

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

March 22, 2021

The meeting was called to order Monday, March 22, 2021 at 9:03 a.m.

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

**Approval of Minutes of March 8, 2021:**

The minutes of March 8, 2021 were presented to the Board for approval.

Heirbrandt made the motion to approve the minutes of March 8, 2021, seconded by Altman and approved unanimously.

**Bid Opening - 2021 Vegetation Control:**

Howard stated the first bid is from Puddle Jumpers Aquatics with all required forms present and a bid of \$20,264.00. This appears to be the only bid on this project. Do any persons know of any other bids; none appearing I recommend they be referred to the Surveyor's Office for review and recommendation at your next meeting.

Heirbrandt made the motion to refer the bid to the Surveyor's Office for review and recommendation at the Board's April 12<sup>th</sup> meeting, seconded by Altman and approved unanimously.

**Schneider & Peirce Drain, John Schneider Arm - Sylvan Drive Extension:**

There were neither landowner present nor objections on file.

The Surveyor presented his report to the Board for approval.

"January 12, 2021

To: Hamilton County Drainage Board

Re: Schneider & Pierce Drain, John Schneider Arm, Sylvan Drive Extension

Attached is a drain map, drainage shed map and schedule of assessments for the extension of the Schneider & Pierce Drain, John Schneider Arm. This proposed drain is located in Noblesville Township.

I have made a personal inspection of the land described below. Upon doing so, I believe that the drain is practicable, will improve the public health, benefit a public highway and be of public utility and that the costs, damages and expenses of the proposed drain will probably be less than the benefits accruing to the owners of land likely to be benefited. The drain will consist of the following:

Open Ditch 49 ft.

The total length of the drain will be 49 feet.

The extension will begin at the existing north right of way line of Sylvan Drive and extend across to the south right of way line of Sylvan Drive.

The current rates for the Schneider & Pierce Drain are \$10.00 per acre for roads. The annual maintenance collection for this extension will be \$30.00

The nature of maintenance work required is as follows:

1. Bank erosion protection and/or seeding as might be required;
2. Removal of debris and/or blockages from existing open drain;
3. Removal of beaver dams;
4. Any other repairs necessary to restore proper flow to the open ditch.

The frequency with which maintenance work should be performed is annually as required by the condition of the drain.

The easements for the drain should be set at 75' from top of bank as set out in IC 36-9-27-33.

I recommend that the Board set a hearing for this proposal for March 22, 2021.

Sincerely,

Kenton C. Ward, CFM  
Hamilton County Surveyor

KCW/pl1"

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

Heirbrandt made the motion to approve the Surveyor's report, seconded by Altman.

Altman asked who petitioned?

The Surveyor stated there wasn't a petitioner. We started doing this last year or the year before last when the Highway has asked us to do clean out of a bridge structure.

Altman stated okay, so technically the Highway petitioned because under the statute they can petition as I recall.

Howard stated yes and you need a petitioner so we might just put that on the record as petitioner for all of these.

Heirbrandt asked the Highway Department is?

Howard stated yes.

Altman stated if its under that standing agreement the Highway Department is the petitioner.

The motion had been made and seconded to approve the Surveyor's report and approved unanimously.

**"FINDINGS AND ORDER**

**CONCERNING THE MAINTENANCE OF THE**

**Schneider & Pierce Drain, John Schneider Arm  
Sylvan Drive Extension**

On this **22<sup>nd</sup> day of March, 2021**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Schneider & Pierce Drain, John Schneider Arm, Sylvan Drive Extension**.

Evidence has been heard. Objections were presented and considered. The Board then adopted the original/amended Schedule of Assessments. The Board now finds that the annual maintenance assessment will be less than the benefits to the landowners and issues this order declaring that this Maintenance Fund be established.

HAMILTON COUNTY DRAINAGE BOARD

Steven C. Dillinger  
President

Christine Altman  
Member

Mark Heirbrandt  
Member

Attest: Lynette Mosbaugh  
Executive Secretary"

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

BEFORE THE HAMILTON COUNTY  
DRAINAGE BOARD  
NOBLESVILLE, INDIANA

IN THE MATTER OF THE  
RECONSTRUCTION OF THE  
**Schneider & Pierce Drain, John Schneider Arm, Sylvan Arm Extension**

**FINDINGS AND ORDER FOR RECONSTRUCTION**

The matter of the proposed Reconstruction of the **Schneider & Pierce Drain, John Schneider Arm, Sylvan Drive Extension** came before the Hamilton County Drainage Board for hearing **on March 22, 2021**, on the Reconstruction Report consisting of the report and the Schedule of Damages and Assessments. The Board also received and considered the written objection of an owner of certain lands affected by the proposed Reconstruction, said owner being:

Evidence was heard on the Reconstruction Report and on the aforementioned objections.

The Board, having considered the evidence and objections, and, upon motion duly made, seconded and unanimously carried, did find and determine that the costs, damages and expenses of the proposed Reconstruction will be less than the benefits accruing to the owners of all land benefited by the Reconstruction.

The Board having considered the evidence and objections, upon motion duly made, seconded and unanimously carried, did adopt the Schedule of Assessments as proposed, subject to amendment after inspection of the subject drain as it relates to the lands of any owners which may have been erroneously included or omitted from the Schedule of Assessments.

The Board further finds that it has jurisdiction of these proceedings and that all required notices have been duly given or published as required by law.

Wherefore, it is ORDERED, that the proposed Reconstruction of the **Schneider & Pierce Drain, John Schneider Arm, Sylvan Drive Extension** be and is hereby declared established.

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

HAMILTON COUNTY DRAINAGE BOARD

Steven C. Dillinger  
PRESIDENT

Christine Altman  
Member

Mark Heirbrandt  
Member

ATTEST: Lynette Mosbaugh  
Executive Secretary "

**S. E. Carpenter Drain - 191<sup>st</sup> Street Extension:**

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"January 19, 2021

To: Hamilton County Drainage Board

Re: S. E. Carpenter Drain, 191<sup>st</sup> Street Extension

Attached is a drain map, drainage shed map and schedule of assessments for the extension of the S. E. Carpenter Drain. This proposed drain is located in Wayne Township.



Wherefore, it is ORDERED, that the proposed Reconstruction of the **S. E. Carpenter Drain, 191<sup>st</sup> Street Extension** be and is hereby declared established.

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

HAMILTON COUNTY DRAINAGE BOARD

Steven C. Dillinger  
PRESIDENT

Christine Altman  
Member

Mark Heirbrandt  
Member

ATTEST: Lynette Mosbaugh  
Executive Secretary "

**Thorpe Creek Drain - Southeastern Parkway Extension:**

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"January 19, 2021

To: Hamilton County Drainage Board

Re: Thorpe Creek Drain, Southeastern Parkway Extension

Attached is a drain map, drainage shed map and schedule of assessments for the extension of the Thorpe Creek Drain. This proposed drain is located in Fall Creek Township.

I have made a personal inspection of the land described below. Upon doing so, I believe that the drain is practicable, will improve the public health, benefit a public highway and be of public utility and that the costs, damages and expenses of the proposed drain will probably be less than the benefits accruing to the owners of land likely to be benefited. The drain will consist of the following:

Open Ditch 177 ft.

The total length of the drain will be 177 feet.

The extension will begin at the existing north Right of Way line of Southeastern Parkway and extend across to the south Right of Way line of Southeastern Parkway.

The nature of maintenance work required is as follows:

1. Bank erosion protection and/or seeding as might be required;
2. Removal of debris and/or blockages from existing open drain;
3. Removal of beaver dams;
4. Any other repairs necessary to restore proper flow to the open ditch.

The frequency with which maintenance work should be performed is annually as required by the condition of the drain.

The easements for the drain should be set at 75' from top of bank as set out in IC 36-9-27-33.

I recommend that the Board set a hearing for this proposal for March 22, 2021.

Sincerely,

Kenton C. Ward, CFM  
Hamilton County Surveyor

KCW/pll"

Hamilton County Drainage Board  
March 22, 2021

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

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

Heirbrandt asked does this flow into Fall Creek?

The Surveyor stated no, it flows into the reservoir.

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

IN THE MATTER OF THE  
RECONSTRUCTION OF THE  
**Thorpe Creek Drain, Southeastern Parkway Extension**

**FINDINGS AND ORDER FOR RECONSTRUCTION**

The matter of the proposed Reconstruction of the **Thorpe Creek Drain, Southeastern Parkway Extension** came before the Hamilton County Drainage Board for hearing **on March 22, 2021**, on the Reconstruction Report consisting of the report and the Schedule of Damages and Assessments. The Board also received and considered the written objection of an owner of certain lands affected by the proposed Reconstruction, said owner being:

Evidence was heard on the Reconstruction Report and on the aforementioned objections.

The Board, having considered the evidence and objections, and, upon motion duly made, seconded and unanimously carried, did find and determine that the costs, damages and expenses of the proposed Reconstruction will be less than the benefits accruing to the owners of all land benefited by the Reconstruction.

The Board having considered the evidence and objections, upon motion duly made, seconded and unanimously carried, did adopt the Schedule of Assessments as proposed, subject to amendment after inspection of the subject drain as it relates to the lands of any owners which may have been erroneously included or omitted from the Schedule of Assessments.

The Board further finds that it has jurisdiction of these proceedings and that all required notices have been duly given or published as required by law.

Wherefore, it is ORDERED, that the proposed Reconstruction of the **Thorpe Creek Drain, Southeastern Parkway Extension** be and is hereby declared established.

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

HAMILTON COUNTY DRAINAGE BOARD

Steven C. Dillinger  
PRESIDENT

Christine Altman  
Member

Mark Heirbrandt  
Member

ATTEST: Lynette Mosbaugh  
Executive Secretary "

**Springs of Cambridge Drain - Section 12 Arm:**

There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"February 3, 2021

To: Hamilton County Drainage Board

Re: Springs of Cambridge Drain, Sec. 12 Arm

Attached is a petition filed by The Marina I, L.P., along with a non-enforcement request, plans, calculations, quantity summary and assessment roll for the Springs of Cambridge, Sec. 12 Arm to be located in Fishers, Fall Creek Township. I have reviewed the submittals and petition and have found each to be in proper form.

I have made a personal inspection of the land described in the petition. Upon doing so, I believe that the drain is practicable, will improve the public health, benefit a public highway, and be of public utility and that the costs, damages and expenses of the proposed drain will probably be less than the benefits accruing to the owners of land likely to be benefited. As per the plans by Cripe, Project No. 990460-30100, stamped approved January 21, 2021, the drain will consist of the following:

12" RCP	207 ft.
15" RCP	728 ft.
18" RCP	567 ft.
21" RCP	793 ft.
24" RCP	653 ft.
6" SSD	9,383 ft.

The total length of the drain will be 12,331 feet.

The subsurface drains (SSD) to be part of the regulated drain are those located under the curbs and those main lines in rear yards. Only the main SSD lines which are located within the easement or right of way are to be maintained as regulated drain. Laterals for individual lots will not be considered part of the regulated drain.

The sub-surface drains within the street right-of-way are being included which is consistent with previous sections of Springs of Cambridge. As such there will not be street trees within the right-of-way but will be located behind the sidewalk on the individual lots as shown on the landscape plans (Sheets L101 - L105). This complies with the Hamilton County Drainage Board's discussion of July 19, 2018 regarding street trees. (See Hamilton County Drainage Board Minutes Book 18, pages 204 to 206).

I have reviewed the plans and believe the drain will benefit each lot equally. Therefore, I recommend each lot be assessed equally. I also believe that no damages will result to landowners by the construction of this drain. I recommend a maintenance assessment of \$65.00 per platted lot, \$10.00 per acre for common areas, with a \$65.00 minimum, and \$10.00 per acre for roadways. With this assessment the total annual assessment for this drain for Section 12 will be \$3,780.50.

The petitioner has submitted surety for the proposed drain at this time. The sureties which are in the form of Letter of Credit from the developer are as follows:

Agent: The National Bank of Indianapolis  
Date: December 3, 2020  
Number: 430000003  
For: Storm Sewers and Monumentation  
Amount: \$584,367.00  
HCDB-2021-00001

I believe this proposed drain meets the requirements for Urban Drain Classification as set out in IC 36-9-27-67 to 69. Therefore, this drain shall be designated as an Urban Drain.

I recommend that upon approval of the above proposed drain that the Board also approve the attached non-enforcement request. The request will be for the reduction of the regulated drain easement to those easement widths as shown on the secondary plats for the Springs of Cambridge, Sec. 12 as recorded in the office of the Hamilton County Recorder.

I recommend the Board set a hearing for this proposed drain for March 22, 2021.

Kenton C. Ward, CFM  
Hamilton County Surveyor

KCW/stc"

Hamilton County Drainage Board  
March 22, 2021

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

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

The Surveyor presented a non-enforcement request for Springs of Cambridge Section 12 Arm to the Board for approval.

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

**"FINDINGS AND ORDER**  
**CONCERNING THE MAINTENANCE OF THE**  
**Springs of Cambridge Drain, Section 12 Arm**

On this **22<sup>nd</sup> day of March, 2021**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the ***Springs of Cambridge Drain, Section 12 Arm.***

Evidence has been heard. Objections were presented and considered. The Board then adopted the original/amended Schedule of Assessments. The Board now finds that the annual maintenance assessment will be less than the benefits to the landowners and issues this order declaring that this Maintenance Fund be established.

HAMILTON COUNTY DRAINAGE BOARD

Steven C. Dillinger  
President

Christine Altman  
Member

Mark Heirbrandt  
Member

Attest: Lynette Mosbaugh  
Executive Secretary"

**Springs of Cambridge/Bee Camp Creek, Sears/McCord Pointe Arm - McCord Pointe Section 3:**  
There were neither landowners present nor objections on file.

The Surveyor presented his report to the Board for approval.

"February 1, 2021

To: Hamilton County Drainage Board

Re: Springs of Cambridge-Bee Camp Creek, Sears/McCord Pointe Arm, McCord Pointe Section 3

McCord Pointe subdivision is located south of 96<sup>th</sup> Street and west of Georgia Road in the Town of McCordsville, Hancock County, Indiana. Under pre-developed conditions, storm water from the site drained north to Bee Camp Creek via an existing culvert under 96<sup>th</sup> Street and an existing swale on the Sears property. This swale was improved as the Sears/McCord Pointe Arm per my reported dated June 12, 2019 and approved by the Board on August 26, 2019. (See Hamilton County Drainage Board Minute Book 18, Pages 562-564.) Per the plans, the developer, CalAtlantic Homes of Indiana, Inc., installed a storm pipe from the subdivision's detention area to the north side of 96<sup>th</sup> street. Per requirements by this office, improvements have been made by the developer to the swale from 96<sup>th</sup> street to where the swale outlets into Bee Camp Creek at the south edge of Brooks Park, Sec. 5 Common Area 13. In addition, the developer also installed a new surface water culvert under 96<sup>th</sup> Street as an emergency overflow per the Hamilton County Highway Department requirements. The improvements received both Highway Dept. approval for work in the right-of-way and Outlet Permit from this office for stormwater discharge to the regulated drain. These two pipe systems and offsite swale in Hamilton

County are an arm to the regulated drain. The rest of the storm system in McCord Point subdivision, including the pond, is under the jurisdiction of the City of McCordsville and will not be maintained by Hamilton County.

At this time McCord Pointe Section 3 in Hancock County is proposed and the watershed and assessments should be changed and assessed to Hamilton County. Hancock County waived it's right to a Joint Board on McCord Pointe on November 1, 2018. (See Hancock County Drainage Board Minutes Book 4.) I recommend each lot be assessed equally. I also believe that no damages will result to landowners by the construction of this drain. I recommend a maintenance assessment consistent with other non-regulated drain subdivisions within the Springs of Cambridge / Bee Camp Creek watershed at a rate of \$35.00 per platted lot, \$5.00 per acre for common areas, with a \$35.00 minimum, and \$10.00 per acre for roadways. With this assessment the total annual assessment to be collected by Hancock County for this arm will be \$1,288.00.

I recommend the Board set a hearing for this proposed drain for March 22, 2021.

Kenton C. Ward, CFM  
Hamilton County Surveyor

KCW/jh"

Altman asked does this development reverse the flow?

The Surveyor stated no, it doesn't. It was draining through a culvert onto the Sears property to begin with.

Altman asked is this okay? I'm just curious why we weren't picking up the assessment before then.

The Surveyor stated we weren't assessing Hancock County before on the farm field.

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

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

**"FINDINGS AND ORDER**

**CONCERNING THE MAINTENANCE OF THE**

**Springs of Cambridge/Bee Camp Creek Drain  
Sears/McCord Pointe Arm, McCord Pointe Section 3**

On this **22<sup>nd</sup> day of March, 2021**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Springs of Cambridge/Bee Camp Creek Drain, Sears/McCord Pointe Arm, McCord Pointe Section 3 Arm.**

Evidence has been heard. Objections were presented and considered. The Board then adopted the original/amended Schedule of Assessments. The Board now finds that the annual maintenance assessment will be less than the benefits to the landowners and issues this order declaring that this Maintenance Fund be established.

HAMILTON COUNTY DRAINAGE BOARD

Steven C. Dillinger  
President

Christine Altman  
Member

Mark Heirbrandt  
Member

Attest: Lynette Mosbaugh  
Executive Secretary"

**Little Eagle Creek Drain - Troy Estates Arm:**

There were neither landowner present nor objections on file.

The Surveyor presented his report to the Board for approval.

"December 7, 2020

To: Hamilton County Drainage Board

Re: Little Eagle Creek Drain; Troy Estates Arm

Attached is a petition filed by Lennar homes of Indiana Inc., along with a non-enforcement request, plans, calculations, quantity summary and assessment roll for Troy Estates, Little Eagle Creek Drain to be located in Clay Township. I have reviewed the submittals and petition and have found each to be in proper form.

Upon reviewing these plans, I believe that the drain is practicable, will improve the public health, benefit a public highway, and be of public utility and that the costs, damages and expenses of the proposed drain will probably be less than the benefits accruing to the owners of land likely to be benefited. The drain will consist of the following:

12" RCP	2,451 feet	24" RCP	153 feet
15" RCP	400 feet	30" RCP	105 feet
18" RCP	1,376 feet	SSD	2,905 feet
21" RCP	822 feet		

The total length of the drain will be 8,212 feet.

The subsurface drains (SSD) to be part of the regulated drain are those located main lines in rear yards. Only the main SSD lines which are located within easements or right of way are to be maintained as regulated drain. Laterals for individual lots will not be considered part of the regulated drain. The portion of the SSD which will be regulated are as follows:

Rear Yard Lots 1 to 4 and 5 to 8 from Str. 163 to 165  
Rear Yard Lots 9 to 12 from Str. 150 to 110 feet east of Str. 166  
Rear yard lots 14 to 20 from Str. 126 to Str. 150  
Rear yard lots 21 to 23 from 100 feet east of Str. 125 to Str. 126.  
Rear Yard Lots 24 to 28 and 29 to 33 from Str. 140 to 70 feet north of Str. 142.  
Rear yard lots 34 to 39 from Str. 117 to Str. 120.

The drain maintenance shall include the inlets, outlets, sub-surface drains and reinforced concrete pipes that are listed as part of the new regulated drain. The maintenance of the detention pond such as, erosion control or mowing and the maintenance of water quality BMP structures will be the responsibility of the Troy Estates HOA or the city of Carmel. The Board will also retain jurisdiction for ensuring the storage volume for which the pond was designed will be retained. Thereby, allowing no fill or easement encroachments.

I have reviewed the plans and believe the drain will benefit each lot equally. Therefore, I recommend each lot to be assessed equally. I also believe that no damages will result to landowners by the constructor of this drain. I recommend a maintenance assessment of \$65.00 per lot, \$10.00 per acre for common areas, with \$65.00 minimum, and \$10.00 per acre for roadways. With this assessment the total annual assessment for this drain will be \$3,203.50.

The petitioner has submitted surety for the proposed drain at this time. The sureties which are in the form of a performance bond are as follows:

Agent: Atlantic Specialty Insurance Company  
Date: November 23<sup>rd</sup>, 2020  
Number: 800055112  
For: Storm Sewer/Subsurface Drain/Stormwater Pond/Erosion Control/Stormwater BMP  
Amount: \$882,756.00

I believe this proposed drain meets the requirements for urban drain classification as set out in IC 36-9-27-67 to 69. Therefore, this drain shall be designed as an urban drain.

I recommend that upon approval of the above proposed drain that the board also approve the attached non-enforcement request for Troy Estates. The request will be for the encroachment into the statutory regulated drain easements as shown on the secondary plat for Troy Estates.

I recommend the Board set a hearing for this proposed drain for March 22, 2021.

Kenton C. Ward, CFM  
Hamilton County Surveyor

KCW/pll"

Hamilton County Drainage Board  
March 22, 2021

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

Heirbrandt made the motion to approve the Surveyor's report along with the non-enforcement request for Troy Estates, seconded by Altman and approved unanimously.

**"FINDINGS AND ORDER**

**CONCERNING THE MAINTENANCE OF THE**

**Little Eagle Creek Drain, Troy Estates Arm**

On this **22<sup>nd</sup> day of March, 2021**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Little Eagle Creek Drain, Troy Estates Arm**.

Evidence has been heard. Objections were presented and considered. The Board then adopted the original/amended Schedule of Assessments. The Board now finds that the annual maintenance assessment will be less than the benefits to the landowners and issues this order declaring that this Maintenance Fund be established.

HAMILTON COUNTY DRAINAGE BOARD

Steven C. Dillinger  
President

Christine Altman  
Member

Mark Heirbrandt  
Member

Attest: Lynette Mosbaugh  
Executive Secretary"

**Private Drain Petition Hearing - Sawyer vs Westfield Commercial Ventures:**

Mr. Andrew Molnar, Mr. Greg Ripple, Mr. Matt Skelton, Mr. Jim Sawyer and Ms. Ann Sawyer were present for this item.

The Surveyor stated we received a request from Matt Skelton for this to be tabled.

Skelton stated we requested a postponement or continuance. I'm still getting up to speed a little bit on the facts here and I do think there is a solution that is kind of baked into a process that we're well on our way through. This property that's the subject of this petition is part of a 50-acre commercial development called Legends Crossing. Its master planned everything to the east of the parcel over to Dartown Road has been through zoning, primary platting, development plan approval and all the plans that have been approved that your team, the Surveyor's team has been a part of reviewing show this area being filled. If there's a need for a change I think that conversation needs to be had here before we can get our construction plans approved, but I doubt we're going to solve the problem here at this hearing. I think there are some other contributing factors that have taken place over the last 25 years on the adjacent property that are lending themselves to some of the issues that are being complained about too. I don't have all my facts together yet.

Altman asked Skelton, who do you represent?

Skelton stated I represent Westfield Commercial Ventures, LLC.

Altman asked are they the respondent or the petitioner?

Skelton stated the respondent.

Altman asked is the petitioner represented? I think we ought to hear from the petitioner on the request.

Dillinger asked the petitioner, Jim Sawyer, if he would like to speak to the Board.

Sawyer stated we own the property at 120 State Road 32 East, Westfield. I've owned the property for 42 years. It's drained perfectly and when the land sold a year and a half ago the gentleman came to me wanting to buy my property.

Altman stated before we get into that, the respondent has requested that this hearing be continued for three weeks so that the neighbor that you've complained against will have time to bring his attorney up to speed and maybe work with you directly. The reason I called you up here was to determine whether you objected to that continuance, if we had an issue about deferring it for three weeks.

Sawyer stated yes, there is an issue because every time it rains, I spend ten to twelve hours pumping off my driveway. My driveway gets 18 inches deep; I block cars on the north end of my property who cannot leave and it's an extreme inconvenience. I spent a lot of money buying pumps to pump the water out to State Road 32 and every time it rains it's a real problem.

Altman asked were you contacted by your neighbor or Mr. Skelton about the request to continue the hearing?

Sawyer stated no.

Altman stated that's a conundrum.

Sawyer stated it's going to rain for three or four more days this week and I've spent a lot of money; I've got an excavator out to dig a trench to get the water closer to State Road 32 and I spend hours pumping.

Altman stated right now we're trying to decide whether it's equitable to continue this hearing under the circumstances.

Skelton stated the things that I didn't get into with the initial explanation why we wanted the request; I don't know if you want to open the hearing and enter this as part of the hearing or what, but here are a lot of the...

Altman stated I don't think your competent to testify quite honestly. Is your client here.

Skelton stated my client is here. What I do know and what we were able to confirm on Friday with the planning staff of the City of Westfield is that a lot of the activities he's complaining about being interfered with are not supposed to be happening on his property. His property is almost 100% impervious surface area. There's never been a development plan approved, there's never been a drainage review, there's untreated storm water going into the system that is contributing to this problem. There's more to this and I think that's what we need to spend our time working on. If it's three weeks, then it's three weeks.

Altman stated I'll defer to the attorney.

Howard stated it's in the Board's discretion. The hearing has been properly noticed and I guess the question is, has the Surveyor heard anything about a solution?

The Surveyor stated no.

Altman asked have we done any investigation on this?

The Surveyor stated Conover has spent quite a lot of time on this if you'd like to hear from him.

Altman stated yes, I'd like to know what caused this problem that we're dealing with today with the backups.

Conover stated this is going back years. You can see this drainage swale that's been in to allow this property to drain, 2014, 2016, 2019. You can see the defined...

Altman asked when did that swale go in?

Conover stated it was about 1998.

Altman stated then it's potentially a prescriptive easement, correct? Over the course of time even if there wasn't permission.

Howard stated it's not regulated, right? It's just a swale.

Conover stated to the east the swale goes into a regulated drain. Topography shows the natural flow is going over this. You can see dirt piled up in that swale. Mr. Sawyer's property is stacking the water up. The fill was brought in and blocked the natural surface watercourse. Mr. Sawyer has bought a pump to pump the water over to State Road 32. There's high ground through there and it's INDOT right of way. They won't allow Mr. Sawyer to go in and dig that out to get the water to drain that way.

Altman asked are there any improvements on the respondent's property that would be harmed by opening up that swale immediately? If the water was allowed to flow through as it did before, is that going to damage anything on the respondent's property as it sits today?

Conover stated no more than it had in the past.

Altman asked there's no development on the respondent's property?

Conover stated not at this time.

Altman stated I don't know why we would allow a continuance at this point, quite honestly, that wasn't properly noticed when we've got an immediate problem and the squabbles can be decided later, but this is immediate damage to the petitioner's property and it was an intentional act.

Skelton stated I'm not prepared to get all the way into this yet, but I think there may be some question as to whether this even qualifies as a mutual drain.

Altman stated at this point we don't know and right now it's damaging a property. Your clients are picking up damages if they guessed wrong. Is that what you want?

Skelton stated we're prepared to deal with them privately, but there may be a jurisdictional question here. I don't know the answer.

Altman stated all I can tell is it looks back for over 20 years that this water's gone that way and I think we've got pretty solid jurisdiction.

Skelton stated within the last year another 20% of the site has become impervious. There's no longer any sheet drainage. The natural place where water wants to be stored here is in a place that has been caused to be impervious surface area without any zoning approvals.

Altman stated I understand that Mr. Skelton, but this type of self-help is wild west.

Skelton stated I understand.

Altman stated this is the wild west where your clients came in and blocked it.

Skelton stated I think there's two paths that are going to converge that are going to wrestle these questions.

Altman stated understood, but what do we do in the meantime while you sort it out and let this guy continue to flood? Is that the right thing to do Mr. Skelton?

Skelton stated I think we'd have a game plan within the three weeks.

Altman stated well, it's going to rain.

Skelton stated I understand. This may not get fixed within three weeks.

Altman stated I know how it needs fixed to keep the flooding from continuing until you sort things out with no damage to your client.

Skelton stated I would argue that there is some.

Altman stated and what is it.

Skelton stated this site is being developed for a commercial project.

Altman asked is it under development currently?

Skelton stated obviously, yes.

Altman asked are there bulldozers on there, fixing things?

Skelton stated there are not today. We're up at the tail end of the construction plan approval process with the city and that's what I mean. This solution is going to be baked into that approval now that this has been raised. All of our plans to date show this area being filled. The Surveyor's Office and the City of Westfield has been part of reviewing those plans. Now that this has been raised, I'm sure this issue is going to get wrestled to the ground through that process. That may take longer than three weeks, but I'm sure we can have a game plan within three weeks.

Altman stated I've got a real problem continuing it while you sort out everything and the fight between the neighbors because right now, we've got an immediate problem.

Heirbrandt asked would you be able to help him in the meantime to get the water off of his property by any means? Work with him to get the water off of his property especially given there's rain coming this week.

Skelton stated without replacing that channel the way it was my fear is there is a regulated drain outlet that stubs on the south part of this property.

Heirbrandt stated but that's controlled by INDOT.

Skelton stated I don't know the answer to that. I'm sorry, I'm not as informed as I need to be.

Howard stated if it's controlled by INDOT you're not going to fix it in three weeks unless you're a miracle worker.

Skelton stated the regulated drain inlet is in the center of the Sawyer property and it's draining today. That's open, where he's pumping the water finds its way to that inlet and it goes south across State Road 32 into a large retention facility. That's what's happening today and that's where the water kind of wants to go. It wants to go south and east.

Heirbrandt stated but this is costing him (Sawyer) money to pump it today.

Altman stated with a prescriptive easement where this guy established a channel and has been used for 20 some years and your guy bought it.

Skelton stated in response to Heirbrandt's question, I need to speak with my client.

Heirbrandt stated that's fine, but I want you to work it out with Sawyer too, whether he would be reimbursed for any of his time and efforts. That's not fun. I've dealt with it before.

Altman stated I've been on the other end of the trash pile.

Heirbrandt stated I want to make sure whatever you do to make sure you can work something out and then come back.

Skelton asked, now?

Heirbrandt stated yes.

Altman stated yes, I'm not going to vote to continue this thing without a resolution today.

Conover stated just for clarification Skelton talked about the mutual drain. The private drain petition addresses both mutual drains and natural surface water courses. I think we're looking at this as more of a natural surface water course in addressing this petition rather than the mutual drain.

Altman made a motion to continue this item for a few minutes, seconded by Heirbrandt and approved unanimously.

**Ream Creek - Drainage Easements:**

The Surveyor stated we have our first easement for Ream Creek of the five that we're seeking. This is from Sunrise Residential, LLP on Lot 142. We're seeking to purchase a ten-foot drainage easement off the back end of that lot.

Altman asked is it a purchase?

The Surveyor stated yes, it is.

Altman made the motion to accept the drainage easement as presented, seconded by Heirbrandt and approved unanimously.

**Professional Services Agreement - On-Call Phase II:**

The Surveyor stated we have the professional services for the on-call services for the MS4 project. This is from Burke for a not to exceed \$30,000.00.

Altman asked is that our form?

Howard stated yes.

Altman stated okay, this is our contract.

The Surveyor stated yes, they put it into their system.

Altman asked and you checked to make sure it is our contract?

The Surveyor stated not word for word, but I've scanned it enough to find key words.

Altman stated okay, I saw parts that looked like it and parts that didn't.

Howard stated I read it this morning and it looked surprisingly familiar.

Altman made the motion to approve the Professional Services Agreement with Christopher Burke Engineering for the On-Call Phase II contract in an amount not to exceed \$30,000.00, seconded by Heirbrandt and approved unanimously.

**Professional Services Agreement - Beaver & Brooks Drain Reconstruction:**

The Surveyor stated GAI Consultants is the engineering company being used by Fishers for the roundabout at Hoosier Road and 106<sup>th</sup> Street. This is necessitating the reconstruction of the Beaver & Brooks Drain. They are proposing to do the survey work needed for a total of \$39,800.00. In order to meet our timeline to have our portion of it done before Fishers starts their roundabout, I would recommend the Board approve this. The amount, we believe, would be about the same as any other or within the range of another vendor.

Altman asked and we're not able to do this inhouse?

The Surveyor stated no, we're swamped.

Heirbrandt made the motion to approve the Professional Services Agreement with GAI Consultants for the Beaver & Brooks Drain Survey in the amount of \$39,000.00, seconded by Altman and approved unanimously.

**West Fork White River - DNR Restoration Letter:**

The Surveyor stated we got this from DNR and I forwarded this on to Brad (Davis).

Altman stated I couldn't tell what the problem was.

The Surveyor stated I'm not sure what the problem is either, but I figured between Brad and his bridge group they would figure it out. This is for the Board's information.

Altman asked but they are working on it in Highway?

The Surveyor stated I did send it to Brad.

Altman stated at the Commissioner's meeting lets make sure he has it and is aware of it.

**Final Report:**

The Surveyor presented the following final report to the Board for approval.

**"To: Hamilton County Drainage Board**

**March 12, 2021**

**Re: Waltz, Warman, Booth, and Dickover Drain: Beck's Hybrid 2019 Reconstruction**

Attached are GPS data, and other information for the Beck's 2019 Reconstruction. An inspection of the drainage facilities for this reconstruction was completed by Andrew C. Conover on September 4, 2019 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 August 9, 2019. The report was approved by the Board at the hearing held August 29, 2019. (See Drainage Board Minutes Book 18, Page 558)

The changes are as follows: the initial report indicated a replacement of 332 feet. However, Beck's Hybrids chose to replace the tile for a total of 2,118 feet. This was done with 2035 feet of 15" RCP and 83 feet of 18" RCP. The replacement of tile took place between Station 63+65 and Station 84+83. The project removed 735' of 14" tile, 1300 feet of 16" tile, and 83 feet of 18" tile. The length of the drain due to the changes described above is now **2,118 feet**. The project resulted in 0 additional footage to the drain's overall length.

The work was completed with existing statutory regulated drain easement and the project was paid for by Beck's Hybrids.

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

Sincerely,

---

Kenton C. Ward, CFM  
Hamilton County Surveyor"

Heirbrandt made the motion to approve the final report presented, seconded by Altman and approved unanimously.

**Capital Asset Notification:**

The Surveyor presented a Capital Asset Notification to the Board for the Waltz, Warman, Booth & Dickover Drain for approval.

Altman made the motion to approve the Capital Asset Notification presented, seconded by Heirbrandt and approved unanimously.

**Citizens Energy Group - Service Advisory Board:**

The Surveyor stated we have two sets of minutes from the Service Advisory Board from January 19, 2021 and February 16, 2021. He asked if there were any questions.

Altman asked is this a compensated meeting?

The Surveyor stated no.

Altman stated you're starting to get quorums.

The Surveyor stated the other entities are starting to appoint people again.

**Preliminary Variance Request - Fill and Excavation along White River:**

Ms. Peggy Shepherd was present for this item.

The Surveyor presented Cash's report to the Board.

"Re: White River - Variance Preliminary Introduction

March 8, 2021

To: Hamilton County Drainage Board

Project Name: Milestone Contractors Fill & Excavation along White River

Petitioner: Milestone Contractors

Summary:

Milestone Contractors requests to present their proposal for site grading and installing flood plain compensatory storage as part of the Milestone Contractors fill & excavation project along White River. This proposal will require the approval of a variance from Ordinance No. 09-26-16A for fill in the floodplain of White River. The project site is located on the west side of White River, northeast of 160<sup>th</sup> and River Road in an unincorporated part of Noblesville Township. The plans are being designed by Christopher B. Burke Engineering, LLC.

The engineering design for the flood plain compensatory storage area has also been reviewed by Indiana Department of Natural Resources (IDNR) - Division of Water, as well as, Indiana Department of Environmental Management (IDEM). Part of the review by IDNR has been the requirement to restore flow area to match 1973 conditions.

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.

Steven T. Cash  
Plan Reviewer"

Altman asked do we have a GIS map of this? All we have is a road map that doesn't show us anything.

The Surveyor stated at this point in time I recommend that you allow the variance for preliminary approval.

Altman asked what are they dumping in the hole? Are they knocking down a building and just dumping it in the hole? That's what I couldn't tell.

The Surveyor stated I couldn't tell you, but we do have Peggy Shepherd here from Burke.

Shepherd stated they said it was stuff they're excavating from their different projects, road projects. I know it's all stuff that IDEM and the Corps have approved.

Altman stated there's talk about a building on there.

Shepherd stated there's a building south of where Stony Creek comes in. It's never met the flood protection grade, never had a permit so they're demolishing it.

Altman asked they're hauling all that construction debris away?

Shepherd stated just for that building, but all the dirt that's been piled up brought to the site previously, they're getting rid of that and dumping it into part of the lake.

Altman asked and this will be regulated by Indiana, ultimately?

Shepherd stated the plan that's been permitted by DNR and the Corps and IDEM is here's the maximum, you shall not fill above this, this is what you're putting in and this is the mitigation you're doing and it's satisfied all of them with the plans.

Altman made the motion to give preliminary approval provided that the debris from the building that's being demolished is taken away as any other person would have to do and that the materials are approved by the State that go into the hole and you meet our 3:1 requirements, seconded by Heirbrandt and approved unanimously.

**Preliminary Variance Request - Fill in the Floodplain on Sand Creek:**

The Surveyor stated the petitioner for this item has asked that this be removed from the agenda at this time.

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

**Private Drain Petition Hearing - Sawyer vs Westfield Commercial Ventures:**

Altman asked Duncan, would you tell Skelton that we expected them to be talking to Sawyer? We're not going to wait all day on this.

Heirbrandt stated they need to work out something with the petitioner.

Howard stated we're about 20 minutes from being done.

Altman asked Conover, would you go with Sawyer to speak with them? They had enough time to chat out there. We need a resolution of what we're doing in between.

**Variance Request - Thorpe Creek Construction in a Floodplain:**

Mr. Jim Pence was present for this item.

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

"March 17, 2021

To: Hamilton County Drainage Board

Re: Thorpe Creek, Variance for 12301 Florida Road, DV-2021-00001, Parcel No 13-12-31-00-00-004.000

Attached is a request by Justin Collins requesting approval of a variance from the following ordinance and standard in connection with the 12301 Florida Road project:

- Ordinance No. 09-26-16A: regarding fill in the flood plain.

Summary:

As part of a new single residential house project, the petitioner proposes to install a driveway structure across Thorpe Creek which results in fill being placed in the floodplain. To comply with Hamilton County requirements to offset the fill, the project will excavate compensatory floodplain storage along Thorpe Creek. The construction will require placing 732.42 cubic yards of fill within the floodplain and removing 2,398.56 cubic yard from the floodplain. The cut/fill ratio meets the standard 3:1 ratio required for consideration of the variance with a proposed ratio of 3.28:1.

This proposal received preliminary concurrence by the Drainage Board on February 22, 2021.

The engineering review has been conducted by Joseph Miller of Banning Engineering. See attached email dated January 29, 2021.

Due to the proposed construction in the floodway, a permit has been obtained from the Indiana Department of Natural Resources-Division of Water. (See attached DNR permit).

Staff Recommendations:

1. If this variance is approved by the Drainage Board, the Surveyor has recommended that as a condition of approval the following items be met:
  - a. Protection of floodplain compensatory area with dedicated easement. Easement to be in favor of the Hamilton County Drainage Board and Hamilton County Commissioners.
  - b. Surety to be posted to cover the construction costs of the flood plain compensatory storage area. The amount of the surety should be 120% of the engineer's estimate.
  - c. An engineer's estimate or copy of the contract for the storage area to be submitted along with the surety.

2. The Surveyor also requests the following conditions be met for release of surety:
  - a. Site inspection approval by Surveyor's Office.
  - b. Submittal of as-built drawings showing the cut and fill sections and dirt balances. As-built drawings are to be stamped and sealed by a professional engineer.
  - c. As-built drawings to be reviewed by Banning for compliance.
  - d. Fulfillment of developer financial responsibility for review fees incurred.
3. The following is to be placed on the secondary plat or recorded against the parcel: The maintenance of the floodplain compensatory area, including but not limited to sediment removal, erosion control along the banks, mowing and aquatic vegetation control will be the responsibility of the owner of record. The Board will retain jurisdiction to enforce the storage volume for which the floodplain compensatory area was designed will be retained, thereby, allowing no fill or easement encroachments. In the event that the owner, in the sole discretion of the Board, fails to adequately maintain the flood compensatory area, after 30 days written notice to the owner of record, the Board may perform the required maintenance and assess the cost thereof to the owner of record as a special assessment.

Based on this information, this report is respectfully submitted for your consideration.

Sincerely,

Steven T. Cash  
Plan Reviewer

STC:stc"

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

**F. M. Musselman Drain, Burnau Arm Reconstruction - Final Report:**

Ms. Carol Hazelwood was present for this item.

Liston presented his report to the Board for approval.

"March 11, 2021

TO: Hamilton County Drainage Board

RE: F. M. Musselman Drain, W.S. Burnau Arm Reconstruction

Please regard this as the Inspector's Final Report on the F. M. Musselman Drain, W.S. Burnau Arm Reconstruction located in Section 28, Township 19 North, Range 5 East in Noblesville Township, Hamilton County, Indiana.

The initial hearing for the F. M. Musselman Drain, W. S. Burnau Arm reconstruction was held April 23, 2018 for the Surveyor's Report dated February 13, 2018. The hearing was tabled with instructions from the Board to downsize the scope of the project (HCDB Minute Book 18, Pages 110 - 126). At the January 27, 2020 meeting of the Hamilton County Drainage Board the hearing for the F. M. Musselman, W.S. Burnau Arm Reconstruction was untabled and the revised Surveyor's Report dated December 20, 2019 was approved and the Findings and Orders signed (HCDB Minute Book 19, Pages 125 - 132).

At the January 27, 2020 meeting of the Hamilton County Drainage Board the contract for the F. M. Musselman Drain, W. S. Burnau Arm Reconstruction was awarded to Hoosier Pride Excavating for \$387,735.92 (HCDB Minute Book 19, Page 132).

The cost estimate for the F. M. Musselman Drain, W. S. Burnau Arm Reconstruction was \$445,896.31.

The F. M. Musselman Drain, W. S. Burnau Arm reconstruction provided an improved drainage outlet for areas in the vicinity of the intersection of 191<sup>st</sup> Street and Mallery Road. The project included the installation of 925' of 12" HDPE pipe (new drain arm to the Ogle property east of Mallery Road), 8' 0f 8" HDPE pipe, 685' of 6" SSD with 2 risers, 39' of 12" RCP Pipe under Mallery Road, Six 48" MH Structures with Castings, approximately 690' of new detention area, 255' of Outlet Channel, new 8' x 3' concrete box culvert crossing under 191st Street, 730' of Grass Waterway, implementation of erosion control measures on the project, leveling of spoil material from the dredging and seeding.

During the reconstruction of the F. M. Musselman Drain, W. S. Burnau Arm there were two notable changes during the reconstruction and that was the elimination of 885 feet of 10" Dual Wall HDPE Tile and the elimination of 10.32 ton of riprap.

There was One (1) Change Order on this project for additional work or field revision on the project as allowed by IC 36-9-27-80.5. The change orders is as follows.

Change Order # 1 - Dated August 27, 2020, Approved September 14, 2020 (HCDB Minute Book 19, Page 326)

Hamilton County Drainage Board  
March 22, 2021

The following items are an addition to the F. M. Musselman Drain, W. S. Burnau Arm Reconstruction being done by Hoosier Pride Excavating.

Item 4 - 48" Manhole w/ Casting and Marker	\$2,596.00
Item 14 - 6" SSD Riser w/ Concrete Collar	\$ 200.00
#53 Stone Farm Crossing	\$1,601.60
#8 Stone	\$ 900.00
12" CMP	\$ 960.00
6" Dual Wall HDPE SSD	\$1,340.55
Erosion Control Blanket	\$ 645.00
Total Cost of Change Order # 1	\$8,252.15

The following items were not billed for on the contract and therefore their costs were deducted from the contract with Change Order #1.

Item 15 - 10" Dual Wall HDPE Tile	\$13,500.00
Item H3 - Rip Rap (10.32 Ton)	\$ 464.40
Total Cost of Deductions from this Contract	(-\$13,964.40)

The following is a breakdown of all costs associated with the F. M. Musselman Drain, W. S. Burnau Arm Reconstruction completed by Hoosier Pride.

Pay Application # 1 Total	\$180,609.60
Retainage	\$27,091.44
Amount Paid to Hoosier Pride (05/27/2020)	\$153,518.16
Pay Application # 2 Total	\$201,414.07
Retainage	\$30,212.11
Amount Paid to Hoosier Pride (09/29/2020)	\$171,201.96
Pay Application # 3 Retainage (10/13/2020)	\$57,303.55
Total of Pay Applications 1 - 3	\$382,023.67
Professional Services - Engineering/Staking/As-builts	\$99,130.00
Total Reconstruction Costs	\$481,153.67

	Cost Estimate	Actual Final Cost
Soft Cost for Engineering & Easements	\$99,130.00	\$99,130.00
Construction (\$387,735.92 + \$58,160.30 Contingency)	\$445,896.31	\$382,023.67
	\$545,026.31	\$481,153.67

The soft cost is being assessed to the entire W.S. Burnau Arm. At the January 27, 2020 hearing the Hamilton County Drainage Board deferred the assessments for the area to the north that are not benefitted by the current reconstruction. This affected 20 parcels with 202.48 acres total. Those 20 parcels will be added to Proper Tax as a deferred assessment with a rate of \$267.58 per acre so the future assessments will be found by title searchers. If the parcels are developed within the next 20 years, the assessment will be collected and placed into the F. M. Musselman Drain maintenance fund since that is where the original cost were paid from. The total deferred assessment totals \$54,179.72. The remaining \$44,950.28 will be added to the construction cost for the parcels in the south area of the W. S. Burnau Arm. There has been 3 right-of-way splits for 196<sup>th</sup> Street since the original hearing and 0.64 acres will be removed from the deferred assessment and added to County Highways current assessment. This makes the final deferred area 201.84 acres with future assessments of \$54,008.46.

The area benefitted by the construction is the south area of the W. S. Burnau Arm. There are 32 parcels benefitted by the construction that will for the construction cost. They will be assessed \$382,023.67 for construction and \$44,950.28 for their portion of the soft coast for a total of \$426,973.95. The rate of assessment was proposed at \$267.58 per acre for soft cost and \$2,144.23 for construction cost for a total rate of \$2,411.81. The new rate based on the actual cost will be \$267.58 per acre for soft cost and \$1,834.33 for construction cost for a total rate of \$2,101.91. The assessment roll includes \$171.26 from right-of-way split in deferred area to make the total certified assessment \$427,145.98. These assessments will be certified to start collections for Spring 2021.

The Hamilton County Highway Department will have an assessment as follows. The cost for crossing 191<sup>st</sup> Street and Mallory Road will be assessed to them. The cost estimate was \$111,247.34; Hoosier Pride's bid was \$96,736.82; but change order #1 reduced that cost by \$464.40 for 10.32 tons of riprap that was not needed. The final lump sum is \$96,272.42. The County Highway has 9.93 acres of roads assessed to the north shed and it has a \$2,657.08 assessment for the soft cost. That assessment will be added to the current assessment roll instead of being deferred until developed. They have 15.60 acres of roads affected by the construction and the assessment for that portion is \$32,789.80. There was a right-of-way split that removed \$171.26 for 0.64 acres from 3 parcels and that will be added to their assessment. Their total assessment is \$131,890.56.

The \$427,145.98 will be collected starting Pay 2021 and may be paid over a 10-year period with a 3% interest. The total to collect including the \$54,008.46 deferred assessment will be \$481,154.44.

Statement of all Incurred Expenses Paid signed by the contractor as required in IC 36-9-27-82(b) was received on August 24, 2020.

Engineering, Construction Staking and As-built Drawings were done by VS Engineering. As-built Drawings were submitted by VS Engineering. Revised as-built drawings were approved March 2, 2021.

As of March 11, 2021, I hereby attest to and agree that the reconstruction was completed according to specified plans and have approved such work under IC 36-9-27-82(a). All inspections have been completed with Hoosier Pride.

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

Respectfully,

Jerry L. Liston  
Hamilton County Surveyor's Office"

Hazelwood stated thank you to the Board and all of your hard work. You've done a lot, but we still have a problem. I know that Mrs. Williams told me she sent pictures to the Board. I have pictures also, of the rain that we just had last week. We're still flooding, not as bad. The drain worked beautiful last June. We saw all this water flowing out. There's a pile of rocks and Gary (Duncan) and I were just talking that's utilities. Wires are still rolled up on top of the culvert. It's coming, the water, what we've seen. I do know that it was mentioned the water is not coming from the east side of the fields, it's coming from the west side and I do have pictures to show where it's coming around the pond and down and then it floods our areas. Mallery Road, those people also had quite a bit of flooding again. What's the answer? I don't know either. What can we do? When we talked of this last year, two years ago, three years ago, it was to be a swale. Everything I've read on a swale is it's narrow and farm equipment can go through. We've got a ditch. We have eight feet from our house to where you slide right off into about five feet deep ditch.

Heirbrandt asked Duncan, what are your thoughts? Thanks for coming and letting us know about this.

Hazelwood stated we do appreciate what was done. It was much, much greater devaluation to our property than what we had anticipated. We thought it was a swale. Okay, we can go over. If a tractor tried to go over this, they'd be upside down.

Duncan stated the solution that was implemented out along Mrs. Hazelwood's property is an extremely narrow area. By virtue of the size of the culvert that needed to be installed is really indicative of the magnitude of the issue, the amount of water that needed to be moved to resolve the issue that they were experiencing. Yes, there is a ditch as more opposed to what we would consider a grass waterway, which is only a foot or two deep with gentle side slopes. That particular facility wouldn't have worked to resolve this issue. As we know, the ultimate solution to this problem was the 48" pipe that was proposed and designed long term, but because of costs it obviously wasn't an option. This was what was necessary to move the water. Looking at the pictures that Mrs. Hazelwood has there is water that comes off of the Roth property which is the farm field that is behind the homes along Mallery Road and behind the homes that are along 191<sup>st</sup> Street. That farm field still generates a lot of surface runoff and some of it goes towards the regulated drain, some of it does not. Some of it drains north towards the homes along 191<sup>st</sup> Street and then attempts to get out to the roadside swale and run easterly along 191<sup>st</sup> Street. That's where her pictures show that there's an issue. That area is outside of the regulated drain easement and there's really not any recourse we could have taken as a part of the project, not without that being part of the regulated drain system. To say that it's not unexpected, truth be told, we haven't really focused on the drainage issues over there. We were focused on the regulated drain itself and that area and the flooding that occurs along all those homes along Mallery Road. I know that the flooding along Mallery Road is going to continue until the roadside ditch and driveway culverts are fixed and restored to move that water south to the improvements that the Drainage Board did and the County Surveyor completed when we reconstructed the regulated drain. In a nutshell, then, the areas west of the ditch, west of the regulated drain and along 191<sup>st</sup> Street I think we need to go out and take a look at it if they're looking for recommendations on what could be done, but I don't know if its' anything that we can really do until it's part of the regulated drain system.

Howard asked Duncan, the depth of the ditch was mandatory and the steep sides was mandatory in order; you've "x" amount of water that has to be conveyed through "y" amount of area.

Duncan stated exactly and we're limited by the height of 191<sup>st</sup> Street itself with the size of the culvert.

Howard stated and if it would have been a 48" pipe it wouldn't have had a steep edge, but the price would have been double or triple.

Duncan stated exactly. The 48 inch pipe would have been buried, would have been sight unseen and would move the water away and that had a capacity for the ten year storm and then we would have constructed just a shallow overland swale to handle any rain events in excess of the ten year storm. That was the original plan, but that cost was \$1.5 million. Someday that will be implemented, but in the short term really what's out there today is what was necessary to remove the acute issues that they were experiencing.

Howard stated it's a farm field to get developed and there's detention will help mitigate.

Duncan stated help mitigate that, yes. It will further hold back the water and the runoff in the fields and manage that runoff.

Hazelwood stated the chances of that being developed are; they're enclosed. It's an enclosed field.

Duncan stated actually that property has access from Mallery Road. One of the lots, there's a gap and it does have access to Mallery Road.

Hazelwood stated that's the only access.

Heirbrandt stated we're obviously not going to solve this issue here in the meeting, but would you make sure you continue to work with Mrs. Hazelwood?

Duncan stated yes, I'd be happy to go out with Mrs. Hazelwood. We haven't even talked with some of the other property owners because they're several properties away from the drain.

Heirbrandt stated if you could look into that and provide us an update.

Hazelwood stated we are appreciative of what was done. It's just what more can be done otherwise we've made all these improvements to the house; they'd be gone. I don't know where else or what else to do.

Dillinger stated let's let Duncan take a look at it and give us a recommendation.

Altman stated I think the unfortunate answer is more money has to be spent and it will come out of your pocket.

Dillinger stated it seemed to be a real popular issue the last time it was brought up.

Hazelwood stated it's not a popular issue anywhere. I'm not very well liked by some of my neighbors because of what was done.

Heirbrandt stated we share that.

Altman stated you're not alone.

Hazelwood stated their property was not getting as much damage as what ours was. We're not the only one and other properties were not as impacted with the Grand Canyon ditch as was ours because it was all in the back. Ours is right visible. My son pulled in from Florida last week and he says, "when'd you get the Grand Canyon?". That's exactly what he called it. We did keep our camper there; we can't do it now because I went in to clean the camper and I went to step out and right into the ditch. We're going to find another place. We are appreciative, please don't think we're not, but what more can we do to get rid of the rest of it.

Dillinger stated we'll take a look at it and go from there.

Heirbrandt made the motion to approve the final report presented, seconded by Altman and approved unanimously.

**Non-enforcements:**

Liston presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by Hubert Goodman for parcel #13-16-08-00-12-007.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by David and Diane Prahlad for parcel #13-16-08-00-19-004.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Heritage at Vermillion Arm filed by John and Julia Lightner for parcel #13-16-05-00-02-010.000 for a fence. The Surveyor's Office recommends approval.

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

**Surety Acceptance:**

Liston stated that at this afternoon's Commissioner's meeting the Board would accept the following sureties: Performance Bond No. 82C235017 in the amount of \$925,533.00 for the Mallery-Granger Drain, Reconstruction; Payment Bond No. 82C235017 in the amount of \$925,533.00 for the Mallery-Granger Drain, Reconstruction; Subdivision Bond No. 800055112 in the amount of \$882,756.00 for Troy Estates, storm sewers, subsurface drains, stormwater pond, erosion control and stormwater BMP.

**Construction Updates:**

Ellis Barker Drain Reconstruction - Cline stated I don't have anything new to report on this project other than getting someone out there to verify that the old line is cut off.

Clara Knotts Drain, Park Broadway Arm - Cline stated that Duncan is working with AT&T, but so far, we haven't received any real answers.

Overman-Harvey, Village Farms Arm, Adios Pass Reconstruction - Cline stated this project is completed other than milling and patching of the street.

Intracoastal at Geist Drain - Liston stated the office is communicating with Duke Energy on the transformer.

Duncan stated my last communication with Duke was as Liston had outlined at a previous meeting that due to the nature of the transformer that's in the way and the way it's fed, it doesn't have a diverse feed, it has a sole feed. In order to take that out of service for our contractor to install the pipe they need to do it when it's not as cold, they need to do it overnight and I think they had said some other things. My suggestion to them was that if that's the case why don't they completely move this facility so it's never going to be an interference again. That's my suggestion to them. I know it might require them to relocate some other cabling within the subdivision, but I think it's the best thing to do and then it's completely out of our way. I also explained to them if they have to do the work overnight our contractor's not going to be there to install the pipe. Say they did something temporary and said okay let our contractor put the pipe in and then they finish back what they need to do. That's not going to work for our contractor so they really need to be out of the way completely before our contractor can get in there and do the work. I also explained to them that there are other utilities that are there, mainly telecommunication that really will be a similar circumstance. I asked Duke for their schedule so all of that can be coordinated and I'm waiting for a response.

Howard asked Duncan, who's got the easement or is this in a traditional DU&E which means it's a free for all.

Duncan stated as I recall from the plat the drain that comes from the north and heads south is a regulated drain easement. These facilities are in the blanket DU&E that typically parallels the right of way, but it is crossed by our regulated drain easement.

Howard stated so our regulated drainage easement superseded the DU&E or preceded the DU&E?

Duncan stated no, it was all platted at the same time. This was the subdivision drain that became essentially part of the regulated drain system.

Mallery-Granger Drain Reconstruction - Liston stated the contractor is working, clearing vegetation and he has a very tight window to get all the trees on the ground. He has made incredible headway on this project. I'm going to say we're in that 97% to 98% range on the trees being on the ground. For the first time working with us he's done an excellent job getting the trees on the ground.

Howard asked what's his deadline, April 1<sup>st</sup>?

Liston stated March 26<sup>th</sup>.

Altman asked is that bat day?

Liston stated bat day is April 1<sup>st</sup>, but we wanted to be ahead.

**Violation Update - Duck Creek Drain, Deer Walk Estates:**

Conover stated I did receive a new site plan for the erosion control plus a plan of action, talking about the sequencing that they plan on how to do this and in what stages. The plan is approvable. I think what we need to do with this contractor though, they want the Stop Work Order lifted. We received approved plans from them before that were not implemented properly so I believe what we need to do is tell them to go ahead and move forward with this plan, we will inspect it as they do it and once this plan is installed properly then we can lift the Stop Work Order.

Howard asked is there any indication that this contractor has any idea what he's doing? Don't we have a list of people that know what erosion control and what that is and maybe we make that list available to the homeowner?

Conover stated the contractor has Stacy's Excavating down. I don't know if anyone is familiar with them.

Liston stated they are out of Cicero.

Conover asked do they do erosion control?

Liston stated they do that and silt fence, yes.

Conover asked they seem to be competent at that?

Liston stated yes.

The Surveyor stated if they're the ones that put the silt fence in that's there now, they don't know what they're doing.

Conover stated no.

Howard stated I think that was our architect/general contractor/site man. I think he was doing it by himself. He's got somebody that knows what they're doing.

Altman stated that was the criteria.

Howard stated it was obvious he didn't.

Conover stated I'm going to have to watch them daily as this is going in.

The Surveyor stated he's going to be taking a sack lunch and sitting up there all day.

Heirbrandt stated I still think you ought to get him a list of contractors if this does go south.

Altman stated until they get it right, the incentive is he wants to get back on the job and finish the house.

Howard stated Liston says Stacy's knows what they're doing.

Liston stated they work for a lot of developers and builders across Hamilton County. You see their trucks in subdivisions all the time.

Dillinger stated right now he's not doing any construction, right?

Howard stated he's under a Stop Work Order.

Dillinger stated I know, but that didn't stop him before.

Altman stated I think what Jerry suggested is appropriate.

Altman made the motion to approve the erosion control work to be done on Lot 2 of Deer Walk Estates, seconded by Heirbrandt and approved unanimously.

**Private Drain Petition Hearing - Sawyer vs Westfield Commercial Ventures (Continued):**

Dillinger asked did you come to an agreement?

Skelton stated I believe we have. I talked with my client and we had to communicate with some folks out of state, but we'll retrench to accommodate and prevent the flooding backing up onto the neighbor's property while we go through the approval process. I think the Surveyor's Office is baked into that process. We should have a solution soon.

Altman stated so you're going to open the obstruction?

Dillinger asked Sawyer, does that meet with your approval.

Sawyer stated yes, as long as it's done in a timely manner.

Altman stated let's put a timeframe on there. When will your clients have this accomplished?

Skelton stated we didn't get to that point. We'll mobilize as quickly as we reasonably can.

Altman stated I think we need to put a date on it.

Skelton stated I didn't discuss timelines with them.

Altman asked what's reasonable?

The Surveyor stated in two weeks.

Skelton stated if we can do it sooner, we will. We have to mobilize sought after equipment.

Altman asked how soon could our contractor's do it?

Baitz stated all of our contractor's are tied up right now, but if this is an emergency situation, they understand that too.

Altman asked can you give us an estimated time of arrival of when we could expect our contractor's out there and require the developer to meet that?

Baitz stated its one of those if you tell me it's an emergency work order I'll contact them as soon as we get out of the meeting, but most of them have equipment on other sites right now.

Dillinger asked if we're giving him relief back like he had why are we pushing the time limits?

Altman stated because it's going to rain and he's going to be out pumping for two weeks.

Dillinger stated but they are putting it back like it was.

Altman stated understood.

Heirbrandt stated this is all about relieving the water off of the gentleman's property.

Dillinger stated I understand that, which they are saying they're going to do. Why is it such a hurry if they're putting it back like it was?

Altman stated because it's blocking and flooding immediately.

Dillinger stated not if they put it back like it was.

Howard stated the problem is getting a contractor out there to do that; that's the problem.

Skelton stated we'll be diligent. We're not going to drag our feet doing this. We'll get it fixed as quickly as it can be fixed.

Heirbrandt stated as long as Sawyer is fine with it and he knows that you're going to be working and the Surveyor's Office stays on top of it to make sure.

Altman made the motion that the continuance is granted upon the condition that the petitioner's site is draining within two weeks, seconded by Heirbrandt and approved unanimously.

Skelton stated we'll keep the Surveyor's Office informed.

**Bellewood Drain, Glen Oaks Arm - Konow Property:**

Heirbrandt stated I saw your email on Chris Konow thanking the Drainage Board for everything they've done. It worked really well. I know you're going to get somebody out to look at the flex mat.

**Private Drainage Complaint - 15438 Shelborne Road (Shortenhaus Property):**

Heirbrandt stated Scott Shortenhaus is having a lot of issues with the cemetery. I know that it's a Westfield thing, but can you explain exactly what that is and is there anything we can do to help the guy right now?

The Surveyor stated Conover spent some time with the gentleman. The way Conover explained it to me it sounds like it's tail water from Little Eagle Creek coming across the cemetery and onto his property. If it's tail water, there's nothing we're going to be able to do. One of the issues that's known is that the structure under Little Eagle Creek Avenue is too small. That has to be replaced and I believe Westfield is incorporating that into a plan for the future. How far in the future, I don't know.

Heirbrandt asked could you at least send me an email about what the situation is and how we see it and copy Westfield on it too. Obviously, Councilwoman Spoljaric has gotten calls from them too and I want her to be able to see exactly what is transpiring so she can get on the City of Westfield to maybe speed their portion of it.

The Surveyor stated yes, when I got that email from Shortenhaus last week I looked into the drainage shed and that's got a heck of a drainage shed to it. I've got Darren (Wilson) working on it right now, but I do believe on the south end of it there's a new development going in. I believe that's going to take some of the water, but how much I'm not sure right now.

**Beals & Cox Drain:**

Heirbrandt stated I sent you some information about Melissa Hinshaw at 20737 Anthony Road with a bunch of pictures where she was flooded. I don't know if that's something that Andy Conover has looked at in the past, but those pictures were pretty severe. I know we got a lot of water; I forwarded that email to you.

The Surveyor stated you're on the upper end of the Beals & Cox Drain north of State Road 38. That area has had flood water in it for a long time. The Beals & Cox Drain is an old farm tile that's about a 6 inch or 8 inch, but it doesn't go all the way up to that property. It stops at the north end of the property on the north side of State Road 38 and then it's private drain. I think it heads over to Anthony Road and then up the east side ditch of Anthony Road. That area has had flood problems for years.

Heirbrandt asked is there anybody looking at anything to resolve some of that up there?

The Surveyor stated no, not at this time. Where do you take it? It needs reconstructed if it's Beals & Cox and if it goes over to the Isaac Jones Ditch it's going to take a tile to do that.

Heirbrandt asked have we even looked into it? If it's been a long-time problem, I would think we would have looked into it.

Clark stated I believe with the extension of East Street on the south side of State Road 38 they were, we had a meeting about that in November, discussing reconstructing the Beals & Cox Drain and turning it into an open ditch.

The Surveyor asked over State Road 38?

Clark stated the Beals & Cox Drain is a farm tile that's along Grassy Branch. They were going to be reconstructing that drain.

The Surveyor stated but that ends at State Road 38.

Clark stated yes, it ends at State Road 38.

The Surveyor stated so this is no help.

Heirbrandt asked can we look into that a little bit further if that has been flooding for years or are we just going to let it continue to flood?

Altman asked is it regulated?

Heirbrandt stated yes.

The Surveyor stated it's regulated up to about 200 feet north of State Road 38 and then it stops, but from that point it's a private tile that goes on north along Anthony Road.

Altman asked is the problem in the private tile or the regulated drain?

The Surveyor stated both. It's an old farm tile and I think it's 6 inches as it goes along Anthony Road.

Heirbrandt asked can we do what we need to do in our regulated part to at least say we've done everything we can do capacity wise, but you guys need to fix the private tile.

The Surveyor stated I think what Sam's talking about is about all we can do.

Altman asked and that's what Westfield is going to do with the reconstruction?

The Surveyor stated correct.

Heirbrandt asked can you reply back to me or Melissa Hinshaw on that?

Altman stated what they need to do is probably regulate, don't you think? If they want us to go on it, we're going to have to have a regulated drain to work on it.

Howard stated we can't go downstream without easement and we can't do easement without regulating.

The Surveyor stated right.

Howard asked is that farm field, farm ground?

The Surveyor stated surrounding it, yes. There're houses to the north and south of her along Anthony, but they're large lots. There's a knoll that blocks the water from going to the Isaac Jones Ditch which goes down the hill and that's the ditch where the old gun club used to be at the shooting range on the north side; Hillside Beach was on the south.

Heirbrandt asked can you look into that so I can get back with her?

The Surveyor stated yes.

**146<sup>th</sup> Street & Shelborne Road:**

Heirbrandt stated there was another incident at 146<sup>th</sup> Street & Shelborne Road that was a construction related issue. There were some emails going back and forth.

The Surveyor stated I think Joel (Thurman) is going to take care of that.

Heirbrandt stated yes, I think Joel is going to take of that.

**Vincent Case Drain:**

Heirbrandt stated there was another issue at 10330 E. 234<sup>th</sup> Street, Lisa and Brian Bear. I know that Brian used to work for you. Lisa complimented you and your staff and said they've had an ongoing issue there and they're trying to figure out how in the world they can address all the flooding. I sent you that video that they sent me.

The Surveyor stated that has been an issue for as long as I can remember. The Vincent Case Drain is an old farm tile again. As it goes under Brian's driveway the Highway reconstructed it as a 15-inch tile because it was only a 15 downstream. It goes 660 feet south of the right of way and opens up into an open ditch. You asked me today how much it would cost; lots was the only thing I could come up with right now because that's probably going to be about a 48-inch tile.

Heirbrandt asked compared to a 15-inch tile?

The Surveyor stated you saw the water.

Heirbrandt stated I saw it, yes. If it's been a problem for so many years has it ever went to a petition?

The Surveyor stated it's not a problem to the farmers.

Howard stated you have to realize back in the 1950's and 1960's if the farmers had a bad season, they carved off lots and built 700 square foot brick houses on them. It's just like 191<sup>st</sup> Street & Mallery Road, today there is no way anybody would ever allow; water's been going downhill since time immortal. You can't do anything about it.

The Surveyor stated I looked up the old aerial photography on this and that house is at least in the 1957 aerials. It was probably a post war house.

Howard stated Joe's Construction Service went out there and built it.

The Surveyor stated some farmer laughed all the way to the bank after he built it and it's been a problem. It's been that set of driveway culverts forever. We used to get calls all the time the owner would get the corn stalks and bean stubble up against the driveway culvert and want us to clean it out.

Heirbrandt stated I get it. It's frustrating to me that it's been like this forever.

The Surveyor stated it takes money. Like I said the farmers aren't hurting.

Heirbrandt stated it's frustrating because you want to help these folks and then you hear it's been like that forever. I know you mean well.

The Surveyor stated all it takes is money.

Heirbrandt stated I want to at least be able to give them a solution and say this is what you're going to have to do if you want this done and if you want it done then you need to get this petition signed. If that's what it takes.

The Surveyor stated that's what it takes.

Heirbrandt stated I just need something to be able to give them back and say this is it if you want us to do something. We'll fight for you, but that's what we're up against.

**Flooding:**

Heirbrandt stated the Surveyor and his staff have been working night and day with all this flooding and I appreciate you getting over to the Zinnan and Colby issue. It's not even really our issue, it's Fishers. It's that ditch where all the storm water is going in, but those people really appreciated seeing somebody come out there. It meant a great deal to them.

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

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Steven C. Dillinger - President

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Lynette Mosbaugh  
Executive Secretary