: Book 19, Page 500).

**Reason for Variance:**

The reason for the variance is that the underground primary cables to cross the drain are to replace existing cables in-kind and a 10 foot separation between the cables and the drain would not be constructible as the existing cables are located approximately 4 feet above the drain and must follow their existing orientation.

**Staff Recommendations:**

Grant approval of the variance and allow for the issuance of the associated crossing permit.

Sincerely,

Samuel Clark  
Hamilton County Surveyor's Office"

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

**Preliminary Variance Request - Chatham Villages South Infrastructure:**

Clark presented his report to the Board for preliminary approval.

"Re: Cool Creek-Variance Preliminary Introduction

February 10, 2022

To: Hamilton County Drainage Board

Project Name: Chatham Villages South Infrastructure

Petitioner: Chris Wiseman of Chatham Hills LLP

**Summary:**

Chatham Hills LLP requests to present their proposal for site grading and installing flood plain compensatory storage as part of the Chatham Villages South Infrastructure project. The proposal will require the approval of a variance from Ordinance No. 09-26-16A for fill in the floodplain of the Cool Creek Drain. The project is located on the south side of 196<sup>th</sup> street, east of the intersection with Tomlinson Road. The plans are being designed by Cripe Engineering.

The engineering for the flood plain compensatory storage area is being reviewed by Clark-Dietz which is the Drainage Board's consultant for the Cool Creek Drain Watershed. Following successful review, a Clark-Dietz review memorandum will become part of the report submitted to the Board as part of the variance packet.

The purpose of this presentation is to introduce the project to the Drainage Board and to request Preliminary Concurrence.

If Preliminary Concurrence is granted, this project will return to the board for final approval.

Samuel T Clark  
Plan Reviewer"

Heirbrandt made the motion for preliminary approval, seconded by Dillinger.

Altman asked this is the only impact is you've got roadway, this bridge area?

Clark stated this project as of now is going to be strictly infrastructure. The most relevant to our purpose is the construction of a bridge over Cool Creek.

Altman stated but the roadway is out of the floodway.

Clark stated its for the purpose of raising the road to bring it out of the floodway.

Howard stated so the elevation is out. The crossing is over, but the elevation of the road is out of the floodway.

Clark stated that's the reason for the fill in the floodway.

The motion had been made and seconded for preliminary approval and approved unanimously.

**Non-enforcements:**

Clark presented a non-enforcement request for the Morrow Follett Drain filed by 41 1<sup>st</sup> Street SW, LLC for parcel #16-09-25-16-03-001.000 for existing building and parking. 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 W. C. Van Arsdell Drain filed by Patrick Rector for parcel #17-13-01-02-05-009.000 for a detached garage. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Village at Flat Fork Arm filed by David Dowling for parcel #13-16-05-00-08-002.000 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.

Liston presented a non-enforcement request for the Vermillion Drain, Village at Flat Fork Arm filed by Robert and Lauren Schieman for parcel #13-16-05-00-08-009.000 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 Village of West Clay Drain filed by Oscar Morales for parcel #17-09-28-00-53-008.000 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 Johnson & Gardner Drain filed by Duke Energy for parcel #08-05-29-00-00-027.001 for construction of residential electric within the regulated drain easement. The Surveyor's Office recommends approval.

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

**Violations - Springs of Cambridge Drain:**

Liston presented his report to the Board for their information.

"February 8, 2022

Kendall Law  
13635 Kingston Drive  
Fishers, IN 46055-9662

**NOTICE OF VIOLATION  
VIO-2022-00001**

**RE: Springs of Cambridge Drain - 13635 Kingston Drive**

A recent field check of the property listed above found a fence installed across the regulated drain easement on Lot 345 in Springs of Cambridge Sec. 9. The fence was installed without the approval of the Hamilton County Drainage Board.

Therefore, the fence needs to be removed from the easement.

Please contact the Hamilton County Surveyor's Office at 317-776-8495 upon receipt of this letter for further discussion on the matter.

Sincerely,

Kenton C. Ward, CFM  
Hamilton County Surveyor

CC: Jason Armour"

Altman asked, so we had not given a notice of violation before?

Liston stated no. We were working with the property owner.

Altman stated we asked him for an easement on the neighbor's property, correct?

Liston stated yes and we never received that information. He chose to construct the fence without approval.

**Stop Work Order - Cheeney Creek:**

Liston presented his report to the Board.

"February 9, 2022

Mega Holdings LLC  
8505 Hornady Drive  
Indianapolis, IN 46239

**STOP WORK ORDER  
SWO-2022-00001**

**RE: Cheney Creek - 10720 Hague Road**

This letter is to inform you a Stop Work Order has been placed on Parcels 14-14-02-00-00-029.001 and 14-14-02-00-00-029.102 in Delaware Twp., Hamilton County, Indiana. The address of the parcels is 10720 Hague Road in Fishers.

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All work, including tree clearing and land disturbance is to cease on the site until the owner contacts the City of Fishers and Hamilton County to address any permitting requirements that may be required for improvements on the site.

The Stop Work Order will remain in effect until all planning and zoning items are addressed for the site with the City and Hamilton County.

Upon receipt of this letter please contact Mr. Steve Cash at the Hamilton County Surveyor's Office at 317-776-8495.

Sincerely,

Kenton C. Ward, CFM  
Hamilton County Surveyor

CC: Fishers Planning  
Jason Armour"

Altman asked so this just went out on the 9<sup>th</sup> of February?

Liston stated yes.

Altman asked, have they stopped?

Liston stated yes. The Town of Fishers was also involved because they were tracking mud out onto Hague Road.

**Surety Acceptance:**

Liston stated that at today's Commissioners meeting the Board would be accepting the following surety: Irrevocable Letter of Credit No. 8028565409 in the amount of \$86,826.00 for Bell Crest Subdivision, Clark & Inman Drain Reconstruction.

**Surety Release:**

Liston stated that at today's Commissioners meeting the Board would be releasing the following sureties: Performance Bond No. 5948795 in the amount of \$20,264.00 for the 2021 Vegetation Control Program, Hamilton County Regulated Drains; Payment Bond No. 5948795 in the amount of \$20,264.00 for the 2021 Vegetation Control Program, Hamilton County Regulated Drains.

**Construction Updates:**

George Symonds Drain, Two Stage Ditch Reconstruction - Liston stated the contractor has moved equipment onto the site. They've had an onsite meeting with Banning Engineering's inspector that's overseeing that project for us. I do not believe they have started work yet.

Intracoastal at Geist Drain - Liston stated Duke is out of the way. We are still working with Comcast to get their facility out of the way. Lumen, which is the other utility, has told us to call and they'll come out with a pair of side cuts and cut the cable because there are no Lumen customers.

Heirbrandt stated I was at the State House on Thursday and spoke to several SIK representatives as well as Senators and one of the things brought up was utilities and having ample warning and timelines when projects are going to start and then they don't show up just like this particular one where they didn't come in for two years. They're very interested. IACHES is getting involved and asked about specific cases where this has happened so the State can look back because it's costing taxpayers millions of dollars because of delays. Companies have to come back and remobilize, change orders and all of that. Looking at a possibility of a timeline that they're kept in the loop for so long and if they don't show up, they're fined every day they don't show up. I think that's the only way we'll get the utilities attention. Brad Davis is looking at getting cases from all over the State so we can get it to the representatives at the State House to fight this. You'll have tremendous support from the cities, towns and counties because of the cost to taxpayers of millions of dollars due to utility delays.

Liston stated you can go to the other side of this county on different projects and one utility, the first one there to relocate, but on the other side of the county they're still waiting for them to come in and do that work.

Heirbrandt stated the only way we'll get their attention is having fines put in place.

Altman stated or an alternative to work through the process is to allow us to contract and back charge against the utility to get them out. That might be the fastest way to get it done.

Howard stated they don't want us touching their stuff, but if you put that in the legislation; I think you put both.

Liston stated we've talked about going out and finding a contractor to move those facilities in case you can't get them out, they're not going to do it.

Howard stated they're not going to do it because they're afraid of the utilities.

Altman stated you get it in the Statute and that becomes your specialty, you'll find a contractor.

Howard stated the more important thing in order to get away from that problem is a hold harmless. Duke is the least responsive organization probably in the world and they'll come back and sue the contractor and the entity and everybody else. I think you not only have to have the positive, you may do this, and you may do that, but the hold harmless if in fact you do it because they're vindictive.

Altman stated you just have due diligence in terms of and due care and put the right language in there. It's got to be fair both ways that if we go in and contract you don't have a honyock.

Heirbrandt stated I sent that to the Surveyor. I know he's gone until the 17<sup>th</sup>, but they want examples that I can forward to them so they can have those examples at the State House to be able to argue the case.

Duncan stated we have several. One of the ones of notice is the Clara Knotts. We sent utility relocation notices in 2015 and the plans never changed across all that time and when it came down to do the project, they acted like they had never seen it before and it begs the questions how much time do you need. We gave you six years.

Heirbrandt stated Representative Crider said he needs examples and fact-based information.

Howard stated wasn't one of the primary issues there a municipal water utility?

Duncan stated presently they're still...

Altman asked how much is going along College Avenue?

Duncan stated actually only two connections.

Altman stated they've got College Avenue reconstruction and they may be dragging their feet to try to line up the projects, but they should tell us that.

Liston stated our contractor for Intracoastal, which is Agricon, has the pipe at his shop, he has the structures now. The only issue he's facing right now on that project is County Materials is telling him they're not making 21" pipe in the State of Indiana. That pipe has to come from the State of Ohio at one of their plants there.

Altman asked is this concrete pipe?

Liston stated it's reinforced concrete pipe.

Altman asked who's not making it here?

Liston stated County Materials is not making that size pipe in the State of Indiana.

Altman stated there's a couple of others, isn't it Independent Concrete Pipe?

Liston stated that's County Materials now.

Altman asked they changed their name?

Liston stated yes. I'm not sure about the other one and what they're doing.

Mallery-Granger Drain Reconstruction - Liston stated I had the final inspection with the contractor. He's working on items, but the weather has slowed him down.

Canal Place Drain, Strongbow Gate Arm - Liston stated the contractor is having problems getting the pipe and structures for this project. We believe we're clear of all utilities on this project.

Clara Knotts Drain, Park Broadway Arm Phase 1 - Liston stated work is progressing on that. We are finding buried utilities, buried pipe, sump pumps and we're working through that.

Ream Creek Drain Reconstruction, Orchard Park Arm - Liston stated this project has not started.

Pending Final Report (Ellis Barker Drain Reconstruction) - Duncan stated that has been completed and is on my desk to review.

**Budget & Permit Update:**

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

There were no questions.

**Attorney Pending Items:**

Underwood Drain (Recorded Document for Deferred Assessments) - Howard stated we've been working on this. We hit a roadblock with the Surveyor. We need him to be here as to how we have a stop point that we know that it had been deferred. We believe in talking with Gary (Duncan) that every deferred assessment most likely is going to come back for platting and once they go to platting, they become urban. We could go ahead and record a list of parcels and names, but that's going to mean the title company's going to be calling us every week. When the Surveyor gets back if we're sure the subdivisions are there because right now it's in Janet's (Hansen) head and we're trying to put together a system so when we defer these assessments, first of all defining urban versus rural and we're thinking three acres, single family residence, everything else is urban and that would trigger the assessment that we're still working through the procedures. We have the concepts there; we're just figuring out how we can put that roadblock in a place where it triggers our understanding.

Altman stated we'll reconvene after the end of our Commissioner's meeting to deal with the hearing requests.

Drainage Board President Altman reconvened the February 14, 2022 meeting of the Hamilton County Drainage Board meeting to order with a quorum present of Christine Altman and Mark Heirbrandt Altman noted there was a request to modify to attach the drain classification list showing the Clara Knotts Drain and Elwood Wilson Drain, EM Hare Arm with those two drains both classified on the drainage report as in need of reconstruction. The request is to place them at hearing for the second meeting in March, which is 3/28/22 and grant with Altman asking for a motion. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

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Christine Altman - President

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Lynette Mosbaugh  
Executive Secretary