

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

April 12, 2021

The meeting was called to order Monday, April 12, 2021 at 12:04 p.m.

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

**Executive Session Memoranda:**

Altman made the motion to approve the Executive Session Memoranda for discussion of IC 5-14-1.5-6.1(a) (1) (2) (b) (2) (D), land acquisition, seconded by Heirbrandt and approved unanimously.

**Approval of Minutes of March 22, 2021:**

The minutes of March 22, 2021 were presented to the Board for approval.

Heirbrandt made the motion to approve the minutes of March 22, 2021, seconded by Altman and approved unanimously.

**Ream Creek - Mart Drainage Easement:**

The Surveyor stated this is one of the drainage easements for the Ream Creek project from the Mart property owners. We have the acceptance ready for the Board at this time and signatures for the Board.

Heirbrandt made the motion to accept the Mart Property Drainage Easement, seconded by Altman and approved unanimously.

**RFP List - Triad Associates, Inc.:**

The Surveyor stated we have a letter from Triad Associates, Inc. asking to be placed on the engineering RFP list. I've dealt with Triad back in the 1980's and also with the Atlanta project several years ago. I had experience with Sam Robertson when he worked with another firm and I would recommend that they be put on the list.

Heirbrandt made the motion to place Triad Associates, Inc. on the RFP List, seconded by Altman.

Altman asked and this is just for general work that we do? It's not on call or anything else?

The Surveyor stated correct.

The motion had been made and seconded to place Triad Associates, Inc. on the RFP List and approved unanimously.

**Big Cicero Creek Joint Drainage Board:**

The Surveyor presented the minutes of the Big Cicero Creek Joint Drainage Board of February 24, 2021 to the Board for their information. He asked if there were any questions.

There were no questions.

**Tree Root Discussion:**

The Surveyor stated that tree roots are becoming a problem. It's the old single wall pipe that's really the problem. Tree roots will plug anything. They'll plug reinforced concrete. Whenever there is a tree when it is in the easement and the roots come from that tree it's now removed. We'd also like to have permission from the Board if there is a willow tree in the yard outside the easement, if we have permission from the property owner to remove that.

Altman asked but with permission?

The Surveyor stated with permission.

Altman stated written.

The Surveyor stated yes.

Heirbrandt made the motion to approve removing a problem tree outside of the drainage easement with the property owner's written permission, seconded by Altman and approved unanimously.

The Surveyor stated and if they do not want the tree removed if we have to go back the second time, third time, fourth time which we have done, that those costs be assigned to the property owner.

Altman asked are we able to do that under the Statute?

The Surveyor stated a special assessment.

Howard asked are these in D&UE (Drainage and Utility Easements)?

The Surveyor stated these trees would be outside the D&UE easement. This would be out in the yard themselves, but roots will go from here to the street to find water.

Howard stated so you're asking to be able to cut down trees in the yard?

Altman stated no, it's a special assessment.

The Surveyor stated a special assessment if we have to go back a second, third and fourth time.

Altman asked are we going to have a written advisement to the landowner?

The Surveyor stated we will let the landowner know after the first cutting.

Howard stated I think we probably better get an ordinance in place.

Altman stated yes, plus to be fair to the next buyer it probably ought to be recorded so it's in chain of title. If I buy it and all of a sudden it's plugged, I don't get a surprise.

The Surveyor stated good idea. Mr. Howard, will you work on that?

Howard stated after I talk to you and get all the wherefores', all the hypotheticals, kind of get a feel of when this would happen and then what type of notice. A tree in the yard next to an easement, what I see the problem is if we've got a drainage easement going through a woods, we get to cut the woods down. We need to look at the absolutes and see; we're going to have to spend a little time on what ifs. You've done most of the what ifs.

Altman stated I've got a what if, you've got the easement on one property side, this other property isn't in the easement and it has a willow tree and it's clogging the drain.

Howard asked and there's no easement on that property?

Altman stated yes.

The Surveyor stated an adjacent property.

Howard stated but there's no easement going through the property.

Altman stated trees don't pay attention to easements.

Howard stated when you start cutting down trees in my experience in eminent domain, they all have rings of gold in them, they're extremely valuable.

The Surveyor stated all planted by Grandma who's now passed.

Howard stated Mulberry Trees, fence line trees, they're all very valuable.

Dillinger stated write an ordinance.

**Award Bid - 2021 Vegetation Control:**

Baitz presented his report to the Board for approval.

"TO: Hamilton County Drainage Board

Date: March 29, 2021

RE: 2021Vegetation Control Contract

The Hamilton County Drainage Board received one bid for the 2021 Vegetation Control contract at the March 22, 2021 Drainage Board Meeting from Puddle Jumpers Aquatics. The Surveyors Office has reviewed the bid and found it be complete and acceptable. The contract lists 25 drains with a total of 111,912 lineal feet to be sprayed. Puddle Jumpers Aquatics cost to spray all 25 drains is \$20,264.00.

The Surveyors Office recommends Puddle Jumpers Aquatics be awarded the 2021 Vegetation Control Contract. Attached is the bid sheet indicating the cost per drain and estimated gallons to be applied.

Sincerely,

Stephen Baitz"

Altman made the motion to award the contract for the 2021 Vegetation Control to Puddle Jumpers Aquatics as recommended by the Surveyor's Office, seconded by Heirbrandt and approved unanimously.

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

Mr. James Sawyer, Mr. Doug Church, Mr. Greg Ripple and Mr. Andrew Molnar were present for this item.

Conover stated at the last Drainage Board meeting we were looking at an obstruction of natural surface watercourse. The downstream landowner has removed that obstruction. Mr. Sawyer is here. I did contact the attorneys involved and they said that elevations had been shot showing there was fall through the watercourse. Mr. Sawyer is going to bring up that prior to this being dug out there had been silt fence place across the property next to the Sawyer property that is holding some water back during the last rain event.

Sawyer stated prior to the excavation the town or somebody came out and put a silt fence across the drainage closer to us. We had a small rain about a week ago and that silt fence was holding back water. It looked like had it been removed there could be a little standing water there. The silt fence is still there, and we had a big rain this past weekend and the water was a foot deep on my side of the silt fence. I really can't tell if it's going to drain great until that fence is gone. I'd like to have the fence removed, get another good rain and then I'll sign off on everything.

Howard asked the fence is to the left of that picture?

Sawyer stated no, close to us.

Conover stated it's back towards us.

Howard asked Conover, which direction is the camera pointing to?

Conover stated pointing east, downstream of Mr. Sawyer's property.

Altman asked so they put the silt fence on your side?

Sawyer stated no, it's on his property, probably 20 feet on his property. I'm not sure who put it up.

Howard asked did the water go down this morning?

Sawyer stated in time, yes.

Dillinger asked Conover, do you have any comments on this?

Conover stated I was standing at the silt fence when I took the photograph.

Sawyer stated I'd just like to see a good rain after the silt fence is gone.

Howard stated Mr. Church is here evidently for one of the parties.

Church stated in addition to the photograph that is shown here is the engineering work that shows the appropriate fall within the reestablished area. I wasn't here the last time, but I understand you wanted us to remove the obstruction. We did and we did it as well as we could. I understand that the silt fence, which is the new issue came up about ten minutes ago. It's there because Westfield, we will remove it as soon as we talk to them. I was there yesterday; I was there again this morning with a two-inch rainfall over the last 36 hours. My personal observation was there was no water standing anywhere that I could see. I think we've complied with your requirement. We're right at the point of construction season commencing in earnest so we'd like to keep things moving. We're still within the jurisdiction of the Drainage Board for all purposes as well as what ever additional requirements Westfield Planning and Zoning have imposed. I trust your TAC participants will be there to help make sure we do the right thing.

Altman asked your request is to what?

Church stated a petition has been filed. We removed the alleged impediment. We now have a new issue that apparently has arisen, and I hadn't heard about until this morning. We've complied so I think the petition needs to be disposed of, so we are not standing around here a month from now waiting to figure out what's going to happen.

Dillinger asked the Surveyor; do you have a position on this?

The Surveyor stated Conover told me Friday about the silt fence. Why they put it on the upstream end I'm not sure. Evidently, they believe, Westfield believes, it should have been up there. Maybe there was a cross communication there. To put it on the upstream side of something doesn't make sense because silt doesn't travel upstream.

Church stated that's what I just understood. We'll take it out. It should not have any roots at this point.

Heirbrandt stated I think if you take the silt fence out you've complied. Is that right?

Conover stated this blockage was caused by fill that they had brought onto the site. That site was unprotected. I think the City of Westfield had told them you've got all this fill unprotected on the site and you need to get some erosion control. So, they put in large stone gravel driveway up onto the site and then bring the fill area with the silt fence, which is standard procedure. I think that's how the silt fence got there, addressing Westfield's concerns with the silt from all the fill on the entire site. That fill had also filled in the natural surface watercourse which brings us to the petition, but that's why the silt fence was in that area.

Howard asked is this a natural surface watercourse or is this a regulated drainage easement?

Conover stated a natural surface watercourse.

Howard stated I'm presuming, Mr. Church, that your client, the developer, is going to have a detention plan, etc., etc. before and probably be a good idea; I know it's in the city limits but at least touch base with the Surveyor's Office.

Church stated it's been through TAC (Technical Advisory Committee) and they've been involved. My understanding of what happened is they had a chance to get some free fill and they got it because they had to raise the site and the contractor spread it. That created the impediment, that's been removed, we're back on track to the extent the zoning and planning officials are still involved. We just want to keep things moving. We think we've met your requirements.

Altman asked and you believe the petition is precluding you from moving forward with the construction?

Church stated it's hard to read between the lines, but there is communication between your officials and Westfield officials and Westfield is saying we've got to deal with this petition and etc., etc., etc. I think it is an impediment, how much from a legal standpoint probably not much, but it's something we'd like to have disposed of.

Altman stated the petitioner's asked that it not be removed until we see unobstructed flow so I'd be inclined to remove it after a month or look at it in a month so he doesn't have to re-petition if it doesn't flow with the understanding that if it flows it will be removed.

Church stated it's flowing right now, and we had a two inch rain so I don't think it's an issue of whether it's going to flow. Delaying 30 days is a problem. We're right where we need to be in terms of construction time so when it gets a little dryer people are ready to go. We're totally within the jurisdiction of Westfield on anything we do. This is something that needs to be gone.

Howard asked is the water flowing away from his property or to his property?

Church stated it flows away, it goes east.

Dillinger stated I would think with the rain that we had this weekend if it's not a problem it's not going to be a problem. So, why would we hesitate?

Altman stated I just want to clarify the record. Would Sawyer state whether you had standing water on your property after the last rain?

Church stated the comment he just made and the first time I heard about this silt fence issue was he saw water behind the silt fence. I was there this morning and I did not see any water so it's either drained away within that period of time, but in any event we're going to remove the silt fence so that's the only thing I heard being addressed as a potential.

Altman stated I understand, but I would like Sawyer to clarify whether he had standing water on his property after the rain.

Sawyer stated yes, it was standing for a time, but I can't tell if it was because of the silt fence or not. I'd like to see the silt fence gone and get one good rain.

Heirbrandt asked how long do you need?

Sawyer stated one good rain.

Heirbrandt stated it's going to rain today.

Howard stated it could be six months, it could be two weeks, it could be whenever.

Altman stated I'd suggest we go ahead and dismiss the petition. If you continue to have problems, you refile it. Are we going to charge him to refile it; waive the cost to refile. If you need to come back, come back, but they've got a construction schedule which I understand and we don't want to make the situation between neighbor's any worse in my opinion, it's already pretty bad, but let them move ahead and if you have a problem you come back in and see us.

Heirbrandt stated I think the construction will hopefully relieve all of these issues for you. That's what I think the intent is supposed to be.

Sawyer stated I was told they're going to put a retention pond in.

Heirbrandt stated I want to make sure they take care of you, but then again, I don't want to delay it any more than we have to.

Heirbrandt made the motion to dismiss the petition, seconded by Altman with the understanding if it's not resolved Sawyer needs to come back.

Heirbrandt stated you've got Conover's phone number and I'll give you mine if you want to call me.

The motion had been made and seconded to dismiss the petition with the understanding if the problem is not resolved that Sawyer will refile the Private Drain Petition at no cost and approved unanimously.

**Stop Work Order:**

Conover presented his report to the Board for their information.

"April 7, 2021

Wanczyk, Robert  
402 N East Street  
Arcadia, IN 46030

**\*STOP WORK ORDER\***

RE: No Stormwater Pollution Prevention Plan (SWPPP)  
No Erosion Control on site

Parcel #03-02-13-00-00-016.000

This letter is to notify you that the Hamilton County Surveyors Office (HCSO) has issued a Stop Work Order to cease all work on the property located at 402 N East Street, Arcadia, IN 46030, Parcel # 03-02-13-00-00-016 being shown on Hamilton County tax record as owned by Robert Wanczyk, 402 N East Street, Arcadia, IN 46030. The Stop Work Order applies to all contractors/subcontractors working on this property.

The Stop Work Order was issued due to the following items:

- 1.) A Stormwater Pollution Prevention Plan (SWPPP) has not been submitted to the Hamilton County Surveyor's Office. This is in direct violation of Hamilton County Ordinance No. 5-09-05-B which regulates storm water runoff associated with construction and post-construction activities in Hamilton County, Indiana.

The Hamilton County Stormwater Management Technical Standards Manual Section 602.01 includes:

HCSO will require a Stormwater Pollution Prevention Plan (SWPPP), which includes erosion and sediment control measures and materials handling procedures, to be submitted as part of the construction plans and specifications. Any project located within Hamilton County which falls under the jurisdictional authority of Hamilton County government and includes clearing, grading, excavation, and other land disturbing activities resulting in the disturbance of 1 acre or more of total land area is subject to the requirements of this Chapter. This includes both new development and re-development. This chapter also applies to disturbances of less than one 1 acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land, within the area under the jurisdictional authority of Hamilton County. Section 602.03 of this Chapter provides guidelines for calculating land disturbance. Projects meeting the coverage requirements of 327 IAC 15-5 (Rule 5) shall also be in compliance with 327 IAC 15-5.

Due to the proposed changes of the property from the current condition, a Stormwater Pollution Prevention Plan (SWPPP) will be required to be submitted to this office for review and approval.

I have attached a map of your parcels which includes the location of the statutory regulated drain easement for the Wm Nagle Arm 1 Regulated Drain. Per Indiana Code no fill may be placed within the easement of a regulated drain. Any proposed work within this regulated drain easement will require review and approval from the Hamilton county Surveyor's Office.

Should you have any questions or comments, please feel free to contact Andrew Conover Inspector for the Hamilton County Surveyor's Office at 317-776-8495.

Hamilton County Drainage Board  
April 12, 2021

Thank you for your cooperation.

Sincerely,

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Kenton C. Ward  
Hamilton County Surveyor

CC: Hamilton County Drainage Board  
Town of Arcadia "

Altman asked do they have an acre in our jurisdiction?

Conover stated they have 2.25 acres in our jurisdiction.

Altman stated then just by the normal 1 acre rule they did not comply.

Conover stated correct. When they started in on that the town stopped them and asked what we want to do outside, and I told them we would do the same thing. We have the same requirements and are on the same page.

Altman asked do you need any official action from the Board?

Howard stated authorize the issuance of a Stop Work Order until the SWPPP (Stormwater Pollution Prevention Plan) is filed I would think.

The Surveyor stated we've already done that.

Howard asked for both parcels?

The Surveyor stated no, just for the one that's outside, the town is taking care of the other.

Altman asked is anyone here to address from the landowners side?

Conover stated no, not that I'm aware of.

Howard asked do we need to release the Stop Work Order, or do we need to give the Surveyor authority to release the Stop Work Order once the SWPPP is approved?

The Surveyor stated we would do that anyway.

Howard stated then we need no action from the Board.

The Surveyor stated this is for the Board's information in case you hear about it.

**Variance Request - Stony Creek Drain, Fill in the Floodplain:**

Mr. Jim Pence was present for this item.

Cash presented his report to the Board.

"March 31, 2021

To: Hamilton County Drainage Board

Re: Stony Creek Regulated Drain, Variance for Stony Bluffs subdivision, DV-2020-00001, Parcel No. 10-11-04-00-00-027.005

Attached is a request by Triad Group, LLC requesting approval of a variance from the following ordinance and standard in connection with the Stony Bluffs subdivision project:

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

Summary:

As part of a new residential subdivision project, the petitioner proposes to grade portions of Stony Bluffs subdivision which results in new fill being placed in the floodplain. To comply with Hamilton County requirements to offset the fill, the project will excavate compensatory floodplain storage along Stony Creek. The construction will require placing 853 cubic yards of fill within the floodplain and removing 2,577 cubic yards from the floodplain. The cut/fill ratio meets the standard 3:1 ratio required for consideration of the variance with a proposed ratio of 3.02:1.

This proposal received preliminary concurrence by the Drainage Board on April 27, 2020.

The engineering review has been conducted by Kerry Daily of Christopher B. Burke Engineering, Ltd. See attached approval memorandum dated March 31, 2021.

Hamilton County Drainage Board  
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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 Burke 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 Homeowners Association or 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 Homeowners Association or owner of record, the Board may perform the required maintenance and assess the cost thereof to the Homeowners Association or 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"

Altman stated we've got the easement in our favor. Are you adding the language that requires them to maintain it at their cost?

Cash stated on the second page of the staff report, No. 3, that is the language we require.

Altman stated I didn't get No. 3, that could be what the problem is.

The Surveyor stated no, neither did I.

Cash stated I made the copies, so that's on me.

Altman stated okay, tell us what's on page two.

Cash stated on page two it has the language that you and I worked on previously which states "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 Homeowners Association or 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 Homeowners Association or owner of record, the Board may perform the required maintenance and assess the cost thereof to the Homeowners Association or owner of record as a special assessment."

Altman asked was that the only thing on page two?

Cash stated yes. There are two subpoints about releasing the sureties, that asbuilts need to be reviewed by Burke Engineering and the fulfillment of paying the fees before we actually release the bond.

Altman stated the only other thing I'd ask is that the secondary plat also note that Lots 17 and 18 have fill as we've done in other ones so homeowner's don't come back at us and say there's no disclosure.

Altman made the motion to approve the Variance Request presented with the conditions so stipulated, seconded by Heirbrandt and approved unanimously.

**Non-enforcements:**

Clark presented a non-enforcement request for the Cool Creek Drain, Crossings at Springmill Villages Arm filed by James and Lisa Rooney for parcel #08-09-14-01-07-023.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Cool Creek Drain, Springmill Crossing Arm filed by Brad and Ann Bartheld for parcel #17-09-23-01-02-015.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Alva Osborne Arm filed by Lennar Homes of Indiana, Inc. for Osborne Trails Section 7. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Albany Place Arm filed by Colin and Katie Rogerson for parcel #17-09-20-00-25-005.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Timber Heights Drain filed by Kevin Jordan for parcel #17-14-07-01-11-005.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Vernon Asher Arm filed by Green Bay LLC (Shahpor Shahbahrani) for parcel #17-13-02-04-09-010.001 for a home and driveway constructed in 1960. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Larkspur Arm filed by Broderick and Nicole Ertel for parcel #17-13-05-00-06-017.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, John Osborne Arm filed by Matthew and Kirsten Strausburg for parcel #17-13-04-03-08-006.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, West Rail at the Station Arm filed by Ken Eygnor for parcel #08-09-10-00-20-017.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vestal/Kirkendall Drain, Kingsley Arm filed by Paul and Carlyn Smith for parcel #11-10-16-00-01-039.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by Karen Bunch for parcel #13-16-08-00-21-024.000 for a fence. The Surveyor's Office recommends approval.

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

Altman asked the Surveyor, I had forwarded you an email that I had gotten from the people that contacted me about being denied. There's one that went to my law office.

The Surveyor stated yes.

Altman asked did you recognize; did anyone ever handle that request?

The Surveyor stated I sent an email out to the office asking who knew?

Liston stated that was in Weatherstone, Socolofsky, who had a retaining wall, the pool and landscape material.

The Surveyor stated it wasn't the name on the...

Liston stated that was part of her email, Amanda.socolofsky@ whatever. I responded back to you that afternoon and spoke to you in the office about that also. That was the Socolofsky's in Weatherstone.

The Surveyor asked Liston to elaborate.

Liston stated this is the one that went through Fishers, Fishers didn't notify our office and Fishers approved a pool, fill, retaining wall and landscaping in our easement. When I went out for the fence permit, I found all this other stuff encroaching. We approved the non-enforcement to let everything remain as is, but they would not be able to have the fence, or they could have a fence outside of the easement. They pretty much shut the easement completely down.

The Surveyor asked this is the one with the laid-up stone retaining wall?

Liston stated yes.

Altman stated I advised her if she wanted to appeal it to come talk to us. I've not heard again.

**Spills:**

Weaver Creek (Not Regulated) - Liston stated on March 20, 2021 our office was notified by Emergency Management of a spill that occurred on the Harvey Construction site at 146<sup>th</sup> Street, west of S.R. 37. This was two days after we had a three-inch rain event so everything downstream was full. About 650 gallons of diesel fuel in a fueling incident went onto the ground, entered the storm sewer on their site, went into their pond and then outletted into the Weaver Creek and Weaver Woods North developments making it all the way down to Weaver Creek. The initial report stated that the spill did not reach White River, but in follow up meetings it did reach White River. Citizens Energy was notified because of their water treatment facility downstream. This has been going on for a little over two weeks. They are still cleaning diesel fuel out of ponds. Harvey Construction is paying for the cleanup. An employee with Harvey Construction stuck the fuel nozzle in the tank and walked away and when the tank got full the nozzle did not shut off and everything went onto the ground.

Altman asked did Harvey Construction report it? It went a long way before...

Liston stated yes, Harvey Construction did report it and they started EMA and Fishers Fire was the Fire Department on the scene.

Howard stated before my time there was an agreement between Noblesville and Fishers that between 146<sup>th</sup> Street and 141<sup>st</sup> Street if its commercial it's Noblesville and if its residential it's Fishers.

Liston stated it was a little confusing up front, but they are in the process of; I believe I received a final report from David Cage saying that they had cleaned everything up. It was a massive spill and with all the rain two days before it traveled faster.

The Surveyor stated to Altman, thank you for your assistance with the railroad.

**Surety Acceptance:**

Liston stated that at this afternoon's Commissioner's meeting the Board would accept the following sureties: Subdivision Bond No. 7901052458 in the amount of \$219,357.84 for West Rail at the Station Section 4, storm drainage.

**Surety Release:**

Liston stated that at this afternoon's Commissioner's meeting the Board would be releasing the following sureties: Irrevocable Letter of Credit No. 7789129300 in the amount of \$64,382.00 for Fiore Nursery, William Lehr Drain Reconstruction; Site Improvement Performance Bond No. 41403303 in the amount of \$92,000.00 for Campus Center, William Lehr Drain Improvements.

**Construction Updates:**

Ellis Barker Drain Reconstruction - Duncan stated the contractor is scheduled to close the intersection of Grassy Branch and 196<sup>th</sup> Street on May 3, 2021 to complete the work. I know though that there are other closures in the area on Grassy Branch that the contractor needed to confirm with the City of Westfield to make sure we're not closing two areas at the same time. Right now, barring that, it will be a three-day closure of the intersection to get that work done, which would close out our project.

Howard asked Frontier is out of the way?

Duncan stated they are.

Howard asked have you started working on your bill we need to send?

Duncan stated it's on my to do list so yes.

Howard stated call me when you get it.

Duncan stated I will, yes.

Heirbrandt stated you're pretty excited.

Howard stated Frontier has been a bane to the Highway Department, our contractors and they flippantly put their infrastructure wherever they want to, don't tell anybody, don't get a permit and then they wonder why people are upset.

Heirbrandt asked are you communicating that with Wes Rood or Jeremy?

Duncan stated I have not talked with Westfield. Morpheus was taking care of that. I think there are several properties on Grassy Branch if we do it right, they won't have access. We will definitely look at that.

Clara Knotts Drain, Park Broadway Arm - Duncan stated we are still working with AT&T. The Surveyor is having some email conversations with people at AT&T to see if we can move that forward. As it stands right now that project is on hold. We had a meeting with the contractor last week outlining where we were status wise and he's anxious to go but is also hesitant to move in there because utilities are still there.

Overman-Harvey, Village Farms Arm, Adios Pass Reconstruction - Duncan stated I don't have an update on that. I did not get a chance to talk to Luther (Cline) last week. As far as I know the project is complete and we are paving.

Intracoastal at Geist Drain - Liston stated we are still talking with the utilities there that are in conflict with our project.

Duncan stated I have not heard back from Duke Energy since my last communication.

Liston stated this is the one where they will need to schedule the outage to deenergize the area and it affects about 60 to 70 homes because it's a single feed into the transformer not a looped feed.

Mallery-Granger Drain Reconstruction - Liston stated on Thursday, April 8, 2021 we had the preconstruction meeting for the dredging portion of the project. On Friday the contractor did get started dredging and completed about 500 feet before the weekend and the rains.

The Surveyor stated on the Intracoastal project with Duke Energy and Clara Knotts with AT&T if by the next meeting we can't get a resolution to either one of those impasses would the Board consider doing what we did to Frontier and hold permits?

Heirbrandt stated sure, I would.

Altman stated yes.

The Surveyor stated Intracoastal is 145 feet of pipe, total and we're sitting on our hands because we can't do anything.

Howard asked who's the utility?

The Surveyor stated AT&T and Duke Energy.

**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.

**Drainage Board Attorney (Pending Items):**

Pollution Liability Non-Compliance (John Ward Construction) - Howard stated I've asked before for the Pollution Liability Non-Compliance, that has to do with the COI issue with John Ward Construction I believe and that has been resolved.

Sullivan stated yes.

**Westfield/Washington Trustee's Office - Rental Assistance Program:**

Ms. Danielle Carey Tolan and Chris Mertens were present for this item.

Heirbrandt asked do we have the paperwork for this item?

Howard stated we don't have anything to sign, but the issue is what we do with the claims and we can talk to her in the back room and make sure the cooperation continues to get this approved as quickly as possible.

Altman stated I thought we were looking at advancing from...

Howard stated you're right.

Altman asked do you want to get approval today? Are you aware of what's going on?

The Surveyor stated no.

Howard stated there is an issue with the Rental Assistance Program with a delay in funds. There were two issues, we got rid of one of them as far as documentation, but the other one is just plain lack of money. The question would be whether we could do a loan for \$500,000.00 to \$800,000.00 on an interim basis. What's happened is all these claims are coming in early and the rotation of the claims she's not getting the money and they want to give her some more money so she can front end the claims to be reimbursed. Less than \$10,000,000.00 now, but there's almost \$10,000,000.00 that we're holding of federal money, so it's a pretty good loan and the money has to be permitted by September 30, 2021.

Tolan stated 55% of it.

Howard stated so it's going to be a one-year period. The good news is you're going to get a bunch of money back from 146<sup>th</sup> Street, some of it in June at Settlement, \$2,000,000.00.

Altman asked what do we have in GDIF (General Drain Improvement Fund)?

The Surveyor stated I don't know off the top of my head.

Howard stated I think we've drawn from unencumbered funds, have we not? Wasn't that what we did for 146<sup>th</sup> Street?

The Surveyor stated it was out of the maintenance funds.

Altman stated it looks like we have a ton in maintenance, almost \$15,000,000.00, but I don't know what you've got pledged; you've got \$10,000,000.00.

The Surveyor stated it's showing \$10,510,000.00.

Heirbrandt asked when do we anticipate the reimbursement time period to be?

Howard stated I don't know.

Altman asked what about the refunding bonds?

Howard stated the refunding bonds he'll get his money into maintenance from the June settlement.

The Surveyor asked the whole \$10,000,000.00?

Howard stated no, probably \$2,000,000.00 and then in the fall you'll get another. In the next two years and I didn't bring that chart, but the next two years you're expected to get about \$6,500,000.00 back.

Altman asked but June comes in at \$2,000,000.00 you think?

Howard stated \$2,000,000.00.

The Surveyor asked and you need how much?

Altman stated I have a conflict because I do the general retainer work for Westfield/Washington Township. I have nothing to do with this program. I won't be voting on this. By State Law I have to walk away.

Howard asked Tolán, where do you see yourself?

Tolan stated currently in standing we have over \$2,000,000.00 in requests currently as of this moment. We have spent out over \$300,000.00 of the Westfield/Washington Township reserves currently. I have about \$200,000.00 left in my reserves before I'm dry because we don't have a reserve.

Dillinger stated I guess I'm confused, why would we be taking this out of...

Heirbrandt stated it's a cash flow.

Howard stated if we go to the Council we're not going to get it until mid-May and she needs it quicker than that. You can directly assign drainage funds.

Tolan stated as of right now if we don't get cash flowing into us, we're going to have to stop sending out checks from my office.

Dillinger stated I understand that, I just didn't understand why we were doing it with the drainage.

Howard stated available cash.

The Surveyor asked out of the \$14,000,000.00 almost \$15,000,000.00 that I have left in maintenance...

Tolan stated I had originally asked for \$1,000,000.00 almost four weeks ago now.

The Surveyor stated just \$1,000,000.00.

Tolan stated yes, just to get through because the claims aren't being reimbursed currently because of a document. Once that is cleared up which we have three weeks now until the next claims we'll have all of what we previously had requested in, but just to keep us going without any delays we could probably reimburse you within; I could actually put a claim in to reimburse you with the next claims.

The Surveyor asked one month?

Tolan stated probably no less than two months, I would have to ask the Auditor.

Howard stated you're going to get ahead and then you're going to get behind, get ahead and get behind so give yourself some time. At least 90 days.

Tolan stated at least two months because I have to submit the claim, but if I could submit the claim for reimbursement from the Auditor as a loan.

Howard stated because you're going to keep two sets of books. You're going to keep your money that needs to be reimbursed and his money that needs to be reimbursed.

Tolan stated correct.

Howard stated the question is if you do the million don't you want to keep that in a continuous state because if you reimburse it all in June then you're going to need more money.

Tolan stated if we're being reimbursed in a timely manner we won't.

Howard stated we're not going to throw rocks.

Tolan stated I'm not. If we get into that rhythm, we'll be fine.

Dillinger stated forgive my ignorance about all of this, but I've been reading all these emails between you and Todd (Clevenger) and everybody else in the world. Has that issue been resolved?

Tolan asked which issue?

Dillinger stated the issue that you've had with Todd and the Auditor's Office and submitting the claims, documentation and all of that.

Tolan stated we are currently working with Chris (Mertens) with ISS.

Dillinger stated Chris is sitting back there, so come on up. I'm getting really tired of all this. I'm ready to cash in the cow here. I want some resolve to this today. I don't want to hear any more about it.

Mertens stated we had a meeting this morning with the Unqork Company that is building the application for the Township Trustee and talked to them about how to transfer the documents that the Auditor's Office needs. I don't think it's going to be a huge undertaking. I think they've already reached out once today after the meeting to kind of start the process, but they're going to give us API access so we can programmatically pull the case documentation over to...

Dillinger stated so when you do that, are we going to stop hearing from the Auditor's Office? Are they going to be satisfied with that? Do you know that?

Mertens stated I talked to Todd after the call this morning.

Heirbrandt stated that's what Todd told me.

Dillinger asked was that what the Auditor told you because I keep feeling like she's overriding him some.

Howard stated this is all new. What Mertens is telling you now has only been known information for about three hours. My conversation before was that it was impossible to transfer the data from their system to our system without fingerprinting it all. Chris (Mertens) has assured us that that's not the case, it can be done electronically as long as the documents are transferred electronically then we have what we need to comply with the grant.

Dillinger stated I understand that, but does the Auditor feel like we have what we need or are we going to...

Howard stated Todd (Clevenger) told me as late as 4:30 p.m. Friday if the documents get in his system; what's it called?

Mertens stated we'll store them in SharePoint, but I talked to Todd this morning after the call and said we will be able to pull all the documents that have been uploaded by various parties on your side.

Dillinger asked, has anybody talked to Robin (Mills)?

Mertens stated I haven't talked to Robin, no.

Howard stated there won't be a problem.

Dillinger stated you say that, but every time I hear there's not going to be a problem, there's a problem.

Howard stated there's always been a problem here.

Dillinger stated I know.

Howard stated we're not going to start throwing rocks at each other, but it was solvable, and it is being solved as we speak.

Mertens stated part of the process is Todd will be involved, as we build that connection between us and them, Todd will be there to review the documents that we're pulling over. Any document that's been uploaded, that's assigned a case on their side, we'll pull all those documents. He'll have everything that's uploaded into their system.

Dillinger stated when I ask Robin that in our next meeting, she's going to say she agrees, right?

Mertens stated I haven't talked to Robin.

Howard stated we are assuming that everything that's on the list she has in her system for everybody she's paid, right?

Tolan stated in one form or fashion, whether it's in comments or .pdf. It's not all in .pdf and I've mentioned that multiple times.

Howard asked Mertens, would you please get with her (Robin Mills) and speak, do computer speak?

Mertens stated that was brought up in the meeting this morning and part of that was if there is something that is missing that they've wrote into a comments field, at that point Todd or State Board of Accounts or the Federal Auditor's whoever may be, we may have to log into that system to review that specific case or question that they have. Wasn't that your understanding, Mark?

Heirbrandt stated yes.

Howard asked is that the rule or how much of this data is going to be in comment section that we have to go back and forth and look for?

Tolan stated every case is unique. I can't give you that exact data, but I do know that Unqork was recommended by NACo. We're complying with Treasury guidelines and the data that they want.

Howard stated we've been through this.

Tolan stated I know.

Howard stated the grant says the "grantee shall". That's not you, that's them.

Tolan stated right, and that's why initially we were talking about a third-party beneficiary, but that was taken off the table from my understanding.

Mertens stated technically with API access we can pull over whatever data.

Heirbrandt stated I'm comfortable after being on that conversation especially this morning and then also Friday with Chris (Mertens) that they're going to get the information over to Todd (Clevenger).

Howard asked is it going to take another leap to get this comment information?

Mertens stated not if we have program access. With API access they're essentially opening up their system and they'll give us credentials; we'll be able to pull the data that's in there.

Howard stated so we pull it from Point A to Point B.

Mertens stated yes. Our intent based on the meeting this morning is really to just focus on the documents, but if there's other information that Todd says we need that information then we should have access to the full case.

Howard stated let's presume we're doing not just documents but information.

Dillinger stated okay, I'm taking you all for your word that this is resolved. I'm not totally convinced yet, but we'll see.

Heirbrandt asked what about the issue in the email about conflict of interest?

Howard stated we've talked to Todd about that, he feels comfortable that we waive that because it is a de minimis apparent overly cautious disclosure. That disclosure went in two months ago. We've not received a response and we feel safe moving forward unless we hear something negative.

Heirbrandt asked how much is the amount you need to transfer?

Tolan stated I'd like \$1,000,000.00.

Howard asked why don't you give yourself 90 days? Would that work?

Tolan stated yes.

Howard asked all of it back?

Tolan stated yes.

Howard stated rather than coming back I want to make sure you give yourself enough time.

Tolan stated right.

Howard stated we would need a motion to loan drainage funds directly to the, by Interlocal Agreement, to the Westfield Township Trustee and authorizing the President of the Drainage Board to execute the Interlocal Agreement.

Heirbrandt made the motion to loan drainage funds of \$1,000,000.00 by Interlocal Agreement directly to the Westfield Township Trustee and authorize the President of the Drainage Board to execute the Interlocal Agreement, seconded by Dillinger and approved.

The Surveyor stated you all aren't putting me into an orange jumpsuit, are you?

Dillinger stated it sounds like I'm the one that has to sign it so if someone's going into an orange jumpsuit it's going to be me, and I don't know what the hell I'm doing.

**Cool Creek Drain:**

The Surveyor stated because of the funding possibilities that we've talked about there are still a lot of questions that I have that are still unanswered at this point in time, but if all those come together like I hope they do I'd like to have a couple things. We need soil borings on Cool Creek.

Altman made the motion to approve soil borings on Cool Creek, seconded by Heirbrandt and approved unanimously.

**James S. McCarty Drain:**

The Surveyor stated I'd also like to have permission to get three quotes on the McCarty Phases 2 and 3 for survey work. We've got two tiles that will go inside north and south of Clarksville that this money would be great for.

Altman made the motion to allow the Surveyor to get three quotes on the McCarty Drain for survey work, seconded by Heirbrandt and approved unanimously.

Heirbrandt stated any other projects that you think might qualify please get those to us by the 23<sup>rd</sup> of April.

Howard stated we might also look at if this infrastructure bill for \$2 Trillion that comes out. That money the soonest would be September, but I am guessing that everyone is getting engineering work done as quickly as possible and engineering firms do not have enough engineers to do it all. If there is anything you can put in the pipeline, we need it put in the pipeline.

The Surveyor stated Gary (Duncan) and I did meet for a couple of hours this morning and we have Clara Knotts, the rest of it, it's good to go, all we need to do is pull the trigger.

Howard asked CDBG Grant?

The Surveyor stated that or (inaudible).

Howard stated the other is probably going to be quicker.

The Surveyor stated we have three alternates left. Hortonville, which is 95% done, we need some easements and that's about it. Beaver and Brooks, which is already being worked on. The McCarty phases which I just asked about are immediate and if they open up to open ditches in farm tiles, we've got ten.

**Bellewood Drain - Glen Oaks Arm:**

Heirbrandt asked the Surveyor, could I get an update on the Bellewood Drain, Konow property?

**15438 Shelborne Road - Shortenhaus Drainage:**

Heirbrandt asked the Surveyor for an update on the Shortenhaus guy that Dillinger and I had spoken to about the drainage concerns that he had.

**Beals & Cox Drain - Hinshaw Drainage:**

Heirbrandt stated I also had an email from Melissa Hinshaw on Anthony Road on the Beals and Cox Drain and she was very complimentary of the Surveyor and Andy (Conover) that came out to try to help them and several people over on that drainage issue that they had.

**Vincent Case Drain - Bear Drainage:**

Heirbrandt stated that I still need that email on Lori and Brian Bear about what the next step would be.

**Anchorage Drain - Erosion Study:**

Heirbrandt stated I need an update on the Anchorage erosion study that we approved for Burke. If you could get an update on the schedule of that.

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

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Steven C. Dillinger - President

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Lynette Mosbaugh  
Executive Secretary