

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

May 11, 2020

The meeting was called to order Monday May 11, 2020 at 12:03 P.M.

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

**52.5 Hearing - Little Eagle Creek, Cove Horney Arm - Osborne Trails Section 1 Reconst.:**

There were neither landowners present nor objections on file.

Clark presented the Surveyor's Report to the Board for approval.

March 31, 2020

To: Hamilton County Drainage Board

Re: Little Eagle Creek Drain, Cove Horney Arm-Osborne Trails Section 1 Reconstruction

Attached is a petition and plans for the proposed reconstruction of the Little Eagle Creek Drain, Cove Horney Arm. The reconstruction is being proposed by Platinum Properties Management Company LLC. The proposal is to reconstruct the Cove Horney drain located within the Osborne Trails Subdivision. The reconstruction is per plans by Stoeppelwerth and Associates Inc., having job no. 76515PLA-S1 and dated February 2<sup>nd</sup>, 2018. (See sheets C200, C600 and C807)

The relocation begins at Existing Sta. 59+68 of the Cove Horney Drain's June 1903 description (See Commission Record Book 14, Page 392) which is new structure 859 and ends at existing Sta. 66+79 (Station 67+00 of 1903 description). The total existing drain to be removed is 711 feet.

The new system consists of two lakes (Lake 1 and Lake 1A) on either side of Sumrall Place and connected by a 21'x7' box culvert. The relocation shall begin at new Str. 859 per the plans and then run 57 feet southwest with 21" RCP to new structure 860 per the plans. Then, turning West the existing regulated drain will be replaced by the 2 lakes mentioned above. Lake 1A runs for 120 feet before outletting to a 21'x7' box culvert which runs for 100 linear feet before connecting to Lake 1. Lake 1 runs for 520 feet before connecting via spillway to the existing Alva Osborn open drain.

This Reconstructed drain shall consist of the following:

21" RCP	57 feet	Open Ditch	552 Feet
21'x7' Box Culvert	100 Feet	Spillway	72 Feet

The total length of the reconstructed drain will be 781 feet.

Lake 1 and Lake 1A are to be considered part of the regulated drain as open ditches. Maintenance of the area assumed by the drainage board shall include the inlet and outlet and ensuring that the flow of water is maintained as well as the storage volume, thus allowing no encroachments. The maintenance of the lakes such as sediment and erosion control along the banks, mowing and aquatic vegetation maintenance and control will be the responsibility of the Homeowners Associations.

In accordance with IC 36-7-4-709, the petitioner did not submit surety for the proposed drain prior to construction commencing. If the petitioner/developer wants to submit final secondary plat for recording prior to the final inspection and approved as-built drawings, a bond will be required at that time.

Because the proposed reconstruction will be done upon the petitioner's property at the petitioner's expense it meets the requirements of I.C. 36-9-27-52.5 for a hearing. Therefore, I recommend approval by the Board at this time.

I recommend that upon approval of the above proposed reconstruction that the Board also approve the attached nonenforcement for Osborne Trails Section 1 Secondary Plat.

Kenton C. Ward  
Hamilton County Surveyor

KCW/pll

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

Altman asked is this the one where they didn't post bond?

Clark stated that is correct.



**2020 Drain Classification List:**

The Surveyor presented the 2020 Drain Classification list to the Board for approval.

April 30, 2020

To: Hamilton County Drainage Board

Re: Drain Classification

Under the authority of the Indiana Drainage Code: IC 36-9-27-34, I hereby submit the following drains for classification:

A. DRAINS IN NEED OF RECONSTRUCTION	ACRES	PETITIONED
1. Emily Vestal Drain	6,797.82 ac	
2. Jesse DeVaney Drain (Taylor Creek)	3,425.99 ac	January 4, 2000, January 14, 2015
3. Mallery-Granger Drain	974.76 ac	February 21, 1995
4. E. Clark & S.J. Compton Drain	4,369.70 ac	
5. Wheeler & Beals Drain (Cool Creek)	4,108.00 ac	
6. E. M. Osborne Drain	409.00 ac	October 6, 2000
7. Clark & Inman Drain	440.00 ac	April 18, 2011
8. William Baker Drain	2,114 ac	February 13, 2013
9. Marion Blanton Drain	1,227.59 ac	October 1, 2013
10. Flora Mendenhall Drain		
11. Wilson-Nagle Drain		December 17, 2014
12. Clara Knotts (Park, Broadway, & 103 Arm)		July 31, 2015
13. Taylor & Jessup		March 4, 2016
14. Clara Knotts Drain (103 <sup>rd</sup> , Park, Ruckle, Broadway, 102 <sup>nd</sup> , Central & New Jersey)		June 23, 2017
15. Vermillion Drain		December 12, 2017
16. Hortonville Drain		June 11, 2018
17. C.B. Jones Drain		June 12, 2019
18. Bellewood Drain, Glen Oaks Arm		November 4, 2019

B. DRAINS IN NEED OF MAINTENANCE

1. Guy Guilky Drain	
2. Green Harris Drain	
3. Kline-Miller Drain	
4. A. Stehman Drain	
5. Little Cicero Creek	
6. Hinkle Creek	
7. W.C. VanArsdale Drain	Reconstruction turned down by Board 2/23/98
8. Herbert Billingsley Drain	Maintenance turned down by Board 3/27/06
9. James E. Driver Drain	Maintenance turned down by Board 2/22/10

ALL OTHER REGULATED DRAINS/DITCHES THAT WERE CERTIFIED TO THE AUDITOR OF HAMILTON COUNTY IN 1957, AS REGULATED DRAINS/DITCHES TO BE CLASSIFIED AS DRAINS/DITCHES IN NEED OF PERIODIC MAINTNENACE.

C. DRAINS IN NEED OF VACATION

No drain found to be in need of vacation at this time.

PETITIONS FOR NEW DRAINS

At this time the Board has been petitioned for new drains to be constructed. These petitions are as follows:

<u>Name</u>	<u>Date Petition Filed</u>	<u>Township</u>
1. South Arm, Mallery-Granger Drain	February 13, 1995	Noblesville (tabled 5/22/2000)
2. Hortonville Arm, Henry Plew Drain	June 5, 2002	Washington
3. Ream Creek (Orchard Park Subdivision)	January 5, 2011	Clay
4. Barnette Arm, Harriett Sheward Drain	March 8, 2011	White River
5. Raymond Briles	August 5, 2011	Jackson
6. Springmill Crossing	January 13, 2012	Clay
7. Summer Lakes	October 15, 2013	Clay

**DRAIN MAPPING PROJECT:**

During the mapping project which was completed in 2005 for the regulated drains, eight (8) new drains were discovered. These drains were not listed on the drains which were certified to the Auditor in 1957. The 1957 list has been utilized for the classification list since 1965. Utilizing the 1957 list, plus adding new drains or removing vacated drains over the years, the length of drains which had been reported previously was 1,077 miles. As a result of the mapping project the length of drain miles increased to 1,095 miles. This figure is believed to be very accurate based on the methodology which was utilized in the creation of the new mapping. This is the length reported to the Auditor in 2004 for the GASB34 reporting of Capital improvements.

The new drains that were added to the classification list in 2005 not on maintenance as yet are as follows:

Guy Guilkey Drain  
Green Harris Drain  
Kline-Miller Drain  
A. Stehman Drain  
James E. Driver Drain (Hearing held Feb. 22, 2010, Board dismissed report)  
Herbert Billingsley Drain (Hearing held Mar. 27, 2006, Board dismissed report)

At this time these drains have been added to the classification list as drains which are in need of maintenance. As more data is compiled for each of these the classification could change at a later date. Whenever possible these drains should be consolidated with the drain which serves as its receiving stream.

**REGULATED DRAIN EXTENTIONS:**

Along with the classification list, I also recommend that in the future the following drains be extended or established in length to the indicated receiving streams or County boundaries. This can be accomplished through the petition process as set out in IC 36-9-27-36 and 49 and IC 36-9-27-54.

These extensions or establishments can be done by utilizing IC 36-9-27-34 (b) (3) (E) and IC 36-9-27-49 (b) (2).

Delaware Township

Loma Industrial Park, Margaret O'Brien, R.J. Craig Drain to White River  
Castetter & Randall, Shoemaker & Krause Drains to White River  
Lynnwood Hills Drain to White River  
Pines & Roxbury Drain to White River

Fall Creek Township

Thorpe Creek Drain to Geist Reservoir  
Flat Fork Creek Drain to Fall Creek

Wayne Township

A.J. Huffman Drain to Stony Creek  
S.E. Carpenter Drain to Stony Creek  
William Locke as Stony Creek to Madison County Line  
William Locke as Stony Creek to White River  
Frank Huffman Drain to William Locke

Noblesville Township

Schneider Peirce Drain to White River  
Mallery-Granger Drain to White River  
William Locke as Stony Creek Drain to White River  
County-McMahon Drain to White River  
George Booth, Pebble Brook, Beals & Cox, Ellis Barker, Bliss Johnson, Mill Creek Drains as Sly Run Drain to Cicero Creek.

Jackson Township

M.E. Scherer Drain to Little Cicero Creek  
Ed Waltz/Bear Slide Creek Drain to Morse Reservoir  
Whisler & Brenner & H.A. McMullen Drains to Big Cicero Creek  
Marion Blanton, Ed Waltz, & Bear Slide Drains to Morse Reservoir as Blear Slide  
Raymond Briles Drain to Isaac Jones Drain  
Symonds Ditch to Morse Reservoir (Little Cicero Creek)  
Wilson-Nagle Drain to Big Cicero Creek  
Jesse DeVaney Drain to Little Cicero Creek  
Raquet & Ehman Drain to Little Cicero Creek  
William Baker/Baker Jones Drains to Hinkle Creek  
Jacob Yansel Drain to Hinkle Creek  
Sylvester Gwinn Drain to Jesse DeVaney Drain

White River Township

Frank Shaw Drain to Duck Creek  
Guy Guilkey, Shyrook, Kepner & Cornthwaite Drains to White River  
Hill & Webb and Rebecca Webb Drains to White River  
Harriet Sheward Drain to White River  
George Keck Drain to Bear Creek  
Rebecca Roberts Drain to White River  
Sarah Dentz Drain to Duck Creek  
Bear Creek Drain to Duck Creek  
Clara Gintert Drain to White River  
Burkhardt Drain to White River  
Henry Gunn Drain to Pipe Creek  
Vincent Case Drain to White River  
Lambertson Drain to Duck Creek

Adams Township

Symonds Ditch to Morse Reservoir (Little Cicero Creek)  
Jay Ditch to Symonds Ditch

Washington Township

Stuart Rawlings Drain to Little Eagle Creek  
Oak Park Drain to Mary Wilson Drain  
Little Eagle Creek to Boone County Line  
Bear Creek to Little Eagle Creek  
Wheeler & Beals Drain (Cool Creek) to White River  
William Knight Drain to Cool Creek  
Oak Manor Drain to Cool Creek  
Oak Woods Drain to Cool Creek  
Harmon Clark & H.G. Kempton Drains to Cool Creek.

Clay Township

Albert Shaw Drain to Boone County Line  
Long Branch (J.W. Brendel) Drain to Boone County Line  
Brandywine Drain to Crooked Creek  
Timber Heights Drain to Carmel Creek  
Fertig/Hawkins Drain as Carmel Creek Drains to Marion County Line  
Richard Moffitt Drain to Carmel Creek  
Hunters Creek Village Drain to Cool Creek  
Hunters Creek South & Bentley Oaks Drains to Cool Creek  
Spring Mill Run Drain to Williams Creek  
Thomas Hussey Drain to Williams Creek  
Osborn-Collins as Williams Creek to Marion County Line  
Clay Creek Drain to Williams Creek  
Crossfields Drain to Clay Creek Drain  
Asher Drain to Williams Creek  
Clay Springs Drain to Williams Creek  
John Osborn Drain to Spring Mill Run Drain

I believe that as the Stormwater Phase II Program progresses in Hamilton County that the above extension will become important. Doing so will allow the Drainage Board better control of the stream not only hydraulically but more importantly in regards to water quality.

**DRAINAGE SHEDS:**

I recommend the Board continue the creation of larger drainage sheds. By the identification of the main receiving stream and the inclusion of a single rate schedule which blankets the entire drainage shed, main and the various smaller drains which enter into it, will have long range benefits. These are as follows:

1. Reduce the number of funds to be managed. At this time the Board has 368 drain funds for maintenance. Of these 179 funds have now been combined into larger drainage sheds. As an example, when the Mud Creek/Sand Creek basin was created, 23 smaller funds were included within the drain.
2. Reduce the need for the creation of future funds.
3. Eliminate the problem of the smaller sheds, which cannot generate enough funds for maintenance, of being in the red and having to borrow from GDIF.
4. Reduce the number of multiple assessments on single tracts. This became very important when the drain billing was combined on the individual property tax bill.

5. Perhaps if the number of funds are reduced and become more manageable from an accounting perspective, the Treasurer would add interest to the maintenance funds. Doing so should eliminate a complaint from the landowners that have been heard by the Board and myself many times, in the past. This would also help the funds financially and provide better service to the landowners within the drainage sheds. However, this could be negated if the Board were to be able to utilize the General Drain Improvement Fund interest for Phase II Funding.

In the future the Board may wish to collect on the maintenance funds until the fund reaches eight (8) times the annual assessment instead of four (4) times the annual assessment which is currently done. This is allowed under IC 36-9-27-43. This will increase the available balance in the drain funds. The Board would then be able to utilize maintenance funds to partially pay for reconstruction projects. Under IC 36-9-27-45.5, the Board may transfer up to 75% of a maintenance fund to pay for reconstruction projects. This could reduce, or eliminate, the assessments for future reconstructions.

Currently the following drains are in need of increasing the collection period from four (4) years to eight (8) years.

Revis-Carson Drain	Prairie Creek Drain	Highland Springs Drain
J.R. McKinzie Drain	George Beam Drain	Lynnwood Hills Drain
		Benton Hinesley Drain

#### **IC 36-9-27-43**

##### **OMMISSION OF ANNUAL ASSESSMENT:**

- a. If in any year a maintenance fund established under Section 44 of this chapter has an unencumbered balance equal to or greater than four (4) times the estimated annual cost of periodically maintaining the drain for which the fund was established, the annual assessment for the maintenance of that drain may be omitted for that year.
- b. The County Drainage Board may collect the drain assessment even though the unencumbered balance of the maintenance fund is equal to or greater than four (4) times the estimated annual cost of periodic maintenance of the drain for which the fund was established if the Drainage Board does the following.
  1. Conducts a public hearing in accordance with Section 40 of this chapter.
  2. At the public hearing estimates what the unencumbered balance of the maintenance fund would be, as a multiple of the estimated annual cost of periodic maintenance of the drain, after the collection of the total amount that the Board intends to collect in assessments. However, the annual assessment for the maintenance of the drain shall be omitted if, according to the estimate of the Board, the collection of the intended total amount of assessments would increase the unencumbered balance of the maintenance fund to equal or exceed eight (8) times the estimated annual cost of periodic maintenance of the drain for which the fund was established.

*As added by Acts 1981, P.L. 309, Sec.101. Amended by P.L.276-2001, Sec.13.*

#### **IC 36-9-27-45.5**

##### **EXCESS DRAINAGE MAINTENANCE FUND BALANCE; TRANSFER OF FUNDS:**

- a. This section applies when a county surveyor advises the drainage board that in the county surveyor's opinion a maintenance fund has a balance in excess of the amount reasonably needed in that fund for maintenance work in the foreseeable future.
- b. The board may transfer an amount up to a maximum of seventy-five percent (75%) of the money in the maintenance fund to a reconstruction fund that covers the same watershed as the maintenance fund from which the money is transferred.

*As added by P.L.154-1993, Sec.6.*

##### **ASSESSMENT INCREASES:**

In 2005 the Board began increasing maintenance assessments for drains throughout the county to a standard set of rates. Although due to size of the drainage shed, difficulty of access and type or size of the facilities anticipated maintenance costs may vary. The typical standard rates are as follows:

1. Maintenance assessment for roads and streets set at \$10.00 per acre.
2. Maintenance assessment for agricultural tracts set at a minimum of \$2.00 per acre with a \$15.00 minimum per tract.
3. Maintenance assessment for non-platted residential tracts be set at a minimum of \$2.00 per acre with a \$15.00 minimum per tract.

4. Maintenance assessment for commercial, institutional and multi-family residential tracts be set at a minimum of \$10.00 per acre with a \$75.00 minimum per tract.
5. Maintenance assessment for platted lots in subdivisions whose drainage systems will not be part of the regulated drain (those systems maintained by a city or town) set at \$35.00 per lot/minimum. Common areas within non-regulated drain subdivisions shall be assessed at \$5.00 per acre with a \$35.00 minimum per tract.
6. Maintenance assessment for platted lots within subdivisions whose drainage system will be part of the regulated drain shall be set at a minimum of \$65.00 per lot/minimum. Common areas within the regulated drain subdivision shall be set at a minimum of \$10.00 per acre with a \$65.00 minimum per tract.

I recommend the Board continue this process until all rates are adjusted to the above levels. At some time in the future rates should be increased. This increase can be at a given time period such as every 2, 5 or 10 years so as to keep up with the increasing costs of materials, fuel and labor. This can be done at given percentages such as 5, 10 or 15% on a regular basis. The Board could also utilize IC 36-9-27-42 whereby the Board can increase the maintenance assessment for a drain up to 25% without hearing. Currently the following drains are in need of increases in the annual assessment.

Marion Blanton Drain	William Baker Drain	George Beam Drain
Benton Hinesley Drain	Revis-Carson Drain	Ingerman-Lockwood Drain
		Jacob Yansel Drain

**IC 36-9-27-42**

**INCREASES AND DECREASES IN ASSESSMENTS FOR PERIODIC MAINTENANCE OF DRAINS; PROCEDURE:**

- a. The board may at any time increase or decrease the amount annually assessed for periodic maintenance of a regulated drain if the board finds that the county surveyor's estimate of the cost of maintaining the drain was insufficient or excessive.
- b. The board may decrease the amount annually assessed without notice to the affected owners if the percentage of benefit assigned to all tracts of land affected is not changed from that originally determined by the board.
- c. The board may increase the amount annually assessed once without notice to the affected owners if:
  1. the percentage of benefit assigned to all tracts of land affected is not changed from that originally determined by the board; and
  2. the increase does not exceed twenty-five percent (25%) of the amount initially established.
- d. If the Board:
  1. finds that the percentage of benefit assigned to any particular tract or tracts of land should be increased due to a change in land use or for any other reason; or
  2. proposes an increase or decrease that would affect all of the lands assessed for the maintenance of the drain and that is not exempted from the giving of notice under subsection (b) or (c); the board shall mail a notice to the owner or owners of the land. The notice must state the proposed change in the assessment, and specify a date, time, and place, not less than ten (10) days after the notice is mailed, when the board will hear objections to the change. An owner may file written objections to the proposed change on or before the date of the hearing. At the hearing, the board shall consider all objections and evidence filed and shall enter an order as justice may require. The board shall mail a copy of its order to the owner or owners affected. If an owner does not request judicial review of the order under section 106 of this chapter within twenty (20) days after his receipt of the copy of the order, the order becomes conclusive.
- e. A joint board that includes three (3) or more counties in a drainage basin that exceeds one hundred thousand (100,000) acres shall publish notice in accordance with IC 5-3-1 instead of mailing notice to the owner or owners of land as required by subsection (d).

*As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.317, SEC.25; P.L.370-1983, SEC.2.*

### **CLEARING/FILTER STRIPS**

As the balances in the maintenance funds increase, the Board should consider clearing contracts for clearing drains which have not been reconstructed and thus not under a vegetation control (spray) program. I recommend that these be done by individual contract by drain rather than being done by work order to the maintenance contractor. I believe that this will give the Board better control of prices if done in this manner.

It has been the practice by the Board to establish filter strips along the open drains which are reconstructed. These are done on the side of the drain which is cleared for the project and are usually 20 feet in width. This provides a year-round access for inspection, vegetation control and maintenance without damaging crops. I recommend that when the drains are cleared as discussed above, that a filter strip be established on the cleared side of the open ditch. In order to make the filter strip a part of the drain I suggest that the Board hold reconstruction hearings for this purpose. By doing so the drains specifications would be changed and the filter strips would become a part of those specifications for the future.

### **DRAINS IN RIGHT OF WAY:**

Recently it has come to the forefront that when the regulated drain parallels the roadway that problems are beginning. This is particularly true in urbanizing areas. The following areas should be considered for reconstruction in the future. This could be done by developers as development occurs or thru the regular reconstruction process.

#### **ADAMS TOWNSHIP**

1. Thomas Pierce #255 - Approximately 1,300 feet east of Jerkwater Road on 281st Street
2. J M Endicott #266 - Approximately 1,300 feet east of Ditch Road on 296th Street
3. JM Endicott #266 - Approximately 630 feet south of 296<sup>th</sup> Street on Six Points Road
4. Mary Parks #287 - East and west of Dunbar Road along the south side of 276th Street
5. George Symonds #283 - Approx. 520 ft. S. of 256th on W. side of Six Points Road
6. Pearson Drain - Approx. 450 ft. N. of 236th St. on E. side of Ham/Boone Co. line
7. Pearson Drain - Approx. 2,900 ft. S. of 236th St. on W. side of Ham/Boone Co. line

#### **JACKSON TOWNSHIP**

8. W P Bennett Drain - Approx. 200 feet east of US 31 on south side of 266th Street
9. W P Bennett Drain - Approx. 2,700 feet east of US-31 on south side of 266th Street
10. W P Bennett Drain - Approx. 2,200 ft. S. of 276th St. along north side of Salem Rd.
11. W P Bennett Drain - Approx. 730 ft. W. of Salem Rd. along S. side of 276th Street
12. Hunter Snowburger Drain - Approx 300 ft. S. of 296th St. along E. side of DeVaney Rd
13. Lewis Wright Drain - Approx. 230 ft. W. of Edmondson Rd. along S. side of 296th St.
14. H A McMullen #118 - Along Millersburg Road at 281st Street
15. Big Cicero Creek #249 - Along W. side of Crooked Creek Rd. N. of new bridge N. of 266th St.
16. Mary Nagle #140 - Approximately 100 ft. S. of 231st St. along W. side of Tollgate Rd
17. Charles Caylor #204 - Approx. 1,000 ft. N. of 256th St. along E. side of Lacy Road
18. Jonas Rogers #84 - Approx. 3,200 ft. E. of SR 213 along the S. side of 296th Street
19. F Beeson Drain - Approx. 75 ft. S. of 291st St. along W. side of Carpenter Road
20. F Beeson Drain - Approx. 1,700 ft. S. of 291<sup>st</sup> St. on W. side of Carpenter Road

#### **WHITE RIVER TOWNSHIP**

21. Duck Creek - Approximately 600 feet west of ST RD 37 along Duck Creek Ave.
22. Duck Creek - North and south of 276th street along Duck Creek Ave.

#### **WASHINGTON TOWNSHIP**

23. Kreager Hinshaw #108 - Approx. 1,200 ft. N. of 206th St. on E. side of Ham/Boone Co. line
24. Cove Horney #36 - Approx. 700 ft. W. of Springmill Rd. on S. side of 193rd Street
25. Isaac Jones Drain - Approx. 900 ft. E. of Oak Ridge Rd. along N. side of 206th St.
26. Wheeler & Beals Drain - Along the east side of Flippens Road at 191st Street
27. Wheeler & Beals Drain - Along Grassy Branch Road at 186th Street
28. Gardner & Johnson Drain - Approx. 1,900 ft. N. of SR 32 along W. side of Joliet Rd.
29. Gardner & Johnson Drain - Approx. 2,000 ft. S. of SR 32 along E. side of Joliet Rd.
30. Osborne Collins Drain - Approx. 1,300 ft. W. of Springmill Rd. on N. side of 156th St.
31. U G Mitchner #275 - Approx. 550 ft. N. of 146th St. on E. side of Gray Road

#### **NOBLESVILLE TOWNSHIP**

32. Wheeler & Wheeler Drain #25 - Approx. 350 ft. N. of Greenfield Ave. on E. side of Cumberland Road
33. Schneider-Pierce #100 - Approx. 1,700 ft. W. of Creek Rd. on N. side of 206th Street

#### **WAYNE TOWNSHIP**

34. Frank Huffman #190 - Approx. 650 ft. N. of 211th St. on E. side of Cyntheanne Road

#### **CLAY TOWNSHIP**

35. Stultz & Almond #45 - Approx. 1,200 ft. W. of Ditch Rd. on S. side of 136th Street
36. Moffitt-Williamson #177 - Along N. side of 106th St. between Stratford Pl. & Haverstick Road

#### **DELAWARE TOWNSHIP**

37. R J Craig #38 - Approx. 1,000 ft. E. of Hague Rd. on S. side of 106th Street

**FALL CREEK TOWNSHIP**

38. Sand Creek Drain - Approx. 300 ft. W. of Marilyn Rd. on N. side of 136th Street

**FLOOD STORAGE/WETLAND MITIGATION BASINS:**

Currently the Board has four areas that have been either donated or purchased for flood storage and/or wetland mitigation. These areas are as follows:

- Cool Creek-North side of S.R. 32. Basin designed by Clark-Dietz
- Sand Creek-Southeast corner of Cumberland Road and 106<sup>th</sup> Street. Basin designed by Burke Engineering.
- Symonds Ditch-East side of Eagletown Road basin designed by Banning Engineering  
East side of Lamong Road - under construction

These basins will help reduce flooding along the drains which they are located. They will also provide areas for wetland mitigation for future county road and drainage projects. As funding allows more such basins should be considered in drainage sheds where flooding has been a problem. Partnerships with either the County Parks Department or local parks should be considered so as to provide maintenance of the basins in the future.

**STREAM GAUGES:**

On June 23, 2004 I submitted a report to the Board regarding a letter sent by the U.S.G.S. Water Resources Division on October 17, 2003. After seeking input from representatives of Carmel, Noblesville, Cicero, Westfield, Fishers, and consultants Christopher Burke and Clark-Dietz about future stream gauges, it was determined that a prioritized list would be needed to set up an order of when new or reactivated gauges could come online.

The existing stream gauges are as follows:

1. Logan Street over White River in Noblesville
2. S. R. 37 over Stony Creek near Noblesville
3. Atlantic Avenue over Fall Creek near Geist Reservoir
4. Pleasant Road Bridge over Big Cicero Creek near Arcadia (installation 2004)
5. 146<sup>th</sup> Street over White River (installed 2006)
6. 96<sup>th</sup> Street over Williams Creek (installed 2007)
7. 196<sup>th</sup> Street over Locke Drain east of Noblesville (installed 2008)
8. Atlantic Road over Stony Creek (installed 2008)
9. Cumberland Road over Mud Creek (Installed 2012)
10. 116<sup>th</sup> Street over Sand Creek (Installed 2013)
11. Strawtown Road over White River (Installed 2017)

Below is a prioritized list of proposed gauges or abandoned gauges that could be reactivated to benefit Hamilton County. The gauge is either Proposed or Abandoned and the Priority ranking is High, Medium or Low.

1. 96<sup>th</sup> Street over White River (Proposed-High)
2. 266<sup>th</sup> Street over Little Cicero Creek (Abandoned-Low)
3. Hazel Dell Parkway over Cool Creek (Proposed-Medium)
4. S R 32 over Cool Creek near Anna Kendall Drain (Proposed-Medium)
5. Atlantic Road over Pipe Creek (Proposed-High)
6. 296<sup>th</sup> Street over Duck Creek (Proposed-Medium)
7. S R 38 over Cicero Creek (Abandoned-Low)
8. White River between Claire and Madison County Line (Proposed-High).
9. 225<sup>th</sup> Street over Hinkle Creek (Abandoned - High)
10. Greenfield Avenue over Mud Creek (Proposed-Low)

Some of the above gauge locations would be ideal sites for both stream and potential water quality gauge monitoring. Existing gauges 2 and 3 would be excellent locations if funding is available for water quality monitoring. If these gauges can be equipped with water quality monitoring instruments, the cost can be justified under Phase II.

Funding for gauges 3 and 4 can be provided through drain maintenance funds for Cool Creek, gauge 11 can be funded out of the Mud Creek fund and gauge Number 6 can be funded out of the Duck Creek Fund. Funding for gauges 2 and 9 can be funded sometime in the future when Little Cicero Creek and Hinkle Creek are placed on maintenance. Funding for gauges 1, 5, 7 and 8 could be cost shared with other entities such as Duke Energy, Citizens Water and the Hamilton County Parks Department and/or cities or towns.

I recommend the Board approve this Drain Classification List for 2020 as submitted.

Sincerely,

Kenton C. Ward, CFM  
Hamilton County Surveyor

KCW/pll

Heirbrandt stated I thought it was a very productive meeting. We met for about an hour and a half to two hours and immediately after that meeting I saw emails flying all over the place from Gary (Duncan) and the Surveyor. We got some good sound things in place.

Altman stated one question I had, several of these on the need of reconstruction, there's no petition on file. Is that accurate, like the Emily Vestal Drain?

The Surveyor stated that is correct.

Altman stated so the drains are just in bad shape, but no one has petitioned for the reconstruction.

The Surveyor stated right, and on the Wheeler & Beals (Cool Creek) we have \$1,000,000.00 in the fund.

Dillinger made the motion to approve the 2020 Drain Classification List, seconded by Altman and approved unanimously.

**Benton Hinesley Drain- Letter from Jessup:**

The Surveyor stated we received a letter from Mrs. Jessup asking the Board to give relief on properties that she's assessed for. She has several assessed for the Benton Hinesley Reconstruction for the Grass Waterway. I have those highlighted in yellow. She wanted some kind of relief from the Board.

Altman asked is her trust the biggest landowner in that area?

The Surveyor stated she's one of the biggest.

Altman stated at first her letter indicated they only had 40 acres.

The Surveyor stated when you go back and start looking through there it's more than one tract. She has seven different tracts.

Heirbrandt asked did she come to the public hearing for the reconstruction?

Altman stated it's in the letter.

The Surveyor stated I think she did because she mentions..

Altman stated in the letter she and her son and her husband could not attend.

Heirbrandt asked have you spoke to her?

The Surveyor stated no, I have not.

Altman asked did we change the interest rate on this one?

The Surveyor stated I believe you did.

Altman stated it shows 4%, but I thought this was the 4% and at the next meeting we reduced it, didn't we?

Heirbrandt stated that was a different one, I think that was the one that was partly in Madison County?

Howard stated that was the one for Lapel.

Altman stated I think we're sitting at 4%. I don't have a problem going down a point on the percentage. It's going to go across the Board for everyone.

The Surveyor stated it would have to.

Altman made a motion to reduce the rate from 4% to 3% on the deferred collections, seconded by Dillinger.

The Surveyor stated this isn't deferred collections.

Altman stated she's got seven years.

Heirbrandt stated yes, she has seven years with interest.

The Surveyor stated right. Deferred means that you're not going to..

Altman stated I'm sorry, I misstated on the time payment of these reconstruction costs.

The motion had been made and seconded to reduce the interest rate for the Benton Hinesley Drain, Grass Waterway from 4% to 3% and approved unanimously.

**Emily Vestal Drain - Request for Survey Quotes:**

The Surveyor stated this is one that Heirbrandt and I talked about. I'd like to request for survey quotes from 171<sup>st</sup> Street to 146<sup>th</sup> Street and also, on the arm that goes west over to Mill Creek from Cherry Tree Meadows.

Altman made a motion to approve the request for quotes on the Emily Vestal Drain, seconded by Dillinger and approved unanimously.

**Anchorage Drain Reconstruction - Change Order No. 1:**

Liston presented Change Order No. 1 to the Board for their approval.

"May 4, 2020

TO: Hamilton County Drainage Board

RE: Anchorage Drain, 2019 Reconstruction,  
Change Order #1

The following is an addition to the Anchorage Drain Reconstruction contract being done by Agricon Construction.

1. Item 10 - 10 feet - 6" Dual Wall HDPE Tile (0 - 5' Deep)  
\$500.00

Total Cost of Change Order #1 **\$500.00**

The following items were not billed for on the contract and therefore their costs need to be deducted from the contract.

- |   |             |
|---|-------------|
| 1. Item 3 - Tree Protection Fence                                 | \$ 1,550.00 |
| 2. Item 5 - Landscape Wall Removal & Restoration                  | \$ 3,500.00 |
| 3. Item 8 - 12" Diameter Fiber Rolls                              | \$ 1,800.00 |
| 4. Item 11 - 3 - 6" HDPE Caps                                     | \$ 75.00    |
| 5. Item 14 - Topsoil (166 CY)                                     | \$ 6,640.00 |
| 6. Item 15 - Two (2) Yard Drain & Drain Connections Inside Trench | \$ 1,000.00 |

Total Cost of Deductions from the Contract	(- \$ 14,565.00)
Total for Change Order #1	( \$ 14,065.00)
Engineer's Estimate	\$120,577.50
Contractor's Bid	\$104,850.00
Total Additions of Change Order #1	\$ 500.00
Deductions from Contract	(- \$ 14,565.00)
Total Reconstruction Cost	<u><b>\$ 90,785.00</b></u>

**The Project is being paid out of General Drain Improvement Fund along with a grant from the City of Fishers and individual assessments to property owners.**

Submitted By

Jerry L. Liston  
Inspector"

Altman asked so as far as you know this is the last change order to close it out?

Liston stated yes.

Altman made a motion to approve Change Order No. 1 for the Anchorage Drain Reconstruction, seconded by Dillinger and approved unanimously.

Heirbrandt stated I want to commend Jerry (Liston) and staff for working with all those people. It's been really a complicated project to say the least. I know Gary (Duncan) has been really involved in it as well. We've been getting a lot of compliments back from some of the people that even during the rain they noticed a considerable difference. The contractor planted the grass at the right time because it came up pretty quick. It looks good. Thanks for all your help.

**W.R. Fertig Drain, J.W. Hawkins Arm - Survey Quotes:**

The Surveyor stated we received quotes from Banning and Miller on the J. W. Hawkins Drain in Carmel. Weihe declined to quote at this time stating that their workload was too great to work it in. I would recommend that the bid go to Miller Surveying.

Altman made the motion to award the quote to Miller Surveying for the J. W. Hawkins Arm of the W. R. Fertig Drain in the amount of \$13,550.00, seconded by Dillinger and approved unanimously.

**Thorpe Creek Drainage Area, John Underwood Arm Reconstruction - Final Report:**

Liston presented the following final report to the Board for approval.

"February 26, 2020

TO: Hamilton County Drainage Board

RE: Thorpe Creek Drain, John Underwood Arm Reconstruction Final Report

Please regard this as the Inspector's Final Report on the Thorpe Creek Drain, John Underwood Arm Reconstruction located in Sections 20, 21 & 29, Township 18 North, Range 6 East in Fall Creek Township, Hamilton County, Indiana.

At the March 26, 2018 meeting of the Hamilton County Drainage Board the hearing for the Thorpe Creek Drain, John Underwood Arm Reconstruction was held and the Surveyor's Report dated February 5, 2018 was approved and the Findings and Orders signed (HCDB Minute Book 18, Pages 78 - 86).

At the November 26, 2018 meeting of the Hamilton County Drainage Board a new hearing for the Thorpe Creek Drain, John Underwood Arm Reconstruction was held and the Board approved deferred assessments for the reconstruction through future assessments. The Surveyor's Report dated February 5, 2018 was amended and approved and the Findings and Orders signed (HCDB Minute Book 18, Pages 303 - 308).

At the February 11, 2019 meeting of the Hamilton County Drainage Board the contract for the Thorpe Creek Drain, John Underwood Arm Reconstruction was awarded to Morphe Construction for \$438,000.00 (HCDB Minute Book 18, Page 359).

The Surveyor's report to increase Lapel's amount for drain work in Madison County was presented to the Board on February 24, 2020. The original cost estimate for this work was \$17,986.00. Changes made the actual cost for the work done in Madison County for Lapel cost \$30,472.50 which was an increase of \$12,486.50 for the Town of Lapel. The Board tabled the hearing increase at the meeting until verification of Lapel's acknowledgement of the increase (Hamilton County Drainage Board Minutes Book 19, Pages 152-153). At the March 9, 2020 of the Hamilton County Drainage Board Meeting the hearing increase was approved by the Board (Hamilton County Drainage Board Minutes Book 19, Pages 165-166).

The cost estimate for the Thorpe Creek Drain, John Underwood Arm Reconstruction was \$565,909.25.

The Thorpe Creek Drain, John Underwood Arm reconstruction consisted of 8341 of dredging, relocating two segments of the drain away from public road right-of-way, culvert and tile replacement under 136<sup>th</sup> and 146<sup>th</sup> Streets, multiple private tile extensions, implementation of erosion control measures on the project, leveling of spoil material from the dredging and seeding.

During the reconstruction of the John Underwood Drain no significant changes were made to the original Banning design of the drain. There were Three (3) Change Orders on this project for additional work or field revision on the project as allowed by IC 36-9-27-80.5. Those change orders are as follows.

<b>Change Order # 1</b> -Approved July 22, 2019 (HCDB Minute Book 18, Page 536) Installed 6 - 21 Inch CMP Outlet Pipes Total Cost of Change Order # 1	\$7,800.00
<b>Change Order # 2</b> -Approved August 26, 2019 (HCDB Minute Book 18, Page 581) Supp UP 18" Repair 44' Put in 1 additional 15" Drain Outlet \$1,200.00 Put in additional 18' of 24" RCP Total Cost of Change Order # 2	\$3,960.00  <u>\$2,916.00</u> \$8,706.00
<b>Change Order # 3</b> -Approved November 25, 2019 (HCDB Minute Book 19, Page 17) Supp UP 18" Repair 36' Additional Common Excavation Additional Earthwork Additional 86.86 Yards Rip Rap Total Cost of Change Order # 3	\$3,240.00 \$16,990.56 \$16,559.76 <u>\$6,948.80</u> \$43,739.12

The following items were not billed for on the contract and therefore their costs were deducted from the contract with Change Order # 3.

5 - 4" Drain Outlet	\$4,500.00
4 - 6" Drain Outlet	\$3,800.00
5 - 8" Drain Outlet	\$5,000.00
3 - 10" Drain Outlet	\$3,120.00
1 - 12" Drain Outlet	\$1,200.00
3 - 18" Drain Outlet	\$3,900.00
1 - 30" Drain Outlet	\$1,600.00

Undistributed Rip Rap (295 LF)	\$2,950.00
Undistributed Rip Rap (1812 LF)	\$18,120.00
Undistributed Rip Rap (493)	\$4,930.00
Pavement Repair	\$2,750.00
Total Cost of Deductions from this Contract	<u>(\$51,870.00)</u>

The following is a breakdown of all costs associated with the Thorpe Creek Drain, John Underwood Arm Reconstruction.

Pay Application # 1 Total	\$185,663.45
Retainage	<u>\$27,849.52</u>
Amount Paid to Morphey Construction (07/09/19)	\$157,813.93
Pay Application # 2 Total	\$141,839.75
Retainage	<u>\$21,275.96</u>
Amount Paid to Morphey Construction (08/13/19)	\$120,563.79
Pay Application # 3 Total	\$40,010.00
Retainage	<u>\$6,001.50</u>
Amount Paid to Morphey Construction (09/10/19)	\$34,008.50
Pay Application # 4 Total	\$78,231.92
Retainage	<u>\$11,734.79</u>
Amount Paid to Morphey Construction (12/10/19)	\$66,497.13
Pay Application # 5 Retainage (03/10/20)	<u>\$66,861.77</u>
5 Pay Applications	\$445,745.12
Professional Services - Engineering/Staking/As-builts	<u>\$57,300.00</u>
Total Reconstruction Costs	\$503,045.12

The reconstruction of the Thorpe Creek Drain, John Underwood Arm Reconstruction was paid from the Thorpe Creek Drain Fund.

The cost estimate was \$623,209.25. The actual cost is as follows:

	Proposed	Actual
Construction Cost	\$373,465.95	\$323,438.12
Hamilton County (136 <sup>th</sup> St)	\$127,059.19	\$ 69,674.50
City of Noblesville (146 <sup>th</sup> St)	\$ 47,398.11	\$ 22,160.00
Town of Lapel (W 700 S)	<u>\$ 17,986.00</u>	<u>\$ 30,472.50</u>
Construction Total:	\$565,909.26	\$445,745.12
Engineering, Staking & As-builts	<u>\$ 57,300.00</u>	<u>\$ 57,300.00</u>
Grand Total:	\$623,209.25	\$503,045.12

The assessment for the three roads has been certified in the amount of \$122,307 and will be collected with the regular reconstruction assessments. The settlement will be transferred into the Thorpe Creek maintenance fund since that is where the reconstruction was paid from.

To help recoup the remaining cost there has been a deferred assessment placed on the 50 parcels that aren't currently developed. The deferred assessment will be collected at the time the land is developed if before 20 years from completion of the reconstruction. The rate per acre to be collected is \$567.42 and could bring in \$380,739.08 from the 50 parcels. These collections are to be put back into the Thorpe Creek maintenance fund.

Statement of all Incurred Expenses Paid signed by the contractor as required in IC 36-9-27-82(b) was received on November 20, 2019.

Engineering, Construction Staking and As-built Drawings were done by Banning Engineering. As-built Drawings were submitted by Banning Engineering on January 31, 2020. Revised as-built drawings were approved February 21, 2020. The as-built drawings are attached.

As of February 26, 2020, 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.

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

Respectfully,

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

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

Hamilton County Drainage Board  
May 11, 2020

**Non-enforcements:**

Clark presented a non-enforcement request for the Albert Shaw Drain filed by Keith & Amy Grindstaff for parcel #17-09-30-00-03-040.000 for a fence. The property owner would like to state his case for the desired fence plan. The Surveyor's Office recommends the Board table this item.

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

Liston presented a non-enforcement request for the Vermillion Drain, Woods at Vermillion Arm filed by Donald & Julie Murphy for parcel #13-16-08-00-20-008.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Wheeler & Wheeler Drain, Arbor Grove Arm filed by Thomas & Teryl Barnhill for parcel #10-11-08-00-15-016.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the George Burke Drain, Silverton Arm filed by Kyle & Erin Platt for parcel #13-12-30-00-15-007.000 for a fence. The Surveyor's Office recommends approval.

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

Cash presented a non-enforcement request for the R. J. Craig Drain filed by Pullman Pointe, LLC for parcel #15-14-01-02-05-016.000 for installation of an asphalt parking lot, drive aisle, curbs and storm improvements for the South Pointe Apartments. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Cool Creek Drain, Springdale Farms Arm filed by Eric & Danielle Thompson for parcel #08-09-11-00-02-048.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Stultz & Almond Arm filed by Evan & Ashley Ferree for parcel #17-09-20-00-16-038.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Heather Knoll Arm filed by Douglas & Meredith Murphy for parcel #17-09-20-00-06-046.000 for a fence. The Surveyor's Office recommends approval.

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

**Surety Acceptance:**

Liston stated that at this afternoon's Commissioners meeting the Board would be accepting the following surety: Payment Bond No. 999046397 in the amount of \$413,076.00 for the 96<sup>th</sup> Street & College Reconstruction, Clara Knotts Drain.

**Construction Updates**

Burnau Arm Reconstruction - Liston stated work is progressing. I was out there this morning and the contractor is doing some grading and seeding and waiting for the owner to get there so they could continue working with the pond construction behind those homes. We've got grass growing north of 191<sup>st</sup> Street and the area where the Hazelwood's live. The Surveyor went out on-site last week to see how things were going and it's looking good. It's a big change from what was originally there.

The Surveyor stated it's going to carry a lot of water.

Anchorage Drain - Liston stated on Thursday I had my final inspection with Agricon on that project. You just approved Change Order No. 1, but we are closing out that project and hopefully what we put in or installed will be a benefit to those property owners.

Ellis Barker Drain - Duncan stated one of the things that we were working on was the utility conflict at the intersection of 196<sup>th</sup> & Grassy Branch. We have identified the owner of that fiber line. It is actually Frontier even though in previous conversations they said it was not theirs. They consented it is a very major line that feeds, I can't remember if it's Kokomo or Lafayette, but a pretty major line. They're going to work with us to relocate that. One of the things they're checking on first off is if there's any slack in the line where we could either lower it or raise it. That is ongoing, they've been very responsive so hopefully we'll get back out there in short order.

Howard asked is that the intersection where the County Highway has the federal aid project coming down the pipe?

Duncan stated not that I know of.

Howard asked wouldn't it be a good idea...

Liston stated I think it is. We just saw a joint email on that.

Duncan stated I know Westfield is doing some work there at the intersection because it's going to be a Gordon Food Service and they'll have some truck traffic.

Howard stated the right hand and the left hand may want to talk.

The Surveyor stated I heard that the Westfield project died.

Heirbrandt stated no.

Howard asked the Gordon Food deal is still going?

The Surveyor stated no, the Gordon Food's still going, but the roundabout.

Duncan stated we thought it was going to be a roundabout, that has been pushed off. What they're doing now is merely improvements, they're doing pavement widening for the truck traffic. It has been reduced in scope in the short term.

William Krause Reconstruction Phase 3 - Conover stated the contractor is still on hold. I contacted them last week and they said it would be mid-June before the company would be up and running again.

Crawford Wetland Mitigation Project - Conover stated this project is finished. The contractor has all the trees planted.

Clara Knotts Drain, 96<sup>th</sup> & College Reconstruction - Baitz stated this project is moving forward. Fluid Waste has lowered the lake, they've made cuts across College and have the pumps running. The company has filled the voids in, underneath and alongside the pipe and they're getting ready to line it, hopefully starting today.

**Pending Asbuilts:**

Thistlewaite Drain, California Street Arm - Conover stated I believe those asbuilts are done. We just had a question answered as to whether we need to put that new curb on the asbuilt sheet and we're not going to do that. That should be complete and the final report at the next meeting or two.

**Pending Final Reports:**

William Krause Reconstruction Phases 1 & 2 - Conover stated the final reports are completed and waiting for review.

Benton Hinesley Drain, Grass Waterway - Conover stated the final reports are completed and waiting on review.

The Surveyor stated Phase 1 & 2 of the Krause, those are the two that are being held up by the Ogle letter.

Howard stated I have talked to his attorney. I've not followed up in writing. Andy's (Conover) going to get me some more material. The question there is the property owner, the member of the family that farms, this was a substantial piece of ground where we said we were putting up to three feet of additional soil on it. Andy's supposed to get me how much extra time and money and activity we've had trying to accommodate the wishes of the property owner and every time we get to where we think we found yes there's always something else. We're going to send them a final letter that says we're closing out the project four weeks from today whether they're ready to go or not. If they want to come in, then they'll have to come in and start spending money because they are wearing him out.

Altman stated so the effect of that letter is we just terminate the work and it's left sluffed?

Howard stated and we gave them a check for some crop damage because they weren't able to use it last year. Is he going to plant that this year, the new area?

Conover stated I believe so. I went back out there recently and it looks like he's been out doing some tillage work.

Altman asked is that the temporary easement?

Howard stated it was the temporary easement and we paid \$66,000.00 so we weren't warranting that it was going to be equal to or better than; that was over 8 or 9 acres.

Conover stated it was 12 or 17 acres.

Howard stated it was a big area, but still, farm ground in Sheridan. I think the contractor and Andy have worked above and beyond from what I can tell. I'll get you a copy of that in the next day or two.

The Surveyor stated I was out there Thursday looking at it and it didn't look like he had worked the ground up over in that area.

Conover stated with the weather he wasn't able to farm any of the parcel, not just the part we worked on, but all the balance of that entire parcel that he still owns, he did not plant any of that, but that was more weather related.

Howard stated as far as we're concerned, he's ready to go this year though. We're done

Conover stated yes, correct.

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

Alternate Drainage Board Members - Howard stated the Alternate Members have been appointed and, in the shuffle, I did not bring that order, but will give it to the Secretary when we're through.

William Krause Phase 2 - Howard stated that's a verbal that we're moving in that direction and we'll be dwindling it at the next meeting on the William Krause Phase 2. The Ogle sign off will be at the next meeting.

Altman stated I think I have a conflict next meeting and won't be able to attend Drainage Board.

Surveyor asked Howard are you going to send a letter out to Mike Antram.

Howard stated I'm going to send it over with a copy to Mike Antram. I have talked to Mike Antram. He's not retained on this. They were retained on the original transaction, but they aren't retained so I told him I'd give him a courtesy copy.

#### **Permits & Updates**

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

There were no questions.

#### **Long Branch Drain - Saddlebrook at Shelborne Arm:**

Michael Stikeleather & Maria Donnelly was present for this item.

Howard stated the Surveyor got back to me on Friday and we were able to get a draft out to the petitioner. I've compared my draft and his draft, and he's obviously got more experience as a Transactional Lawyer, he had more "Where As" clauses. At certain times for appeals, etc. that's fine, but the basic premise is we're at cross purposes and in talking to the Surveyor versus the petitioner. Essentially, they are planting Prairie grass, they're going to take up what's there, the sod. As far as we're concerned, providing good erosion control of the bank, it's not broken, that's the status quo. The Homeowner's Association has contacted Soil & Water and they're talking about planting prairie grass. This is not something that is within our specs. Whether it is functional, more functional or esthetic, whatever, that's up to the Board where they want to go. The differences are pretty substantial in one area. Their agreement, as written, is a task defined agreement. It says as long as they or their agent or contractor maintain the soil erosion contract project in accordance with the documentation and the documentation has specs for grasses, where it's going to be, etc., etc. If they do that, if they install it, if they maintain it according to the specs neither the Drainage Board nor the Surveyor will entertain any breach. Our language is a result language. It basically says they acknowledge that Hamilton County Soil and Water Conservation District is not regulated by us and we're not warranting that the new landscaping will be adequate to provide required erosion control along the bank. Next, in the event the new landscaping installed by the HOA is not adequate to provide the required erosion control around the east pond, the Drainage Board in its sole discretion reserves the right to require the HOA to reinstall the sod on the east pond, reinstall adequate erosion control. No offense to anybody, but at the end of the day our goal is a result-oriented goal. They can comply with the procedures, and the Surveyor has had experience with prairie grass, and if it doesn't work, again, we're back to complex problem solving, whose problem is it? That's the major difference that I think with instruction, the petitioner and I can get this drafted. But those two issues are at Loggerheads based on the Surveyor's recommendation and the petitioners.

The Surveyor stated we've had experience with prairie grass before and for our purposes it doesn't work because the establishment period is so long. We need to get in, we need to get out because we're off to the next job. With our regular grass mix it's a no brainer. It comes up, it's worked for us for years. With prairie grasses you've got to coddle it, you've got to make sure it's got enough water and so forth and then in three years it might be established, maybe five, maybe eight. It just depends on the conditions. That's not soon enough for my purposes, but as long as the HOA is going to hold its hand and make sure it grows that's fine. But I don't want the pond to fill up either and I don't want erosion to occur. That's why it's important that the erosion control methods be in place. Which, in talking to Mr. Stikeleather just this morning, they are going to be putting an erosion control mat on top of this so that should take care of that issue, but it's still the maintenance ongoing until it's established.

Heirbrandt stated let me be clear, if we granted them to be able to install the prairie grass then the HOA will be completely, 100% liable for everything and fixing it if everything eroded.

The Surveyor stated that's right.

Howard stated under our draft. Ours is result oriented and in all fairness to the petitioner there's a very detailed status of what they will do the first year, what they will do the second year and what they will do the third year, but it still says if we do this the Board can't make us do it anymore.

Altman stated right, it gives them a comfort level as to what their responsibilities are, but our responsibilities are to make sure that we get something growing there or we have an erosion mat that's doing the job while it grows.

Howard stated with all due respect, if I was representing him, I'd try to draft it the same way.

Altman stated I think perhaps if the Board's going to entertain this given the concerns of the Surveyor with experience then I think along Howard's lines that as long as the erosion mat is there, we have no erosion, they continue to maintain the mat and vegetation to get it established, why don't you give them a time period to have it in place and reasonable with respect to the material, but if it doesn't work it's going to be on the Homeowner's Association to re-establish the grass in our manner and pull out the erosion control, do all the stuff we would have to do.

Surveyor stated correct. I want to protect the Board.

Stikeleather stated we thought that it was very important to prevent any kind of sedimentation coming from our pipe going to Long Branch Creek. We also wanted the esthetics to happen and so forth. This morning I had a detailed conversation with Nick Steadman who's the installation manager for Williams Creek. He indicated that he has a long relationship with the Surveyor and has a current project now involving Williams Creek, the Drainage Board and Surveyor's Office on a drainage issue here in Hamilton County. He indicated that the process is going to be as follows, they will first put down a herbicide application which will take seven to ten days to take effect. Then, if it's dry, only if it's dry, will they then come in with one fell swoop and do grading, topsoil installation and seeding and then put in an erosion mat in. They said that at no time will there be exposed soil subject to erosion. We'll put it all down in one day. If it takes them only two to three days to put it on because of weather so be it, but there will never be anytime of exposed soil. The erosion control mat he says will be stapled into the ground. According to him, they've used it before, and he has some comfort level with it. The purpose that we're putting it in is to prevent sedimentation of our pond, it's about a four to five-acre pond that goes into Long Branch Creek and we want to prevent that. We also want to improve the aesthetics around the pond because if you look at the seed list on there you will see, in addition to grasses, we're also going to have flowers. We are aware that it's a three-year period, we have a contract with them for the three-year period. We're running up against a deadline of June 15<sup>th</sup> and that's why we want to get this approved and be able to get them in before the deadline. We don't want to do fall planting. We're happy to get it in and think it's going to be not just prairie grasses like they have in West Park. If you've gone through West Park, they just have prairie grasses, we're also going to have flowers in there and you'll see the seed list provided to the Surveyor. The Surveyor is right, this is a three-year time period. During the first year they will be putting in the installation and then later on that year they will be doing the maintenance issue of coming back, mowing it, herbicide and so forth. The next year a one-time maintenance situation and then you also see a third maintenance in the third year. To give you an example of one you may be aware of, think of the prairie grasses around the detention pond at Grace Community Church, that's what we told it would end up looking like. Just to give you an idea. Maria Donnelly will be working with Nick Steadman and the installation crew.

The Surveyor asked which church was that?

Stikeleather stated Grace Community Church on 146<sup>th</sup> Street.

The Surveyor asked did you by chance have anything in the contract with Williams Creek if it goes beyond three years for establishment, that it carries on?

Stikeleather stated no, our contract was for three years and then it's our responsibility. We stated it in the documentation that we submitted to you, it's our responsibility. We recognize that and will fulfill our obligations. Maria and I have vetted this company and also looking at the references of the projects that were supposedly done. We saw a pond that was not maintained in a subdivision in Zionsville. That is not us. The reason why we wanted to go to a more of a task defined agreement as opposed to result is that the Surveyor and both I and everybody aren't getting any younger. If something happened to the Surveyor, we have a clear, objective standard of what we need to do and the criteria. Consequently, if something happened to the Surveyor and a new Surveyor comes along and if something happens to you as Commissioners or Gary (Duncan) or Howard and if they don't like it even after we put it all in, we spent all that money and operating according to schedule and it has great erosion control, but they just don't like it and they want to come in arbitrarily and tear it out. We don't want to suffer that consequence. This cost a good deal of money, the installation is at least \$29,000.00. It's very significant expense for our subdivision. That's why we're seeking that kind of protection.

Heirbrandt stated if you're as responsive and detailed as you have been in the communication with me, and the timeline and the dates and all of that, I certainly trust that this will be done right from what I've seen from you.

Stikeleather stated Gary (Duncan) is the one who's also reviewed all of our construction plans when he was with Carmel Engineering. He knows that we're thorough and I want to make sure we cover all the details.

Howard asked the Surveyor, do you feel with the erosion control mat and evidently, you've got, has he gotten any additional materials this morning?

Stikeleather stated no, we just had conversation.

Donnelley stated I just wanted to add as far as erosion control, according to Williams Creek, they will not be broadcasting the seed, they will be drilling and they will have a machine that will go and put the holes in so that the seed should be well protected from being eroded right after installation. Secondly, I believe they will be throwing into the mix something that will come up quickly so that the first year before some of the grass gets established part of that should come up quickly and provide that additional measure of erosion control.

The Surveyor asked do you know if they were going to put a core log along the water's edge?

Donnelley stated I don't believe so.

Stikeleather stated that is something we can probably talk to the contractor about. They will go all the way down to the edge and there will be one to two-foot space between the actual edge of the pond and where this will be coming.

Donnelly stated they don't want to disturb it more. They're not going to go all the way over to the water.

Howard asked so you'll have the existing sod there at the last couple of feet?

Stikeleather stated that is correct. Once they put the seed in and we have a sufficient rain he said it will be about seven days for that vegetation starts germinating and coming out of the ground. That's what he indicated to us today.

Howard asked the Surveyor, do you feel comfortable putting what has been said here today in fairly objective standards with erosion control? First of all, the last thing they came up with sounded like the most important, they're not disturbing anything in the last three feet. The erosion control blanket, do you feel comfortable we can put that objective standard in his agreement, sufficient that you'll be comfortable?

The Surveyor asked Donnelly, did you say one foot or three?

Donnelley stated I don't remember.

Stikeleather stated in our conversations the contractor said one to two feet. If you want more we can definitely talk to Steadman to make sure that occurs. Whatever standard you want to protect that shore we'll definitely; if we need to contract together, we'll do that. Whatever is appropriate because that's a core issue in discussion.

The Surveyor asked would you mind if I talked to Nick?

Stikeleather stated I have no problem with that, I can give you his contact information.

The Surveyor stated I think I have Nick's (Steadman) contact information, but if you could send it and make sure I would appreciate it.

Howard stated in the interest of moving forward I would suggest that the Surveyor and I get together in the next two to three days, get the language ready. The motion would be approved subject to and designating you as president to sign off so it would go to them and they don't have to wait two weeks.

Dillinger made a motion to approve the request subject to designating Heirbrandt as president to sign off, seconded by Altman and approved unanimously.

**Waltz-Waremon-Booth & Dickover Drain - Beck's Vacation:**

Heirbrandt stated we've been out there, and everybody's been talked to from Beck.

Howard stated for the Surveyor I believe what Beck's requesting and what the Board is thinking about is vacation from south of 276<sup>th</sup> Street to the outlet into Little Cicero Creek which is subject to the jurisdiction of DNR & Army Corp of Engineers and that in the event that there would be problems with excessive backup at the top or excessive discharge at the bottom or if the Beck family is no longer in controlling interest of Beck's Hybrids, under either of those circumstances the Board would have authority to reassume jurisdiction. That's what I was to understand that you've talked about to Mr. Beck.

Altman stated pretty much. The only other concern I have is I assume there's water being discharged into that. Is that regulated?

Howard stated yes, upstream.

Altman asked upstream is regulated?

The Surveyor stated yes.

Howard stated so there's four regulated drains there and I think there's four names there.

The Surveyor stated and that's Waltz-Warman-Booth & Dickover Drain. It does go north of the road, but you also have a section of it that goes from the Beck property across Hartley's into Little Cicero Creek. Has Mrs. Hartley has been advised of this?

Howard stated we would have to get Hartley signing off and acknowledging it. I'm sure she has because Beck farms that ground. We would want her signature also, but I think that takes care of, between Beck's and Hartley those are the entities that are contiguous with the easement between Point A and Point B.

Altman stated my only other concern is should there be an obstruction that impedes the flow through that area that we would have the right to reinstate.

Howard stated yes.

The Surveyor asked what about the future drainage easement if we ever need it for the Highway?

Altman stated to the extent it's close to the highway, yes, that would make sense also.

The Surveyor stated what I'd hate to do is for this Board to drop that easement for another Board to need it.

Altman stated right and have to put in or improve drainage across the road and then have to buy it.

Conover stated they'll still need to adhere to our release rates though, correct? I'm currently working on review of the new East Tower Project. I've been working with their engineer and trying to come up with a retention basin.

The Surveyor stated this would not eliminate the ordinance. They would still have to follow the ordinance.

Conover asked for the retention and release rates?

Surveyor stated exactly.

Conover stated I just wanted to make that clear.

Heirbrandt asked is that how you understand your conversation with Beck?

Howard stated the devil's in the details, just vacate it. Well, that's not that easy because I think the real question is what do you want to retain jurisdiction over? If you're going to be having jurisdiction over release rates, then everything has to be filed and permitted. If in fact, you talk about obstructions upstream and discharges downstream then the answer to you is, no. Everything within there remains the same.

Altman stated you can put conditions on the release and conditions upon reinstatement without having to approve everything they do in between. If they are unable to maintain flow or if they discharge at a rate that doesn't meet our standards, then they would have to mitigate within that section. I don't know why we couldn't build the agreement that way.

Howard stated to find out the answer you have to define the question. Am I missing something? In other words, if you're going to control the discharges and release rates from Point A to Point B then you're going to have to review the plans and approve the discharges.

Altman stated it's the ultimate effect of what they do. I want to make sure that if we vacate this thing the people that are upstream can get rid of their water and that the people downstream don't have an issue.

Howard asked but internally are you going to be regulating the discharge and retention rates?

Altman stated we'll test it.

Howard asked or are you just going to regulate the result downstream or the result upstream?

Altman stated results. As long as they maintain those issues at the top and bottom of the drain I don't care if they wind it 52 ways to Sunday to get there.

Howard stated as long as they're doing it on their property and dedicate the easement.

Altman stated I just don't want to affect anybody upstream or downstream.

The Surveyor stated I'm sure Beck will be under the impression that he doesn't have to do anything.

Altman stated well, not if the agreement says otherwise.

The Surveyor stated including any additional buildings coming in to look at the drainage runoff from those buildings and make sure that they fit the ordinance because it drains into Little Cicero Creek which involves more people than just Mr. Beck.

Altman stated I understand and that's where we had the discussion about results oriented. It's the result that will test, not his means and methods.

Baitz asked isn't there also an arm that goes across over to Gwinn Road just north of 274<sup>th</sup> Street?

Howard stated yes, it goes over onto Ron Miller's property.

Baitz stated correct, is this going to be included in that because I do know that there have been issues in that corner before at the intersection.

Howard stated I think there's a blockage on the west side of the road there's sufficient blockage that backs up over the road. Is that right?

Baitz stated I know there have been issues in that location before. It's been cut by utilities that we had to repair, there's a breather there, I just wanted to make sure that arm which empties into this was also discussed as part of this.

Heirbrandt stated one thing that I will say is I drove that with Mr. Beck a couple of weeks ago and he's invested a lot of money in it and he's made it a lot better than what it was. I feel confident that he is going to do that.

Altman stated we have to come up with whatever the language is and look at it.

Howard stated I think there will be some alternatives presented to you in the language.

Altman stated I think we have to agree on the concept and then ask Howard to draft it or have Beck's attorney draft it.

Howard stated there's three mutually exclusive things, if we're going to "shall not further obstruct", first of all Highway gets their easement, Beck is allowed to work within the easement, he's allowed to discharge into the easement as long as the net effect downstream is maintained as set out by IDEM or whoever and then whatever the upstream obstruction is.

The Surveyor stated it's set out by the County Ordinance.

Howard stated yes, as set out by County Ordinance and in between if I understand the Board's thought is in between there's total discretion.

Altman stated as long as Beck accomplishes water coming in and water coming out. I don't care what he does as long as he accommodates other people tying in.

Heirbrandt asked Howard you'll work with him and draft something up and you'll give it to us?

Howard stated I'll give it my best shot.

Heirbrandt stated and talk to Beck so we can get a mutual agreement.

Howard stated but you are still interested in the Surveyor's Office having the ability to say, "hey, we've got an obstruction upstream" or "hey, we're discharging too much downstream". How we got there, they don't get in the weeds, but they are in the result, kind of result oriented.

The Surveyor stated we would still have to review the calculations. Are we just giving a blank slate and say "here, go forth and do whatever you want"?

Heirbrandt stated you guys work that out.

Altman stated after they're done you can look at it and decide whether there's a problem. Then they have to fix it. It's not our problem.

The Surveyor stated okay, as long as this is on the record.

**A. F. INGERMAN DRAIN MORATORIUM:**

Heirbrandt stated I've been contacted by Linda Illyes along with Dillinger about an issue that she has at the A. F. Ingerman Drain, about a moratorium. She had somebody that was interested in purchasing her property, a developer.

Altman asked what place in the County are we talking about?

Heirbrandt stated Cicero.

The Surveyor stated it's just east of Cicero.

Altman asked is it on S. R. 19?

The Surveyor stated east of S.R. 19.

Dillinger stated I don't remember putting a moratorium on it.

The Surveyor stated it's been a long time ago.

Dillinger stated I've been here a long time.

Howard asked isn't this the issue where Cicero actually drains through that area and it's at or over capacity and has been forever?

The Surveyor stated the drain is not big enough for a farm let alone a development. Actually, you're talking about two different drainage sheds. One is the Ingerman and it has a corner of Mrs. Illyes' property, but the bulk of it drains to the E. E. Cornthwaite which is a 10-inch tile. There's not a whole lot of development water that can go into a 10-inch tile, let alone farm water. It all goes back to the Indiana Code where you can't allow the water to exceed the capacity of the tile without being reconstructed.

Howard stated we don't use the "M" word, but the drainage code is very clear that the Surveyor and the Drainage Board have the authority to deny additional connections if the drain is inadequate. The result has to be substantial detention upstream or substantial improvement downstream. Is that where we are?

The Surveyor stated that's correct.

Dillinger asked so what's our answer?

The Surveyor stated they can develop it as long as they detain it and reconstruct the downstream.

Dillinger asked has it ever been petitioned for to reconstruct?

The Surveyor stated no, not the Cornthwaite. We get this all the time from Cicero. The bad old County Surveyor is not letting us grow. Well, there's rules and regulations that Cicero doesn't seem to understand or doesn't want to understand. You can't put a subdivision in unless you have drainage.

Howard stated and drain it into a 10-inch tile.

The Surveyor stated or you're going to have Fishers Oakwoods all over the county. That's why in the statute they put in where you can't overload the tile unless you reconstruct it. This is strictly a developer trying to get something from somebody and then they don't want to spend the money to do the work that's necessary. That's what this is all about. They're trying to get her down on her price because there's a moratorium and we would be giving you a gift if we bought this property and therefore you should give it to us for nothing.

Dillinger stated so the answer is she could sell it to them as is and if they developed it then they would have to put in new drainage, right?

The Surveyor stated exactly.

Howard stated and they're using that to negotiate with her, well, guess what they're probably right because the economics are that ground cannot be economically developed if they are paying "X" per acre, but if they are paying ".7X" per acre it'll probably work, but there's no moratorium. It is just a substantial development cost that is going to be a downward pressure on the fair market value of the ground because you've got to put in a bunch of money to get the water off the ground.

Altman stated what we ought to create is just a statement on that part of the drain saying there is no moratorium, however, whoever's interested or owns needs to understand that there's no more capacity and it will require a reconstruction for development.

Howard stated a reconstruction or a small lake.

Altman stated or adequate retention.

The Surveyor stated a large lake.

Heirbrandt stated it would be a large lake, but the fact is its too complicated right now, nobody understands it.

Altman stated and we've got out there that there's a moratorium.

Dillinger stated the moratorium is really got to her.

Altman stated we need to clarify that unfortunately, there's no capacity.

Dillinger stated she doesn't really have the capacity to understand.

Heirbrandt asked will you reach back out to her?

Dillinger stated I can.

#### **Anchorage Drain**

Heirbrandt stated I want to thank Gary (Duncan) for the corresponding email out to Anchorage to reinforce about the area where the trees are at and that it still could be damp, and they need to watch that and clean it.

#### **Centennial Drain**

Heirbrandt stated Kate (Chirico), at Centennial, who I know Steve (Baitz) has a very close relationship with, was very complimentary of the Drainage Board and the Surveyor's Office for helping them through that.

#### **A. F. Ingerman Drain (Continued):**

Dillinger stated I want to reclarify, there is no moratorium on that land, right? There's not an official moratorium.

The Surveyor stated there's no official moratorium.

Howard stated there's inadequate drainage.

Dillinger stated I understand all that. She kept insisting that the Town of Cicero said that there was a moratorium on it, and I said "Linda, I've been here for a long time and I don't know of any moratorium".

The Surveyor stated if there was a moratorium on anything it's on sewer. Cicero plays this game that the bad old county and the County Surveyor is not going to let you do that because they don't want development up here or whatever they tell them. They don't have enough sewer capacity for any more growth. They have fifty EDU's, but they play that game with people.

Howard stated the subdivision on 236<sup>th</sup> Street on the east side of town, they've only have capacity for half the lots that are platted in that subdivision.

Heirbrandt stated I brought a program to them that would be very economical for them to be able to do that and we could reconstruct the drain on the Ingerman, it solved the problem that we had at our County Parks at White River Camp Ground. I brought this whole package to them and the reason that they didn't move forward with it was because they felt like you have two years once they annex that area for water and sewer. To be able to spend the money to do that and upgrade their wastewater treatment facility and water they couldn't financially appease that.

Howard stated they're painted into a corner.

Dillinger asked if they did something with the drainage, a developer, could they not put in septic there?

Howard stated no, not at the density they would use in subdivisions.

The Surveyor stated their lots wouldn't be big enough. Under the rules you have to have room enough for two septic systems. If one goes bad, which it probably will, you can put another one in.

Dillinger stated I'm just trying to figure out what she's going to ask me.

Howard stated you're probably looking at an acre and a half to two-acre lots minimum, which you think there's a low return on investment of redoing the drain; try going two acre lots down there.

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

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Mark Heirbrandt - President

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Pamela Louks  
Acting Executive Secretary