

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

March 13, 2023

The meeting was called to order Monday, March 13, 2023 at 12:00 p.m.

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

Approval of Executive Session Memoranda:

The Surveyor presented an Executive Session Memoranda for 5-14-1.5-6.1(1)(2)(b)(1)(2)(D) to the Board for approval.

Altman made the motion to approve the Executive Session Memoranda presented, seconded by Dillinger and approved unanimously.

Approval of Minutes of February 27, 2023:

The minutes of February 27, 2023 were presented to the Board for approval.

Altman made the motion to approve the minutes of February 27, 2023, seconded by Dillinger and approved unanimously.

52.5 Hearing - County McMahon Drain - Firm Foundation Reconstruction:

There were no objections on file. Mr. Jeremy Fish, Mr. Kevin Sumner, Mr. Garrett Iua and Mr. Scott Eiken were present for this item.

Cash presented the Surveyor's report to the Board for approval.

"March 2, 2023

To: Hamilton County Drainage Board

Re: County-McMahon Drain, Firm Foundation Reconstruction

Attached are petition by Firm Foundation of Indiana, Inc., and plans for the proposed reconstruction and relocation of a portion of the County - McMahon Drain, Indiana Filler Co. Arm and Indiana Filler Co. Arm 1. This project is to be paid for by the developer. In order to facilitate site improvements for the Firm Foundation headquarters, the proposal is to reconstruct the existing drain per the construction plans by Weihe Engineers called "County McMahon Drain Reconstruction" dated 1/4/2023, project No. W220205A.

The original County- McMahon Drain was established in 1928 per Hamilton County Circuit Court records, Viewers Report September 26, 1928 (Ditch Repair Book 4, page 261). The Indiana Filler Company Drain was established in 1915, per Hamilton County Circuit Court records, Viewers Report dated March 15, 1915.

The proposed Firm Foundation Headquarters is located near the southeast corner of the intersection of 206th street and State Road 19. Per the plans by Weihe, a portion of the existing drain will be reconstructed within the Firm Foundation site and will affect the following parcel: 10-06-24-00-00-003.000 owned by Firm Foundation of Indiana, Inc. .

Per the plans, the reconstruction of the main Indiana Filler Co. Arm will begin near the proposed 50' south-half right-of-way line of 206th street at a new manhole (MH #498). From there, a new pipe will drain south for 128' to an open ditch. From this location, the existing ditch will be reconstructed to the south with the downstream end of the reconstruction located near the south property line of the site.

In addition, a portion of Indiana Filler Co. Arm 1 will be reconstructed and relocated, as well. This arm currently enters the site along the east property line near the northeast corner of the site. The existing tile will be intercepted near the south right-of-way line and piped west 208' to manhole #498.

The reconstruction will consist of the following:

Main Arm:
128' of 18" RCP 824' of Open Drain

Arm 1:
208' of 12" RCP

The total length of the reconstruction will be 1,160'. This project will subtract 342' from the current overall length of the County - McMahon Drain. Within the project limits, the 1,502' of existing drain, including the existing tiles (128' of the Main Arm & 550' of Arm 1) installed in 1915 and the 824' of open ditch (main arm) installed in 1960 of the Indiana Filler Co. arms will be vacated. The drain to be vacated approximately equates to the following stations of the existing drain: Main arm tile - Sta. 6+72 to 8+00 (128'); Main arm ditch - Sta. 11+30 to 19+54 (824'); Arm 1 tile - 13+58 to 19+08 (550'). The combined total to be vacated is 1,502'.

Per the project plans, this relocation project involves the following proposed structures: Str. 497, 498 and 499.

The reconstruction will occur within the existing regulated drain easement. No additional easement is required.

The cost of the project is to be paid by the developer. The petitioner has not submitted surety for the proposed drain reconstruction at this time. Per the Board's policy, if approved, the developer shall submit surety in the amount of 120% of the engineer's estimate prior to reconstruction.

This proposal meets the criteria for reconstruction of a regulated drain as laid out in IC-39-9-27-52.5.

I recommend approval at this time.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/stcash"

Heirbrandt opened the public hearing and asked if anyone cared to address the Board; seeing no one Heirbrandt closed the public hearing.

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

"FINDINGS AND ORDER

CONCERNING THE PARTIAL VACATION OF THE

County-McMahon Drain, Firm Foundation Reconstruction

**Main Arm Tile - Station 6+72 to Station 8+00
Main Arm Ditch - Station 11+30 to Station 19+54
Arm 1 Tile - Station 13+58 to Station 19+08**

On this **13th day of March, 2023**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **County-McMahon Drain (Main Arm Tile - Station 6+72 to Station 8+00; Main Arm Ditch - Station 11+30 to Station 19+54; Arm 1 Tile - Station 13+58 to Station 19+08)**.

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 **County-McMahon Drain (Main Arm Tile - Station 6+72 to Station 8+00; Main Arm Ditch - Station 11+30 to Station 19+54; Arm 1 Tile - Station 13+58 to Station 19+08)**.

HAMILTON COUNTY DRAINAGE BOARD

Mark Heirbrandt
President

Christine Altman
Member

Steven C. Dillinger
Member

Attest: Lynette Mosbaugh "

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

BEFORE THE HAMILTON COUNTY
DRAINAGE BOARD
NOBLESVILLE, INDIANA

IN THE MATTER OF THE
RECONSTRUCTION OF THE
County-McMahon Drain, Firm Foundation Reconstruction

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the **County-McMahon Drain, Firm Foundation Reconstruction** came before the Hamilton County Drainage Board for hearing **on March 13, 2023**, 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 **County-McMahon Drain, Firm Foundation Reconstruction** be and is hereby declared established.

Thereafter, the Board made inspection for the purpose of determining whether or not the lands of any owners had been erroneously included or excluded from the Schedule of Assessments. The Board finds on the basis of the reports and findings at this hearing as follows:

HAMILTON COUNTY DRAINAGE BOARD

Mark Heirbrandt
PRESIDENT

Christine Altman
Member

Steven C. Dillinger
Member

ATTEST: Lynette Mosbaugh
Executive Secretary "

Professional Services Agreement - J.S. McCarty Drain Phase 1 (Banning):

The Surveyor asked that this item be tabled to the next meeting.

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

William Lehr Drain, J. S. McCarty Arm - Irving Materials Easement:

The Surveyor presented an easement from Irving Materials on the J. S. McCarty Drain to the Board for acceptance. This easement is needed for the future reconstruction that's being heard at your next meeting.

Altman made the motion to accept the Irving Materials Easement, seconded by Dillinger and approved unanimously.

Marion Blanton Drain - Waltz Easement:

The Surveyor presented an easement from Alan Waltz on the Marion Blanton Drain to the Board for acceptance. This is for the proposed reconstruction of this drain located in Jackson Township.

Altman made the motion to accept the Waltz Easement on the Marion Blanton Drain, seconded by Dillinger and approved unanimously.

Hamilton County Drainage Board
March 13, 2023

Hamilton County Employee Parking Garage Drain:

The Surveyor presented his report to the Board.

"March 8, 2023

TO: Hamilton County Drainage Board

RE: Hamilton County Employee Parking Garage Drain

On May 10, 2021 the Hamilton County Board of Commissioners signed a petition for a new regulated drain to be designated Hamilton County Employee Parking Garage Drain. This petition was filed with the Drainage Board on May 11, 2021. At the May 24, 2021 meeting of the Drainage Board this petition was presented to the Board (see Hamilton County Drainage Board Minutes Book 20, page 40).

All this was done due to the first drainage plan for the garage project as shown on Exhibit B of the petition. This plan included a storm system exiting the garage with a hydrodynamic separator and outletting into White River. After the petition was filed a new plan was approved by the City of Noblesville which exited the garage to the north down the alley to Wayne Street where it empties into the city storm water sewer upstream of a city owned hydrodynamic separator. This plan negated the need for a county owned separator and outlet into White River.

On May 6, 2021 the County Commissioners provided the City of Noblesville a letter accepting the maintenance of this revised system under the County MS4. This letter is attached.

At this time, I recommend the Board dismiss the petition for the above referenced drain.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pll"

Altman made the motion to dismiss the Board's petition for a regulated drain over the parking garage project, seconded by Dillinger and approved unanimously.

146th Street Loan Agreement:

The Surveyor presented his report to the Board for their information.

"March 9, 2023

TO: Hamilton County Drainage Board

RE: 146th Street Loan Agreement

This is to update the Board as to the status of the above referenced loan. On December 22, 2022 a principal payment of \$1,842,348.64 and an interest payment of \$139,824.25 was made to the Auditor. This principal payment amounts to the payoff of the principal amount of the loan.

The interest for 2022 is \$24,163.02. This amount needs approval at this time by the Board. The remaining unpaid interest including the 2022 interest mentioned above, amounts to \$193,327.03 which will be paid after the 2023 June settlement.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pll"

Set Bid Dates - Adam Ault Drain and Marion Blanton Drain:

The Surveyor asked the Board to set a date to receive bids on the Adam Ault Drain and the Marion Blanton Drain for April 24, 2023.

Altman made the motion to set the date to receive bids for the Adam Ault Drain and the Marion Blanton Drain on April 24, 2023, seconded by Dillinger and approved unanimously.

Hamilton County Drainage Board
March 13, 2023

Mary Wilson Drain - Habig Violation:

The Surveyor stated this is the violation we discussed at the last meeting. This is the letter I sent out to Habigs last week. This has the same map and photos I presented to the Board at the last meeting.

Altman asked do you have that calendar for a response?

The Surveyor stated no, I was kind of playing this by ear to see how things transpired.

Altman stated I just don't want to get it lost in the shuffle.

The Surveyor stated I don't intend for that to happen.

Howard stated Tim (Knapp) is getting updated appraisals on that section. I saw your abrupt email and I concur we need to just go ahead. The idea of the landowner giving temporary rights of entry for maintenance, etc., etc. is extremely cumbersome and is not the way we should be delivering public service.

The Surveyor stated you're just tying future Board hands for maintenance and anything else that's needed for that. We need to be able to get in there and get the job done.

Howard stated it's calendared the minute the appraisals hit my desk.

Taylor & Jessup Drain - Polley Letter:

The Surveyor stated this is a letter we received from Nancy Polley at 20902 Freemont Moore Road. She is within the Taylor & Jessup Drainage Shed. She is a new owner; I believe she bought it last year. You also have my response to her dated the 28th of February.

Heirbrandt stated she reached out to me and I did talk to her. I know she reached out to Christine and Steve both. I think there may be some issues she may have legally with an easement; is that correct?

Howard stated the other person is the neighbor who had an easement across their property, but the easement; that's a private property.

The Surveyor stated I did point her to a neighbor of hers who I discussed a petition for an additional arm to that drain. Hopefully, they get together and get that taken care of. Mr. Davis, who is the other owner, expressed interest in December of last year or January of this year.

Altman asked, have you heard back from the letter you sent to her?

The Surveyor stated I have not.

Altman stated okay, I think your letter covered her request.

Howard stated in that situation we would do the regulated and superimpose it on the existing easement thereby arguably making it non-compensatory.

The Surveyor stated in this case it would be a new arm so we'd have to purchase easement.

Howard stated there's already a drainage easement there.

The Surveyor stated we have a drainage easement on the main and a couple of other arms, but this would be a new arm over to the Davis property. I think what happened in talking to Mr. Davis is there was a private tile arm that came from the other side of Freemont Moore Road across the Polley property onto the Davis property. A neighbor west of Davis downstream built a pond, and they think that maybe something happened then.

Appointment of Special Member:

Howard stated we talked about this in the past. Mr. Holt has asked not to be reappointed. It would be up to this Board to appoint a new alternate member. Mr. Rulon is continuing, and it's been approved by the Court, but you do have the ability to have two alternates. It gives you a better chance. I'm just kind of waiting on whose name to put in the blank from the Board.

Altman asked, any recommendations?

The Surveyor stated I'm drawing a blank at this point. If you'd like I can kick around some names and get them to you.

IDNR (Division of Water) Certificate of Approval - Andrew Leeman:

Mr. Jon Ward was present for this item.

The Surveyor stated I wanted to let the Board know that we received this. This is Mr. Leeman's certificate of approval for the Certificate of Construction in a Floodway permit. This does not impact our SWPPP, but I wanted to let you know that they did present this to Mr. Leeman, and we got a copy.

Altman stated that SWPPP's had activity back and forth and I think Clara (Furst) has indicated that you just need to have a sit-down meeting and resolve the issues.

The Surveyor stated and that meeting was scheduled for tomorrow, but Clara is very sick right now.

Altman asked is anybody on staff able to pick up; this isn't rocket science.

The Surveyor stated Gary (Duncan) could do it, but I'd rather have Clara there.

Altman stated I would too, but we need to keep moving.

Heirbrandt stated yes, we do, we need to get this moving.

Duncan stated the meeting is scheduled for 2:00 this afternoon.

Ward stated my engineer is not here, she's actually out of state taking care of her dad. Her dad got struck by a car over the weekend and she had to fly out of town. I know she's still available for a phone conference.

Duncan stated that's what was set up. It was going to be a TEAMS call.

Ward stated I know that Clara had cancelled with her letting her know she was out sick.

Duncan stated I can still do that.

Altman stated it just seems direct communication; just get it resolved.

Ward stated I would like to resolve the issue of the land buoy's that have been placed on that property. I've never seen any pictures or evidence that they have presented; I've asked Mr. Howard for it several times and I've yet to see anything why they were even put there. It was our word against, I think, the Surveyor's Office. I haven't seen anything, and I think they need to be removed. They've been there for over eight months, they're obviously not doing anything at this point.

Altman asked, what are we talking about?

Howard stated somebody in the Surveyor's Office observed something initially down in the floodplain, the lower level I believe, wasn't it?

Ward stated in the floodway.

Howard stated the Surveyor's Office ordered some containment buoy's to be placed there and they've sent the bill to the property owner and frankly what I've done with the Surveyor's Office is to get you the next permit. Nobody will file suit on that amount of money until we get you some answers.

Ward stated I understand that I'm just saying that I have not seen anything, and I have hundreds of pictures of that property within a week of them being put out there. Once again, no evidence of it at all. I'm just trying to get a straight answer from you.

Heirbrandt stated understand; can you get him the information that he's requesting?

Howard stated I thought we were prioritizing the permit. We're not going to be in collection. Let's get the permit done.

Ward stated okay, I'm just trying to resolve it all.

Hearing Requests:

The Surveyor asked the Board to set the following items for hearing for April 24, 2023: Henry Gunn Drain Maintenance Assessment Increase; Raquet & Ehman Drain; Andrew Tucker Drain; R. J. Craig Drain; Loma Industrial Park Drain; Flat Rock Creek Farms Drain, Increase Collection Period; Cool Creek, Anna Kendall Drain, J. M. Thompson Arm, Union Square at Grand Junction; Guy Gilkey Drain, Revised Report.

Altman stated I have a question on the R. J. Craig Drain and the Loma Industrial Park Drain. These balances are high anyway and I don't understand why we're extending collections especially on the R. J. Craig Drain. Are you trying to collect enough to reconstruct at some point?

The Surveyor stated at some point, yes.

Altman stated then probably the justification is not because of the cost of maintenance, we ought to just say increase the fund balance.

The Surveyor stated okay, I will adjust my report.

Altman stated it explains to people why we're asking. It's better to adjust the fund balance so we're not asking for such a large potential assessment at the end and if that's the same on Loma Industrial Park Drain.

The Surveyor stated on the Loma Industrial Park Drain, one work order could wipe that one out because it's tight and very hard to maintain.

Altman stated okay, maybe we just say as your explanation is not just because it's expensive in this situation one work order could wipe out the existing balance and it's not worth the risk.

Howard stated in those justifications maybe other legally permitted uses because partial payment of reconstruction is a permitted use and I think you'd be more accurate.

Altman stated if you add that but say what is permitted. If I'm a landowner and I look at this balance I'm going to go "what, why do we have to extend it?" because it was huge.

The Surveyor stated I will make those changes.

Altman asked, what's the balance on the last drain you wanted to ask about, the Cool Creek? Is that in here?

The Surveyor stated yes.

Altman made the motion to set the hearings for April 24, 2023 as revised, seconded by Dillinger and approved unanimously.

Private Drain Petition (Wright vs Dhani) - Findings of Fact:

Howard stated if you remember, in December we had a dispute between two landowners concerning property on Shelborne Road. The upstream landowner's water was flowing very well through the downstream landowner. You had probably thirty minutes of evidence. We asked the prevailing party, which we felt the obstruction was placed intentionally by the downstream person. We asked the prevailing party for findings. These parties are in litigation on another, but similar issue so we figured this one was probably going to go to judicial review. I substantially beefed up some of the findings and the orders and brought them into line a little more with a higher probability of surviving judicial review. With that I would ask the Board to approve the findings and order for removal of obstruction of the drain.

The Surveyor stated Mr. Wright has been calling me about once a week.

Howard stated I talked to him twice last Friday and I told him this would be going out to his attorney tomorrow.

Altman asked what do we need to do?

Howard stated the order gives him thirty days to remove the obstruction, if not the Surveyor has the authority to remove the obstruction, we put some language in there asking if the request...

Altman stated so this just quantifies all the determination.

Howard stated you found for the petitioner.

Altman stated that's what I'm saying, is there anything we need to formally adopt or is this just a...

Howard stated no, this is to formally adopt the findings and order. The order also, if they do not remove the obstruction, the Surveyor can have a contractor remove it and we can solicit the assistance of the people at the Sheriff's Department if necessary and there's collection procedures for the cost. All in there as per Statute.

Altman made the motion to adopt these findings and the proposed order, seconded by Dillinger and approved unanimously.

Non-enforcements:

Mr. Craig Foerg was present for this item.

Duncan presented a non-enforcement request for the Crosswind Commons Drain filed by Phillip and Aimee Rawlings for parcel #08-09-10-00-02-017.000 for a fence. The Surveyor's Office recommends approval.

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

Duncan presented a non-enforcement request for the Thistlethwaite Drain, Aaron Rawlings Arm filed by Jeremiah Wilck for parcel #01-05-06-00-01-010.000 for a fence. The Surveyor's Office recommends approval.

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

Duncan presented a non-enforcement request for the Williams Creek Drain, Springmill Run Arm filed by Jie Yu and Pei Lu for parcel #17-13-05-00-17-026.000 for a fence. The Surveyor's Office recommends approval.

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

Duncan presented a non-enforcement request for the Vermillion Drain, Woods at Vermillion Arm filed by Allison and Christopher Turner for parcel #13-16-08-00-07-032.000 for a fence. The Surveyor's Office recommends approval.

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

Duncan presented a non-enforcement request for the Vermillion Drain, Woods at Vermillion Arm filed by Laketa Gardner for parcel #13-16-08-00-28-023.000 for a fence. The Surveyor's Office recommends approval.

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

Duncan presented a non-enforcement request for the Vermillion Drain, Village at Flat Fork Arm filed by Kimberly Guidone and Robert Ford for parcel #13-16-05-00-08-019.000 for a retaining wall. The Surveyor's Office recommends approval.

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

Duncan presented a non-enforcement request for the Vermillion Drain, Heritage at Vermillion Arm filed by Craig Foerg for parcel #13-16-05-00-02-013.000 for a fence. The Surveyor's Office recommends approval of 7.5 feet into the drainage easement along the rear of the property. This was approximately five years ago we issued violation notices for several fences for lots within the Vermillion Subdivision and this was a carryover from that effort. Mr. Foerg essentially inherited the issue when he recently purchased the property. The previous violations were reissued recently to each of the former violations and Mr. Foerg was one of those. He became aware of the issue that his fence was installed to encroach within the easement. What was approved was a half encroachment. There's a fifteen-foot drainage and utility easement and it's installed fully through the fifteen feet. To come into compliance with what the Board approved the fence would have to be moved 7.5 feet.

Altman stated what's depicted in the photos is where the fence is currently?

Duncan stated correct, it is installed.

Altman asked where is the pinch point for access to the drainage?

The Surveyor stated if I remember this one correctly, the pinch point is the top of that bank. If you look at the bank, if we ever have to put a machine on that, the 7.5 feet would give us a little more flat area than what's there now so that the operator wouldn't be afraid to fall into the lake.

Altman stated if the fence is sitting on the bottom part of the easement, how did we get a setback that was so tight? In full compliance you'd move the fence fifteen feet closer to his house, right?

Duncan stated if there was no encroachment, yes.

Altman stated it looks like you'd run over the sunroom. It's hard to tell in these pictures.

Foerg stated it's about fifteen feet to the edge of that outside overhang, the open area that you see there. I'd like to state, Clara (Furst) has been fantastic to work with. I just moved here from Iowa purchasing the house. She's been outstanding, she's been helping me try to get this solved and fixed. I'm sorry to hear she was out sick today. I wanted to come in and understand what the options were. I understand the 7.5 feet, but unfortunately it was never disclosed to me there were any issues on the property. So now I'm going to have to take legal recourse to go get whatever has to be done on the fence back from the previous owners, fighting multiple things from them with purchasing this house. In talking with Clara this was a recommendation that I come and talk to the Board and see what could possibly be done from a potential; leaving the fence since it's been there for almost 5.5 years now with the full understanding with permitting and whatnot that it be on the cost of the owner, myself, or if I did sell it to anyone, if that ever had to be moved for any work that needed to be done.

Heirbrandt asked Dillinger, any thoughts?

Dillinger stated it doesn't sound like it's his fault that this is there.

Altman stated but that's not material.

Dillinger stated its material in my decision.

Dillinger made the motion to approve allowing the fence to stay with the written understanding that in the event we need to get in there that at his expense it would be removed.

Altman stated so you're saying don't allow the variance at 7.5; there's a full variance on the fifteen?

Dillinger stated a full variance.

Altman asked what have we done in the neighborhood? That's the problem.

The Surveyor stated 7.5 feet.

Altman stated the fact that he wasn't aware of it doesn't, to me, trump the fact that the only thing we've allowed is 7.5 feet.

Howard stated the recourse is at closing the seller signs a vendor's affidavit and that vendor's affidavit said there are no legal proceedings, violations, etc. and I know you signed 60 pages, but that's the most important document that you need to look in your stack for. That's where you get the relief. Now, if the people have moved to Wyoming or something that might not do you any good.

Altman stated no, it's just a little more difficult.

Foerg stated understood.

Altman stated to me the lack of knowledge doesn't affect what our consistency in the neighborhood is.

Dillinger stated I stand by my motion.

Altman asked what is your motion?

Dillinger stated to approve the fifteen, the full amount, seconded by Heirbrandt and approved. Altman opposed.

Violations:

Duncan presented the Surveyor's reports to the Board.

"March 8th, 2023

Certified Mail: 7021 0350 0000 0884 6178

Curry, Michael J & Irene R
10913 Cliffside Dr
Fortville, IN 46040

Parcel ID#: 13-16-05-00-01-002.000

RE: Vermillion Drain, Village at Flat Forks Section 1 Arm

Our office has been made aware of a fence encroachment on Lot 2 in Village at Flat Forks Section 1. The black aluminum fence encroaches into the regulated drain easements on the lot. The fence was installed without the permission of the Hamilton County Drainage Board and is in violation of IC 36-9-27-33.

Upon receipt of this letter the property owner has ten (10) days in which to correct the violation according to the standards set forth by this office and the Hamilton County Drainage Board.

Please contact Mrs. Clara L. Furst at the Hamilton County Surveyor's Office upon receiving this violation letter to discuss what measures are needed to correct the situation. The number is 317-776-8495.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/clf
CC: Village at Flat Forks HOA- Tricia Edwards"

"March 8th, 2023

Graves, John & Kala
16247 Kenora Lane S
Fortville, IN 46040
Parcel ID#: 13-16-08-00-07-011.00

RE: Vermillion Drain, Woods at Vermillion Sec. 1 Arm

On Tuesday, March 7th, 2023, our office conducted a final inspection of the recently installed corrected fence on lot 228 in Woods at Vermillion Section 1.

The approved *Non-Enforcement of Drainage Easement for Fences* permit requires the following, "The fence will encroach 7.5ft into the 15ft D.E. along the South (rear) perimeter line." Per the final inspection, the office found the fence installed per the requirements of the permit.

Please maintain a copy of this letter in your records.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/CLF"

"March 8th, 2023

Riegel, Thomas & Kortney
17019 Flinchum Way E
Noblesville, IN 46062
Parcel ID#: 10-10-04-00-03-056.000

RE: Non-Enforcement of Drainage Easement for Fences Violation, Vestal-Kirkendall

On Tuesday, March 7th, 2023, our office conducted an additional final inspection of the recently installed fence correction on lot 56 in Hazel Dell Woods.

A Notice of Violation was issued by this office on November 15th, 2023, regarding the the wooden type fence encroaching into the regulated drain easements on the lot. The approved *Non-Enforcement of Drainage Easement for Fences* permit requires the following, "Fence will encroach 10' into the 20' D & U.E. along the rear (West) line. Fence will encroach 7.5ft into the 15ft D & U.E. along the North perimeter line." Per the final inspection, the office found the fence installed and corrected per the requirements of the permit.

The Notice of Violation VIO-2022-00021 has been resolved and the approved permit is on file.

Please maintain a copy of this letter in your records.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/CLF"

"March 8th, 2023

Graves, John & Kala
16247 Kenora Lane S
Fortville, IN 46040
Parcel ID#: 13-16-08-00-07-011.00

RE: Vermillion Drain, Woods at Vermillion Sec. 1 Arm

On Tuesday, March 7th, 2023, our office conducted a final inspection of the recently installed corrected fence on lot 228 in Woods at Vermillion Section 1.

The approved *Non-Enforcement of Drainage Easement for Fences* permit requires the following, "The fence will encroach 7.5ft into the 15ft D.E. along the South (rear) perimeter line." Per the final inspection, the office found the fence installed per the requirements of the permit.

Please maintain a copy of this letter in your records.

Hamilton County Drainage Board
March 13, 2023

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/CLF"

Surety Acceptance:

Liston stated that at this afternoon's Commissioners meeting the Board would be accepting the following surety: Site Improvements Performance Bond No. CIC1905722 in the amount of \$1,921,342.73 for Hyde Park Phase 4A, Sand Creek Drain Reconstruction.

Mallery-Granger Drain Reconstruction - Final Report:

Liston presented his report to the Board for approval.

"March 8, 2023

TO: HAMILTON COUNTY DRAINAGE BOARD

RE: MALLERY-GRANGER DRAIN RECONSTRUCTION
FINAL REPORT

This is the Final Report on the Mallery - Granger Drain Reconstruction. The Drainage Area of the Mallery-Granger Drain covers a portion of Section 12, Township 19 North, Range 4 East, of Jackson Township and portions of Sections 13, 14, 23, 24, 25 & 26 of Township 19 North, Range 4 East, of Noblesville Township."

The December 14, 2020 meeting of the Hamilton County Drainage Board the County Surveyor requested a hearing before the Board for the Mallery - Granger Drain Reconstruction for January 25, 2021 (HCDB Minute Book 19, Pages 439-440).

The January 25, 2021 meeting of the Hamilton County Drainage Board the hearing for the Mallery - Granger Drain Reconstruction was held, and the Surveyor's Report dated November 30, 2020 was approved and the Finding and Order signed. (HCDB Minute Book 19, Pages 460 - 472)

The engineer's cost estimate for the Mallery-Granger Drain Reconstruction was \$991,765.75.

The February 8, 2021 meeting of the Hamilton County Drainage Board there was discussion and approval of the interest rate by the Board for the Mallery-Granger Drain Reconstruction. The interest rate was set at 3% and extended to 7 years (HCDB Minute Book 19, Pages 483-484 and 494-495).

The February 22, 2021 meeting of the Hamilton County Drainage Board the Board received one (1) bid for the Mallery-Granger Drain Reconstruction from 5 Star Company Inc. After a review of the submittals from 5 Star Company Inc. by staff later in the meeting it was recommended the drain reconstruction be awarded to 5 Star Company Inc. in the amount of \$925,533.00 (HCDB Minute Book 19, Pages 497 and 526).

A Notice to Proceed for Clearing Only was presented to 5 Star Company Inc. February 25, 2021. This was done to allow 5 Star Company Inc. to start clearing the project in accordance with the required Indiana Bat Law deadline of April 1, 2021.

The preconstruction meeting for the dredging and associated drain work was held April 8, 2021. 5 Star Company Inc. was issued a verbal notice to Proceed on this date.

The project consisted of dredging approximately 13,391 feet of open drain, clearing of vegetation and trees, new tile outlets, stabilization of eroded areas, replacement of driveway and roadway culverts, roadway pavement removal and restoration and rip rap placement.

During the reconstruction there were some minor changes made to the original design of V S Engineering. The road crossing culverts on 211th Street James Road and 206th Street were lengthened at the request of the Hamilton County Highway Department. Seven (7) additional tile outlets were uncovered with the dredging operations. 5 Star Company was required to return and pull back slope of banks to a 2:1 slope after as-built drawings showed the slopes to be 1:5 to 1.

During the project there were four (4) change orders:

Change Order #1 dated May 1, 2021 was approved by the Hamilton County Drainage Board at the May 10, 2021 meeting (HCDB Minutes Book 20, Page 32).

Change Order #2 dated August 4, 2021 was approved by the Hamilton County Drainage Board at the August 9, 2021 meeting. (HCDB Minutes Book 20, Pages 125-126).

Change Order #3 dated December 7, 2021 was approved by the Hamilton County Drainage Board at the December 13, 2021 meeting. (HCDB Minutes Book 20, Page 258).

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Change Order #4 dated June 9, 2022 was approved by the Hamilton County Drainage Board at the June 13, 2022 meeting. (HCDB Minutes Book 20, Page 450).

Change Order #1 (Approved 05/10/2021)	
Extension of completion date from June 1, 2021 to July 15, 2021	\$0.00
Change Order #2 (Approved 08/09/2021)	
9 Tile Outlets, Road and Drive Culvert Extensions, Compacted #53 Stone	\$53,935.00
Change Order #3 (Approved (12/13/2021)	
Restoration and Mulch Seeding, compacted #53 Stone, Clearing, 48" CMP (Arm 1 Sta. 30+56), Clean Culvert (216 th Street), and Grass Mowing	<u>\$44,847.25</u>

The following items were deducted from the contract with Change Order #3.

12" CMP Surface Pipes	-\$6,300.00
Rip Rap, Revetment	-\$107,000.00
60" End Section	-\$8,400.00
Pavement Restoration	-\$9,500.00
Scour Protection (196 th Street)	-\$12,000.00
48" End Section (211 th Street)	-\$7,500.00
38" X 60" End Section (James Road)	-\$6,800.00
60" End Section (206 th Street)	-\$8,400.00
60" End Section (James Road)	-\$8,400.00
Compacted #53 Stone	
-\$2,128.20	
Pavement Restoration	<u>-\$17,005.00</u>
	<u>-\$194,333.20</u>

Change Order # 4 Approved (06/13/22)	
Compacted #53 Stone, and Clean Culvert (Railroad Tracks)	\$2,091.00
Total of Four (4) Change Orders	-\$93,459.95

During the project there were Six (6) Pay Applications:

Pay Application # 1 Total	\$154,500.00
Retainage	<u>\$(23,175.00)</u>
Amount Paid to 5 Star Company Inc. (04/13/21)	\$131,325.00
Pay Application # 2 Total	\$128,750.00
Retainage	<u>\$(19,312.50)</u>
Amount Paid to 5 Star Company Inc. (5/25/21)	\$109,437.50
Pay Application # 3 Total	\$108,007.65
Retainage	<u>\$(16,201.15)</u>
Amount Paid to 5 Star Company Inc. (06/29/21)	\$91,806.50
Pay Application # 4 Total	\$355,581.10
Retainage	<u>\$(53,337.16)</u>
Amount Paid to 5 Star Company Inc. (08/24/21)	\$302,243.94
Pay Application # 5 Total	\$83,143.30
Retainage	<u>\$(12,471.49)</u>
Amount Paid to 5 Star Company Inc. (12/28/21)	\$70,671.80
Pay Application # 6 Total - Retainage and Change Order # 4 (06/16/22)	\$126,588.30
Total Paid to 5 Star Company Inc.	<u>\$832,073.05</u>

The cost estimate compared to the actual cost of the Mallery Granger reconstruction are listed below.

	Cost Estimate	Actual Cost
VS Engineering Survey & Design	\$42,750.00	\$42,750.00
VS Engineering Staking & As-Builts	\$0.00	\$0.00
Regulated Drainage Shed Reconstruction	\$792,442.00	\$673,097.75
City of Noblesville Lump Sum	\$8,731.95	* \$0.00
Hamilton County Highway Lump Sum	<u>\$190,581.80</u>	<u>\$158,975.80</u>
Total Project Cost:	\$1,074,515.75	\$874,823.05

*The City of Noblesville proposed lump sum of \$8,731.95 was for proposed scour protection at 196th Street. The proposed scour protection was deleted from the contract during the reconstruction with Change Order # 3.

On August 30, 2021 this Office received from 5 Star Company Inc. Form E-1 stating that all expenses incurred for labor and material have been paid in full.

As-built drawings were completed by Hamilton County Surveyor's Office Brian Rayl and staff and certified January 31, 2023. The as-built drawings were reviewed and approved by Staff Project Engineer Gary Duncan and Inspector Jerry Liston.

As of the date of this report, I hereby attest to and agree that the reconstruction was completed according to Specified Plans, Change Orders, and Inspections.

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

Respectfully,

Jerry L. Liston
New Construction Inspector
Hamilton County Surveyor's Office"

Altman made the motion to approve the final report for the Mallery-Granger Drain Reconstruction presented, seconded by Dillinger and approved unanimously.

Intracoastal at Geist Drain Reconstruction - Final Report:

Liston presented his report to the Board for approval.

"March 8, 2023

TO: Hamilton County Drainage Board

RE: Intracoastal at Geist Reconstruction - Final Report

This is the final report on the Intracoastal Drain reconstruction, the drain reconstruction work was across Lots 164 and 165 in Intracoastal at Geist Sec. 1, located in Section 6, Township 17 North, Range 6 East in Fall Creek Township, Hamilton County, Indiana.

The February 10, 2020 meeting of the Hamilton County Drainage Board the County Surveyor brought to the attention of the Board a drainage/flooding issue in the Intracoastal at Geist. (Hamilton County Drainage Board Minutes Book 19, Page 145)

The June 22, meeting of the Hamilton County Drainage Board the Board heard a presentation from Clark Dietz for fixes to the drainage/flooding issue in Intracoastal at Geist. (Hamilton County Drainage Board Minutes Book 19, Pages 248-249)

The July 13, 2020 meeting of the Hamilton County Drainage Board the County Surveyor asked the Board to approve the Professional Service Agreement for Clark Dietz. The amount not to exceed \$33,000.00 for design and construction services. (Hamilton County Drainage Board Minutes Book 19, Page 261)

The August 24, 2020 meeting of the Hamilton County Drainage Board the Board heard and tabled the Surveyor's report for the Intracoastal at Geist reconstruction. The engineers estimate for the reconstruction is \$148,689.80. The County Surveyor asked for permission to obtain three (3) quotes for the work since the estimate is below \$150,000.00. (Hamilton County Drainage Board Minutes Book 19, Pages 304-305)

The November 9, 2020 meeting of the Hamilton County Drainage Board the Board received one (1) quote from Agricon Inc. for the Intracoastal at Geist reconstruction. Agricon's quote was for \$100,148.30. (Hamilton County Drainage Board Minutes Book 19, Page 384)

The November 23, 2020 meeting of the Hamilton County Drainage Board the Board un-tabled the meeting from August 24, 2020 and approved the quote from Agricon Inc. in the amount of \$100, 148.30. (Hamilton County Drainage Board Minutes Book 19, Pages 417-418)

The November 23, 2020 meeting of the Hamilton County Drainage Board the Board awarded the quote/bid for the Intracoastal at Geist reconstruction to Agricon Inc. in the amount of \$100,148.30. (Hamilton County Drainage Board Minutes Book 19, Page 422)

Due to utility conflicts between Lots 164-165 with Duke Energy, Lumens and Comcast the reconstruction was delayed until those conflicts were relocated by the appropriate utilities. This work was done between the November 23, 2020 and September 27, 2021 meetings.

The September 27, 2021 meeting of the Hamilton County Drainage Board a revised quote from Agricon was brought to the Board. The revised quote of \$106,881.40 was due to delays from utility conflicts and from and from increase cost of materials. This was an increase of \$6,733.10 from the original quote of \$100,148.30. The Board approved the increase due to the delays. (Hamilton County Drainage Board Minutes Book 20, Page 173)

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The Intracoastal at Geist Drain Reconstruction consisted of clearing of existing trees from the project area, concrete sidewalk and asphalt path removal and reconstruction, installation of 136 feet of 21" RCP pipe, installation of 91 feet of 18" RCP pipe and the installation of 3 precast inlet structures with stool type beehive castings and 1 concrete end section.

During the reconstruction there were some minor changes made to the original design of Clark Dietz. A tree on the Orr lot was removed due to difficulty of working around by Agricon. Stumps were ground instead being cut flush with the existing grade at the request of the property owners. Hydro Excavating was done to ensure no conflicts with relocated utilities after locates were requested by Agricon.

Due to supply chain issues the asphalt path reconstruction associated with the project was paved by the Hamilton County Highway Department after Agricon did the prep work and readied the path for paving. Agricon was unable to get a quote/price from a paving company to complete the asphalt path work.

The following are the installed lengths of 18" and 21" RCP pipes between storm structures.

Structures	Proposed	Actual	Pipe
Existing Structure 133 - Structure 101	106 LF	106 LF	21"
Structure 101 - Structure 102	30 LF	30 LF	21"
Structure 102 - Structure 103	59 LF	59 LF	18"
Structure 103 - Structure 104	32 LF	32 LF	18"
Total	257 LF	257 LF	

During the reconstruction there were Two (2) Change Orders.

Change Order # 1 dated September 20, 2022 was taken to the Hamilton County Drainage Board at the September 26, 2022 meeting for discussion and approval of additional work required for the project. (Hamilton County Drainage Board Minutes Book 19, Page 571)

The following are additions to the Intracoastal at Geist Drain Reconstruction contract.

1. Line 13 - Add 3 Units Erosion Control Blanket	\$ 8.52
2. Fluid Waste Hydro Excavating	\$ 763.75
3. 2 Irrigation Systems Repair	\$5,400.00
4. Stump Grinding	\$ 400.00

Total Cost of Change Order # 1 \$6,572.27

Change Order # 2 dated October 18, 2022 was taken to the Hamilton County Drainage Board at the October 24, 2022 meeting for discussion and approval for paving work by the County Highway and a deduction from the projects contract. (Hamilton County Drainage Board Minutes Book 21, Page 32)

1. Line 15 - Multi-Use Path Paid County Highway for Material	\$2,031.01
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The following item was not billed for on the contract and therefore the costs was deducted from the contract with Change Order # 2.

1. Line 15 - Multi-Use Path Cost Adjusted	\$-3,533.00
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The following is a breakdown of costs associated with the Intracoastal at Geist Reconstruction. During the project there were Four (4) pay applications.

Pay Application # 1 Total	\$ 79,103.00
Retainage	\$ (11,865.45)
Amount Paid to Agricon (06/14/22)	\$ 67,237.55
Pay Application # 2 Total	\$ 22,029.67
Retainage	\$ (3,304.45)
Amount Paid to Agricon (10/11/22)	\$ 18,725.22
Pay Application # 3 Total	\$ 8,788.00
Retainage	\$ (1,318.20)
Amount Paid to Agricon (11/15/22)	\$ 7,469.80
Pay Application # 4 Total (Retainage)	\$ (16,488.10)
Amount to be released to Agricon (12/18/22)	\$ 16,488.10
Total Paid to Agricon	\$109,920.67
Engineers Estimate w/ 15% Contingencies	\$115,170.55
Contractors Revised Quote	\$106,881.40
Total Additions of Change Orders 1 & 2	\$ 8,602.28
	\$115,483.68
Deletion from Contract (Change Order # 2)	\$ (-3,533.00)
Total Paid to Agricon	\$111,950.68
Study, Engineering, Staking and As-built Drawings	\$ 61,000.00
Total Reconstruction Cost	\$172,950.68

Clark Dietz's Study, Engineering, Construction Staking and As-built Drawings were completed on the reconstruction project at a cost of \$ 61,000.00.

The project was paid for out of the General Drain Improvement Fund (GDIF) along with a grant from the City of Fishers Stormwater Program by an amount not to exceed \$44,000.00. Due to the adjusted final cost, the City of Fishers cost was \$43,237.67. The General Drain Improvement Fund (GDIF) will be repaid with future maintenance funds.

The Contractor's Statement that all incurred expenses have been paid was signed by the Contractor as required in IC-36-9-27-82(b) was received on October 18, 2022.

The Payment Bond for the Intracoastal at Geist reconstruction in the amount of \$100,148.30 was released at the February 13, 2022 meeting of the Hamilton County Drainage Board. (Hamilton County Drainage Board Minutes Book 21, Page 1/1)

As of November 1, 2022, I hereby attest to and agree that the Intracoastal at Geist Drain Reconstruction was completed according to specified plans and have approved such work under IC-36-9-27-82(a). All inspections have been completed.

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

Respectfully,

Jerry L. Liston
Hamilton County Surveyor's Office"

Altman made the motion to approve the final report for the Intracoastal at Geist Drain Reconstruction presented, seconded by Dillinger and approved unanimously.

Construction Updates:

Elwood Wilson Drain, E. M. Hare Arm Reconstruction - Liston stated we are continuing to work through some issues on this project. Work is progressing, we're just having the contractor move around a little bit while we work on some conflicts.

Canal Place Drain, Strongbow Gate Arm - Liston stated the pipe has been installed. We need our contractor to come back and do final grading when weather allows.

William Lehr Drain, Joseph & Brooks Arm (156th Street Reconstruction) - Liston stated this work has not started. We have had the preconstruction meeting, but the contractor is waiting on the box culverts for this project.

2022 Reconstruction of the W. S. Burnau Arm of the F. M. Musselman Drain - Liston stated the work is progressing on this project. We're almost up to the south property line of the Latty property with the pipe installation. We have started the swale on the north side of the road.

Jonas Rogers Drain, J. M. Gustin Arm Reconstruction - Liston stated we just had the preconstruction meeting last week with Indiana Earthworks. I anticipate that project to start soon. We do have a utility in the way, Zayo. We have approved that crossing permit for that to be lowered. I sent them an email this morning giving them permission to start that relocation work. 296th Street is a Tipton County maintained road and I have sent the permit to the Tipton County Highway to approve the road cut for this.

Clara Knotts Drain, Park Broadway Arm Phase 2 - Cline stated this project has not started yet. We're still dealing with utilities.

Clara Knotts Drain, Park Broadway Arm Phase 1 (Pending Asbuilts) - Cline stated we've got the asbuilts for the base bid.

Ream Creek Drain, Orchard Park Arm (Pending Asbuilts) - Cline stated I haven't heard from Burke since the end of February.

Duncan stated I asked them for an update this morning to see where they're at. They were scheduling the field work to do the asbuilts.

George Symonds Drain, Two Stage Ditch Reconstruction (Pending Final Report) - Liston stated the report is back on my desk and should be on the next agenda.

Flora Mendenhall Drain Reconstruction - Duncan stated I left a voicemail with White Construction on Friday.

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.

Emily Vestal Drain - Lochaven Complaint:

Ms. Jada Aidon, Ms. Tara Einterz, Ms. Beverly Teng, Mr. Chris Wolf and Mr. Jim Harter were present for this item.

The Surveyor stated you have a letter from Mr. Jim Harter, a Lochaven resident, that would like to address the Board today.

Harter stated we have a couple of issues. The current status of what's happening on the Vestal Ditch particularly through the Lochaven area it's been what I would call, coming from California a long time ago, clear cut across the bank. All trees, all vegetation have been removed. I think probably 25 to 30 feet from the actual creek itself, someplace in that area, which may be a normal part of dredging, etc. The issue is we have been unable to find any information about the project itself, any documentation, kind of went through the website in great detail and there was nothing that we could detect was there. When we talked to the Surveyor the first time we understood there was no plan for any sort of remediation, which would leave wide and long banks with no vegetation, which compared to what was there before, which was basically the same kind of wild and wetlands in most of that area is a big issue I think for the neighborhood and the potential to use Dillon Park right on the border. What we would like to understand, first of all just for our information so we don't waste people's time, kind of what is the approval process for these kinds of projects because it was a surprise frankly to everybody. We drove across the bridge and all the trees were gone. That's kind of exactly how we found out. Not intentional, I'm sure its just there was no communication at all either with us or the owner's association. We'd like to understand that process, we'd like to understand how we can get some degree of replanting along that area. I think to leave it naked is unsightly, it's going to impact the wildlife there. There was a lot of wildlife along there including a lot of beavers, foxes and all sorts of other creatures. Now we have basically a naked area as you cross. How do we move forward with this? I understand what the approval process is, if there is project information that we overlooked we'd be very happy to find out where that is and then discuss how we might be able to get at least some of the remediation done. I know it's being done in other places along the ditch where the culver work on 161st Street. When we started this whole process we did call the DNR, we had no idea of what was happening. They have an open case, they are extremely busy with the obvious landfill issues so they said "30 days, but please don't call us". They're supposed to come back with some kind of report or status as well.

Heirbrandt stated I appreciate you coming and sharing your concerns. Who would like to take this, Howard or the Surveyor, in regards to communication process and where that stands and who is communicated with.

The Surveyor stated this particular project is a maintenance project and in communicating notice the Statute requires us to notify the owners of the property that we're doing the work on, not the entire drainage shed, just those owners who we're doing work on. We did that, that notice went out to those owners. The clearing we have to do before April 1st. We have to get the trees down because of the Indiana Bat nesting season. That's a requirement of the United States Fish and Wildlife. Once the clearing is done we have the plans ready, we are going to be doing a 368 with DNR and IDEM which is a; it's called a 368 Process, we send them a form telling them that we're going to be doing the project, along with the plans. They sit down with us, go through anything that they see that may need a permit and we negotiate the permit requirements. That has not been done yet. We just had to get those trees down. Once everything goes through we're going to be getting three quotes from contractors to do the work since it's a maintenance job. We have the funds available to us in the fund, so we don't have to do any special hearings or assessments, either maintenance or reconstruction. As far as, you said it's going to be left unvegetated, that's a misnomer, we're not going to put any woody vegetation in, we have to do seeding on the ditch banks so there will be grass, but we do not put back woody vegetation.

Harter asked is that a policy of the County Board? Where does that particular piece come from?

The Surveyor stated IC 36-9-27-33.

Howard stated "shall not place woody vegetation" and they have the right; in fact if they ever need that easement again they're going to have to cut it all out. The Statute says if you take it down once, it's down, no sense in putting it back because that creek will need maintenance. None of us might be here, but it will need maintenance. Woody vegetation seems to get bigger and bigger.

The Surveyor stated also we only cut, as you said about 30 feet from the top of the bank, we have 75 feet of easement on both sides of that bank. We've done the minimal cutting that we need to do.

Harter stated I'm curious and I am obviously not an expert on any of this, but reading the City of Noblesville comments on the 161st Street work they're doing, it's a culvert I believe that they're replacing, that seemed to be a much more elaborate piece of reconstruction as far as I could tell. They talked about replacing some of the native plants, etc. I'm just kind of curious and that was also a DNR permit, I was just curious what the difference is.

The Surveyor stated we can't place it in the drainage easement. We have cleared for them, for their project. They have to do their project so we can do ours. They actually sped up on their schedule what they're replacement for that structure was for us because we were ready to do this project last year.

Harter stated just one other piece of curiosity, and this is kind of a lack of information we couldn't find, which is what is the underlying cause of doing this kind of clearing and dredging of the creek and how far down does it go. I cannot tell today kind of where that stops. There's a whole bunch of deadfall in the last fifty yards or so to 146th Street.

The Surveyor stated it starts somewhere in Dillon Park and I don't remember exactly where, but it goes all the way up to 171st Street.

Harter stated it looks like the 13th hole of the disk golf course approximately. So that doesn't necessarily go all the way to the culvert under 146th Street.

The Surveyor stated no, I don't believe it does.

Harter stated if there's a question about drainage that seems to be an obvious bottleneck and pretty clogged right now. Is that how you take that kind of thing; sorry for all the questions it's just an issue with a lot of people in the neighborhood. We're trying to understand what's happening.

The Surveyor stated I was told by one of the neighbors that we're doing this because of a subdivision that's going in, that is not true. The reason we're doing this is because the lake, the detention pond in Willow Lake, north of 171st Street, is staging too high when it rains. The reason it's staging too high is because the outlet pipe under 171st Street is at the bottom of the ditch and there's not enough flow in that to keep the water doing that staging. We're going to be lowering that at that point about two feet so we can free that outlet. In order to do that, the whole area is so flat, in order to get the gradient we need we had to go all the way to Dillon Park to get it.

Heirbrandt stated if you could, because we've got another meeting that we have to go to at noon, but I'm free if you look up my email or I'll provide my email to you, if you have any further questions please feel free to reach out to me. I'll do my best to work with the Surveyor's Office to try to get you some answers, but I apologize for any confusion because I could see that. I've gotten some phone calls from some people there and I understand what you're saying. I think the Surveyor gave you an explanation of what we do and why we're doing it.

Drainage Board Attorney - Pending Items:

IC 36-9-28.7 Stormwater Nuisance Ordinance - Howard stated I have that ready to go to the Surveyor for review and it will be at your next meeting. That ordinance is kind of an inverse of the findings, the one we had of the neighboring property owner who dammed up the upstream and then the nuisance ordinance is the upstream person gathers and cascades the water on the lower person. I don't think we have had any of those, maybe one or two, but essentially all it does is give us a duty to go out and investigate, prepare a report and the Surveyor estimated the cost of that, which is allowed by Statute to be \$500.00 per petition and then we have no other duties in that situation other than if we're subpoenaed to go testify in court. Fortunately, that looked like a constituent Statute down in the General Assembly where some legislator's neighbor's cousin's nephew had a problem and they tried to fix it with legislation because it does not fit in the flow of the rest of the Drainage Code. You'll have that at your next meeting.

Non-enforcement - Confidential Tag:

The Surveyor stated the office has ran into a confidential tag on a property that has asked for a non-enforcement. It happens to be a law enforcement officer that has a confidential tag on their property tax records. Since this is a non-enforcement and it's going to be recorded, how do we handle that.

Altman stated I think we refer to the landowner.

Howard stated I think you call it "occupant", parcel number.

Heirbrandt stated that makes sense to me.

Altman stated yes.

Howard stated just call it occupant with parcel ID number.

Altman stated I don't think if the occupant's owner. It would be the "property owner" has requested.

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

Mark Heirbrandt - President

Lynette Mosbaugh
Executive Secretary

Hamilton County Drainage Board
March 13, 2023