

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

May 24, 2021

The meeting was called to order Monday, May 24, 2021 at 9:01 a.m.

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

Approval of Minutes of May 10, 2021:

The minutes of May 10, 2021 were presented to the Board for approval.

Heirbrandt made the motion to approve the minutes of May 10, 2021, seconded by Altman and approved unanimously.

American Rescue Plan (ARP) Funding - Discussion:

The Surveyor stated I don't have my list to you yet. It grew substantially.

Howard asked, have the Commissioners and Council agreed to put the group together to approve the actual formal plan?

Heirbrandt stated we did in the joint meeting. It was going to be all three executives and then the Council has three people.

Altman stated its just to make a recommendation. It's not final action, it's to review and recommend.

Heirbrandt stated we're going to need the list of things to be able to review and come to a decision on what we're going to do.

Howard stated as soon as you get that the Commissioners will need to approve that plan for distribution of the funds. I assume that list will be part of it.

Heirbrandt asked when do we have to develop?

Howard stated until you need to spend any more money.

Heirbrandt stated we probably ought to be having that meeting soon.

Howard stated you've got the issues of how valid is the contract without an appropriation so not only do you have to have the plan, the Council's going to have to appropriate the funds just like they did on the special distribution. The money hit Thursday and the checks went out. When you kind of get a consensus and get together but I think as far as these things that have a long lead time with design costs, final approvals, construction contracts you may want to put that in the plan ahead of the grants to not for profits and small businesses, and all that stuff because that stuff will be very cumbersome.

Altman stated maybe we try to come up with some allocation, a percentage, initial distribution so we can move on the capital stuff, do a reservation of 60% or 40% or whatever.

The Surveyor stated Gary (Duncan) and I were talking because there's going to be a bunch of people busy. I'd like to keep somebody busy on our side so I was going to recommend perhaps getting an on-call engineer and keeping that person as busy as we can possibly keep them.

Altman asked an employee on-call or an engineering firm?

The Surveyor stated engineering firm.

Dillinger asked who'd you have in mind?

The Surveyor stated Banning Engineering.

Altman stated yes, that's who I had in mind.

The Surveyor stated because they understand rural.

Altman stated they understand drainage, number 1, they understand rural and they know how to keep the costs down.

The Surveyor stated so if I could I'll give them a ring today and ask them to put a contract together.

Howard asked the Surveyor, do you have a budget breakdown for these issues or at least a budget breakdown for the design, the frontend; we can put all the projects in the plan, but I think we probably need to get a designation of design costs for..

The Surveyor stated I've been lumping it all together right now, but I can start breaking it out.

Howard stated the good news is we've got three weeks; the bad news is we've got three weeks before our next meeting. Let's you and I sit down and put that together so that when this committee meets the first thing they do, instead of talking around issues and about issues at least we get approval of a not to exceed appropriation up to that. This is the only thing that's ready to go.

Altman asked do you feel comfortable that design costs in the event we're not able to build, all of the things we design will qualify? That's my only question. The soft costs. Do we have to have a project that does drainage to qualify for these funds?

Howard stated I think we approve a not to exceed number for design of projects. I think the Surveyor is going to have to make; there's some of them that are hotter than others, but you prioritize them. When this transportation bill hits as I saw yesterday, it's gotten...

Altman stated it's gotten some legs.

Howard stated it's gotten some legs, but the number is smaller.

Altman stated it's still a big number.

Howard stated for roads and bridges its now into the billions.

Altman stated my point is, do we have a backup source of funding in the event the Council doesn't agree with our plan to do these things. I think we ought to design as much as we can design, I agree, but my point if we can't pull it from the ARP money, where does it come from? What's our fail safe on funding?

The Surveyor stated we've got \$2,000,000.00 in GDIF (General Drain Improvement Fund) and I can see this coming close to \$800,000.00.

Altman stated as long as I'm good with it, because I think it's the right thing to do regardless because we have an opportunity.

The Surveyor stated that way it can be pigeonholed for that project to be paid for as those projects draw down, they get money back, that way it's still there.

Howard stated I would like, I think it would be preferable and June may be a challenge because Council meeting is before our next Commissioner meeting, but we want to have the amendment to the plan and the plan can have a hundred amendments so we don't have to cure everything immediately, but if we've got things ready to go I would think we could go to the Council and get that money appropriated and then if you kind of get to the place that it's going to be three years, freeze your spending. Right now, we've got a high-class problem, we've got a lot of money we need to spend pretty quickly, and I think we start down the road and if we have to stop or slow down, we do that then.

Altman stated I just need to know what checkbook we pull out of if we have a problem.

Dillinger asked the Surveyor, does that answer your question?

The Surveyor stated that answers my big question. I just wanted to get somebody on the hook before...

Heirbrandt asked do you need more than one engineer?

The Surveyor stated I think we can spread them out enough that this would work. There's going to be some that they're not going to be doing because we've already got them in the pipeline.

Altman asked clarify again, the projects that qualify have pipe or no pipe?

The Surveyor stated they're saying anything.

Altman stated so now it's changed since our last discussion.

The Surveyor stated yes.

Altman stated it's hard to stay on top of this stuff, so I wanted to clarify.

Heirbrandt stated when I went to all the AIC meetings it was crazy how it changed from the first one to the last one.

The Surveyor stated yes, now it's just water.

2022 Drainage Board Budget:

The Surveyor stated I've got the Board's per diem and also the legal representation. In the past you've done a 5% increase. The legal adds and printing, we should have enough money in there, so I'll keep that at its current rate. The drain repairs, statutorily it's \$10.00 per mile so I put that increase in from last year's mileage increase. General Drain, this year we have \$5,073.00 that went into it. It has a current cash balance, and its cash available of \$2,294,501.66.

Altman asked is that what we're lending out of GDIF?

Howard stated I think the money that was lent out was out of maintenance, various maintenance funds. In fact, you'll have a pretty good pop here in a couple of weeks when settlement comes out.

Dillinger asked the Surveyor, anything else on budget?

The Surveyor asked what would the Board like me to do for GDIF?

Altman asked what do we ask for normally?

The Surveyor stated last time it was \$500,000.00 if I remember right and they gave us \$5,000.00. With what we have coming in right now I would just go with the \$5,000.00 and be done with it.

Heirbrandt made the motion to approve the budget as presented, seconded by Altman and approved unanimously.

Drain Petition - Employee Parking Garage Drain:

The Surveyor stated we received a petition for the parking garage drain. This is for the Board's information.

Bankruptcy Court - Frontier Communications:

The Surveyor stated this is another communication from the bankruptcy court and I believe this was forwarded to Howard.

Howard stated most of what we're being forwarded from them is permission to assume. I've not seen anything where they are legally dodging any operational type liabilities. In fact, Gary's (Duncan) had some decent conversations with them. Compared to nothing I guess it's better, but I read through those and made sure and usually they're assuming transactions.

Altman stated I read through this thing and on a Chapter 11 it's a totally different animal, but they would have had a filing date, but the effective date of this plan that they adopted a year ago is April 30, 2021. It's very, very odd. I don't know with their operating liabilities like you said whether this plan cuts off anything with an effective date.

Howard stated I haven't seen anything that's come through that is a request.

Altman stated I'm sure they'll hit us with a stay should we do something.

Howard stated that's a two-edged sword. If we get hit with a stay, then there will be a stay. We'll stay granting permission and authorizing work. Surely somebody knows this, but we're not going to hire local council for bankruptcy court in New York or wherever this is pending in order...

Altman stated to get something we don't know we can get. We had a permit come through on Highway for Duke Energy. Is Duke holding us up on any projects for drainage?

The Surveyor stated the Intracoastal at Geist project.

Heirbrandt stated we need to know which ones they are.

Altman stated I thought we had the discussion with Mark Labarr so I don't know why we would give them permits on one project when they're holding us up on another.

Howard asked is the Intracoastal the one where the trans...

The Surveyor stated yes.

Altman stated that's where they have to reroute the power and all the other stuff.

Howard stated and people are going to be out of power for a while.

Altman stated it's not a good situation, but they approved that subdivision with that lack of a loop.

Heirbrandt stated I will need you at some time, I'm going to be scheduling a meeting with Senator Baldwin and House Representative Jeter because both of them are going to be on the utilities committee and we need to really hit hard when all those utilities are going to them that it's just insane what they're doing and they're costing taxpayers tons of money.

Howard stated they're delaying economic development too. For every taxpayer issue we have delayed I'm sure there's three or four private developments that are in the pipeline that get stalled because of utilities. Maybe if they get an opportunity to get new customers, but if they're getting out of the way they're probably not getting out of the way any quicker for private people than they are us.

Altman asked Heirbrandt, can you note that on Commissioners as we go through the agenda that we need to pull that and have a discussion with Duke?

Heirbrandt stated I need the details.

Altman stated on the Intracoastal. That's what popped in my mind, but I didn't know if we had anything else.

The Surveyor asked do you need that today?

Altman stated yes because it's coming up.

Hearing Requests:

The Surveyor presented a request for hearing to the Board for a June 28, 2021 on the George Beam Drain.

Heirbrandt asked where is this drain located?

The Surveyor stated this drain is to the west of Sheridan.

Altman stated there's very few people in that watershed.

Dillinger asked what is the Surveyor wanting to do?

The Surveyor stated have a hearing for a special assessment.

Altman made the motion to set the George Beam Drain for hearing on the 28th day of June 2021, seconded by Heirbrandt and approved unanimously.

The Surveyor asked the Board to set a hearing for the Ream Creek Drain, Orchard Park Arm for July 26, 2021. This is the first one that we'll be using the ARP money for. We've pulled out the open ditch portion of it, which would mean a \$411.00 assessment to the people within that drainage shed and the rest of it paid for with the American Rescue Plan.

Heirbrandt made the motion to set the Ream Creek Drain, Orchard Park Arm for hearing on the 26th day of July 2021, seconded by Altman and approved unanimously.

Altman stated I was wondering on some of these things that we're using CDBG (Community Development Block Grant) funds on or we have committed CDBG funds whether it's a possibility to supplant that funding because that's perhaps more flexible for other items.

Howard asked how much are we talking?

Altman stated it's a significant commitment; it was like \$300,000.00 or something.

The Surveyor stated the total cost is \$1.1 million and the amount to be funded through the Rescue Plan is \$991,380.00.

Altman stated I'm talking about existing that we had funding to move forward. This is a new one.

The Surveyor stated we had talked about it.

Altman stated I'm talking about what we're trying to do to get the water out of Orchard Park and that area.

The Surveyor stated I know we talked to Chris (Allen) about it.

Altman stated in the back of your head look at some of the things maybe we've already allocated, have assessments.

Howard stated we have a lot of chicken and egg situations, Cicero. You can't afford to do it until there's development, can't have development until we do it. Those are some of the conundrums maybe we can dig ourselves out of.

Final Reports:

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

"To: Hamilton County Drainage Board

Re: Cool Creek: Anna Kendall Drain - Mill Street Reconstruction

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

During construction, changes were made to the drain, which will alter the plans submitted with my report for this drain-dated September 29, 2015. The report was approved by the Board at the hearing held November 23, 2015. (See Drainage Board Minutes Book 16, Pages 355-359)

The changes are as follows: the Anna Kendall Drain from Station 172+20 to Station 174+73 was intercepted re-aligned through an outlet control structure under the new Mill Street. Therefore, 253 feet of existing open ditch was replaced with 230 feet of open channel. The Goodrich Arm to the Anna Kendall was to have a portion of the drain removed and upsized between existing structures 9 to 10. The section of pipe did have a new structure (113) set 35 feet east of existing structure 9. The length of the drain due to the changes described above is now **230 feet**.

The work was done within existing regulated drain easement and road right of way. The project was paid for by the City of Westfield.

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

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor"

"To: Hamilton County Drainage Board

May 6, 2021

Re: Cool Creek Drain: P.L. Porter Arm, US 31 Reconstruction - East Street

Attached are as-builts and other information for US 31 Reconstruction - East Street. An inspection of the drainage facilities for this section has been made and the facilities were found to be complete and acceptable.

During construction, changes were made to the drain, which will alter the plans submitted with my report for this drain-dated February 1, 2013. The report was approved by the Board at the hearing held April 22, 2013. (See Drainage Board Minutes Book 14, Pages 552-554)

The changes are as follows: the project enclosed 72 feet of existing open ditch with 72 feet of 30" RCP. The length of the drain due to the changes described above is now **72 feet**.

The project was done within existing regulated drain easement and road right of way. The cost of the project was paid for by Indiana Department of Transportation.

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

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor"

"To: Hamilton County Drainage Board

April 8, 2021

Re: William Lehr Drain: Joseph & Brooks Arm - Fiore Nursery Reconstruction

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

During construction, changes were made to the drain, which will alter the plans submitted with my report for this drain-dated September 21, 2016. The report was approved by the Board at the hearing held November 26, 2021. (See Drainage Board Minutes Book 17, Pages 204-206)

The changes are as follows: the open ditch was lengthened from 860 feet to 900 feet. The 24" RCP was shortened from 206 feet to 137. This was because changes were made at structure 400 to 401. Structure 400 and the 69 feet of 24" RCP was not installed. The existing 12" tiles were tied into a modified structure 401. Structure 401 was changed from an end section to an Inlet Structure with a grated top. It also has 3 ft stub of 12" concrete tile serving as inlet for the open ditch to the south. The existing 12" tiles that make up the Joseph and Brooks arm were connected at this structure. The length of the drain due to the changes described above is now **1037 feet**. It should be noted that the reconstruction removed 1051 feet of existing drain.

The non-enforcement was approved by the Board at its meeting on November 28, 2016 and recorded under instrument #2017011029.

The following sureties were guaranteed by 1st Farm Credit Services and released by the Board on its April 12, 2021 meeting.

Bond-LC No: 7789129300
Amount: \$64,382.00
For: Lehr Reconstruction
Issue Date: October 3, 2016

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

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor"

To: Hamilton County Drainage Board

May 14, 2021

Re: Long Branch Drain: 121st Street Culvert Reconstruction

Attached are as-builts and other information for the 121st Street Culvert Reconstruction. An inspection of the drainage facilities for this section has been made and the facilities were found to be complete and acceptable.

During construction, changes were made to the drain, which will alter the plans submitted with my report for this drain-dated May 1, 2018. The report was approved by the Board at the hearing held June 25, 2018. (See Drainage Board Minutes Book 18, Pages 187-189)

The changes are as follows: the 12" RCP was shortened from 16 feet to 11 feet. The 42" RCP was lengthened from 50 feet to 57 feet. The 18" RCP was shortened from 20 feet to 19 feet. The length of the drain due to the changes described above is now **87 feet**. It should be noted that the project removed 45 feet of existing drain in the Long Branch Estates Sec. 3 subdivision.

The work was done within existing regulated drain easement and road right of way. The project was paid for by the City of Carmel.

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

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor"

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

Capital Asset Notification:

The Surveyor presented the following Capital Asset Notifications to the Board for approval: Anna Kendall Drain; Anna Kendall Drain, Mill Street Reconstruction; William Lehr Drain; Long Branch Drain, Long Branch Estates Section 3 Arm; P. L. Porter Drain.

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

Overman-Harvey, Village Farms, Adios Pass Reconstruction - Change Order No. 1:

The Surveyor presented Change Order No. 1 to the Board for approval.

"May 14, 2021

To: Hamilton County Drainage Board

Re: Overman-Harvey Drain
Village Farms, Adios Pass Reconstruction
Change Order #1

Change Order #1 is required due to additional work required and designed structures for Structures 106 & 108 not being workable with existing pipe connections and conditions. It was necessary to build Structures 106 & 108 in place. The additional curb work and milling and paving were done in order to meet Westfield's Standards for milling and paving.

Change Order #1 also has deletions due to not using the original design for Structures 106 & 108, the change in milling and paving.

The following items are changes to the reconstruction of the Overman-Harvey/Village Farms, Adios Pass Reconstruction:

ADDITIONS

26 additional feet added to of curb and gutter -----	\$ 80.00
Building in place Structures 106 & 108 -----	\$ 8,595.56
Additional milling and paving to meet Westfield Standards -----	\$ 13,085.22
Total Additional Items -----	\$ 23,760.78

DELETIONS

Item #5 HMA Road Patch -----	\$ 5,010.00
Item # 8, Inlet C5, Quantity - 2 @ \$7,000 each ----- (Structures 106 & 108)	\$ 14,000.00
Item # 13 Tile Connections -----	\$ 10.00
Total Deleted Items -----	\$-19,020.00

Change Order #1 -----	\$ 4,740.78
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Engineer's Estimate -----	\$145,300.00
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Contract Bid -----	\$158,500.00
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Change Order #1 -----	\$ 4,740.78
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Total Reconstruction Cost	\$163,240.78
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Difference -----	\$ 17,940.78
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Submitted By:

Luther Cline
Inspector"

Altman stated it looks like we're going in the red on this project.

The Surveyor stated yes.

Altman asked what's the plan?

The Surveyor stated it's being paid out of the maintenance fund. Westfield wanted us to use their milling requirements after they looked at it and initially approved it. That cost us \$13,000.00 and then we found out that the structure couldn't be built the way it was planned so we had to build it in place instead of having something prefabbed and popped in. Then it was too shallow to put a top on, so we put a metal plate on it and paved over the metal plate.

Duncan stated that's how it was built back in the day. They built it as shallow as they possibly could.

Heirbrandt asked is it working?

Duncan stated it does work.

Altman asked we're not going to run into a percentage on maintenance that we're going to hit a wall on? I thought we could only use 75% or something.

The Surveyor stated this fund has a million dollars in it.

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Altman stated I know, but the ratio.

The Surveyor stated we're fine.

Altman made the motion to approve Change Order No. 1 presented, seconded by Heirbrandt and approved unanimously.

Non-enforcements:

The Surveyor stated we do have a Duke Energy non-enforcement today and that was on an anchor wire as I recall. Cline went out and looked at it and it should be fine. This is a pole that needs to be moved for a developer, so my recommendation is to go ahead and approve this one.

Clark presented a non-enforcement request for the Cool Creek Drain, Grassy Branch Arm filed by Harvey's Collision Center, Inc. for parcel #09-09-01-00-00-018.901 for a drive entry connecting to Westfield Park Road, chain link fence and existing building. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Lion Creek Drain, Longridge Estates Arm filed by Daniel Bateman and Pantila Vanichakarn for parcel #17-09-19-00-01-038.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Washington Township Arm filed by Duke Energy for parcel #08-05-34-00-00-023.006 for T-Line Structure. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Long Branch Drain, Shelborne Park Arm filed by Zachary Waisanen for parcel #17-09-29-00-05-019.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Woodside at West Clay Arm filed by Richard and Sandra Zeckel for parcel #17-09-21-00-23-003.000 for a fence. The Surveyor's Office recommends approval.

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

Conover presented a non-enforcement request for the Elijah Jay Drain filed by Waitt Grain Co., Inc. for parcel #01-05-03-00-00-013.004, 01-05-03-00-00-013.001 and 01-05-03-00-00-013.003 for gravel drives and storm sewer. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Canal Place Drain, Thomas West Arm filed by Michael and Patrycja Thomas for parcel #13-15-12-00-44-021.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by Tyler and Susan Tonelli for parcel #13-16-08-00-12-018.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Heritage at Vermillion Arm filed by Thomas Riffe for parcel #13-16-05-00-07-008.000 for a fence and small wooden deck. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Village at Flat Fork Arm filed by Richard and Marilyn Ferber for parcel #13-16-05-00-08-016.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vestal/Kirkendall Drain, F. E. Hines Arm, Slater Run filed by John and Tina Mann for parcel #10-10-04-00-13-005.000 for a fence. The Surveyor's Office recommends approval.

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

Springs of Cambridge/Bee Camp Creek Drain - Kendall Law Request:

Liston stated Mr. Law has been talking to the office for the last two months on putting a fence in his rear yard. He resides on Lot 345 in Springs of Cambridge Section 9. There's a 36" storm pipe on his property line so he really has no backyard.

The Surveyor stated its one of those small lots with the McMansion.

Liston stated Law is working with his neighbor in Section 3.

Altman asked does that back up to him?

Liston stated yes and there's a 30-foot easement on the other lot. There's a pretty good slope where the neighbor's property goes up; there's an elevation change. Mr. Law has proposed, by working with his neighbor in another section of this subdivision, crossing over the property line with a fence about ten to fifteen feet onto his neighbor and having an agreement to maintain it.

Altman stated it would just be called an easement.

Liston stated when I sat down with the Surveyor on this one, he said we can't support this because its going to open a can of worms for everybody else along here wanting to do the same thing that has no backyard. I told Mr. Law that we could not support it. He didn't like what we told him.

Altman stated so we have one pipe, right?

Liston stated one 36" pipe.

Altman stated one side has so much easement, 30 feet and Mr. Law has 20 feet.

Liston stated yes.

Altman stated and the pipe went on the skinny part, right; the twenty foot?

Liston stated yes, it's right on the property line. We told Mr. Law that he could have a half encroachment, but he wants more.

The Surveyor stated he wants the full encroachment and to put it over onto his neighbor. I told him we couldn't approve that because we don't have anything from the neighbor saying that he could.

Altman stated I would suggest he comes up with a recordable easement. I don't have a problem with this. It's a creative solution.

Howard asked are the woods common area?

The Surveyor stated no, that's the neighbor.

Altman stated the only thing I have a concern about is some goofy fence installer doesn't drive a stake into the line.

The Surveyor stated there's less than a foot of cover on that storm pipe.

Altman stated that would be the concern I would have is that they put a post hole drill in the middle of our pipe.

The Surveyor asked what kind of document?

Altman stated it's called an easement. It's an easement for either a perpetual easement or period of time where each party agrees to do whatever...

Howard stated and it's in recordable form, cross referenced to both parties.

Altman stated and puts us in as an additional beneficiary to the easement or subject to our rights; subject to the Drainage Board's jurisdiction to remove the fence and require maintenance.

Howard stated at no cost to us. This is a fairly complex private property problem. If we give him the outline, we're not drafting his documents, we have plenty to do. He didn't have a backyard when he started and if he's getting a backyard he needs to get somebody, not his neighbor's nephew who just got out of law school, but somebody that understands real estate law and getting a recordable document binding on successors and assigns in recordable form.

Altman stated and approved by the Homeowners Association.

Howard stated approved by the HOA in addition to us.

Altman stated and any other jurisdiction.

Howard stated this is a complex problem, whose problem is it, his. I think all the Board can say is subject to all the things that we've talked about, we would be the last signatory, but it would have to be ready to go across the street and be recorded.

Duncan asked do we need a non-enforcement from the other property owner that runs with that land or is that something that would be covered in the easement?

Altman stated yes, another non-enforcement because it's still going in the easement.

Heirbrandt asked who's going to give Mr. Law specific instructions?

The Surveyor stated I'll do it.

Howard stated he needs perpetual easement, recorded form and he needs a non-enforcement for both parties, him and his neighbor, he needs consent of the property owner's association. If those trees are in a common area...

Altman stated the Surveyor says it's not in the common area.

Howard stated it's not, its in the other guys backyard, so he's going to have the fence going around the trees, cut the trees down, we don't know.

Altman stated my guess is that they're going to have to get approval from the jurisdiction also because it's a variance from the plat I assume or the restrictions when they approved it.

Howard stated when you cross the property lines of a recorded plat everybody's got to consent as it appears on the last deed of record.

Spills:

Anna Kendall Drain (Underground Heating Oil Tank) - Liston stated on May 10th our office was notified by EMA of a spill at 306 Penn Street in Westfield. An owner bought a property to flip it but hired a contractor to come in and do some excavation on the site. They uncovered an old, abandoned oil tank. The contractor gouged it with their bucket and in order to get it out of the ground they decided they needed to pump that mixture onto the street into the storm sewer. The contractor was not insured so the cost was born by the owner of the property.

Altman asked how much material was it? I thought we couldn't find anything anywhere.

Liston stated it was the weekend of the heavy rain event. It was done on a Friday evening and we had the rain event late Saturday into Sunday where we had almost two inches of rain. If the oil made it into the Anna Kendall Drain there was no trace of it, but we believe it did.

Heirbrandt asked how did you find out about it?

Liston stated the neighbor called the City of Westfield. Westfield doesn't require a permit to remodel, but there is a permit when you start doing a foundation and that's what they were getting ready to do.

Construction Updates:

Intracoastal at Geist Drain - Liston stated we're still on hold with this project.

Altman asked do we know how to get off first base? I thought they gave us instructions that we had to notice people.

Liston stated in our conversation since then they're not responding so I'm not sure if we're even talking; we're talking with Bill Farrell with Duke. Cindy Rowland is no longer with Duke, she retired and I'm not sure who has replaced her.

Duncan stated we don't know who to notice anyway.

Heirbrandt stated call Steve Wood, he'll know who took Cindy's place.

Altman stated I think someone needs to write a letter to Duke saying "we don't know who to talk to, no one's responding, you need to tell us who we're supposed to notice because we have no idea who's hooked to your line and we need to get it done". We have to have stuff in writing if you're ever going to enforce anything.

Mallery Granger Drain Reconstruction - Liston stated work continues on this project. The initial dredging is done. The contractor is experiencing issues with getting materials for the job site because of Covid-19 problems.

Ellis Barker Drain Reconstruction - Duncan stated we were scheduled to close the intersection and do the work and then Westfield informed us that Grassy Branch Road north at SR 38 was closed so we couldn't close that intersection. We are working through; both the City of Westfield and our contractor feel they can do the work under traffic. We're still working that out with the City of Westfield.

Clara Knotts Drain, Park Broadway Arm - Duncan stated that there are three utilities that need to move for the project. As of May 20th, AT&T has three to four weeks left to be clear. They are working. Carmel Water will be starting shortly, and I received an email from Vectren which is now Center Point Energy, they want to move a crew on site to start work. I got an email from them on Friday asking for some staking information. The timing is what it is but, is becoming an issue. Part of that project is being funded with CDBG money and in talking with Mark McConaghy we need to maximize our claims by July 1st. We are trying to do that, but I don't know if that's a hard deadline. Does the Board know if that's a hard deadline?

Altman stated I don't know; you need to ask Mark. Just tell him what the situation is and get an opinion in an email from him please. Is this something we could cover with ARP funding, free that up because we've got another project waiting if we have a problem. That's the shifting that might work on some of the things we have timing issues with.

The Surveyor stated the one thing we came up with is the possibility, if this is a hard and fast deadline, that we could go ahead and buy the material, pay for it and stock pile it at the dead ends of some of those streets. That way it's on site.

Howard asked what are we talking about, big pieces of concrete pipe? Security is the main issue. If it's got copper in it somebody's going to steal it.

The Surveyor stated concrete pipe and structures.

Duncan stated structures and castings.

The Surveyor stated I don't know that I'd put castings out.

Duncan stated normally our contracts do not allow for payment of stored materials, but we talked with the contractor on this one.

Altman asked will the contractor assume the risk of loss?

Duncan stated I'll have to firm that up because I know normally that is one of the issues of paying for stored materials.

Altman stated you'll find out whether the contractor will go out on the hook.

Howard asked do they have room to store on their site?

Duncan stated they do not.

Howard stated that would be a double transportation cost.

Duncan stated like the Surveyor said at the end of the street so Park Avenue and Broadway Avenue we do have plenty of room to store the material.

Altman asked do we have to get permission from Carmel?

The Surveyor stated I'll check with Carmel.

Howard stated what you may want to do is do a little brinkmanship, kind of have that delivery as far down the road as possible and still get the money. Work with Mark on that. He's been around the block; he was there fifteen years ago. See what he recommends.

The Surveyor stated we've got verbal approval from Carmel, but I'll get it in writing to make sure.

Altman stated Carmel has skin in the game.

Duncan stated they do, and they've been getting some pressure to get this done. They have been feeling some pressure to get this project done. I have not checked the value of the actual material to see how close. The CDBG funding as I recall is approximately \$300,000.00 for the project so the material may cost the majority of that.

Howard stated the contractor will probably be happy if you tell him you don't need it until July 31st.

Duncan stated correct. Morphey had slated to get this done over the winter and now getting this project done they're having to fit it into other projects they've already committed to.

Overman-Harvey Drain, Village Farms, Adios Pass Reconstruction - Duncan stated I saw a request for a punch list and walk through so that project is substantially complete. Hopefully Luther (Cline) can do a final walk through and start moving that to being done and the final report.

Drainage Board Attorney (Pending Items):

Drainage & Utility Easements - I talked to Altman and Heirbrandt a little bit about this on the issues of the combined drainage and utility easements. I suggested that we require our own exclusive easement. Commissioner Altman put her developer hat on, but I think it was very helpful that we would have an ordinance that in a DU&E that the utilities would be subordinate. There is a statute that if it's a regulated drain obviously the utilities have to move, but from a go forward basis, put that in the ordinance. We talked to Gary about seeing if there are ways that we can handle some of this stuff, but I think we're ready to go and we can probably have that ordinance before you at your next meeting.

Altman stated and no change in grade.

Duncan stated of the surface or the easement.

Altman stated correct.

Howard stated securing the easement that we have primarily over in the Geist area with the transformer in the middle that's going to be a nightmare with the neighbors. I don't know if there's any progress on that. Gary says there is progress in the Clara Knotts area and we're moving forward with that.

Lake Stonebridge Agreement (Backflow Preventer) - Howard stated the last agreement they sent back on maintenance of the backflow preventer they had their obligation was not to exceed (blank) per year. I discussed that with the Surveyor, and we want that maintenance agreement to be unlimited on the HOA. That's going back to them.

Interlocal on Loan to Washington Township Trustee - Howard stated we've had some issues with that. They may be in to ask for a little more money today. If we do, we'll put it in there and go forward.

Elwood Wilson Drain (1532 South street) - Howard stated I'm not sure that's my problem. I think it's the City of Noblesville's problem isn't it?

The Surveyor stated you were going to call up Denise (City of Noblesville).

Howard stated to see what we can do. Basically, tell her we're not interested in buying it.

The Surveyor stated I don't know what we'd do with it.

Howard stated it doesn't have any value and if the property owner wants to dedicate it so they don't have to tear it down and they don't have to cut the weeds we might look at it, but probably not even then. There's no utility to it from what I understand so I will get that notice out to her.

The Surveyor stated the other problem with that is that particular lot actually crosses the ditch.

Howard stated we still have an easement there.

The Surveyor stated yes.

Howard stated I want to thank Gary for sitting down and working through these issues. I look forward to meeting with our two representatives concerning utilities because they really need to understand that this is a huge issue. Heirbrandt's work with the Association, it's a problem everywhere?

Heirbrandt stated yes, it is.

Howard stated obviously if the county has no growth it's not a problem.

Heirbrandt stated they poked the bear because when you get 70 resolutions signed on 1381, seventy out of ninety-two counties, I've never seen anything like that happen. Nobody really has.

Howard stated that dog's dead and we'll be ready for them next time.

Anchorage Drain - Erosion Study:

Heirbrandt asked the Surveyor, where are we at on the Anchorage?

The Surveyor stated we're meeting with Burke tomorrow morning to discuss it. We had a meeting in the office last week where individually, four of us, looked at it, made our own comments, we brought them together, discussed those comments, wanted to have a sit down with Burke and talk about those comments.

Heirbrandt asked can you let me know when they're going to start doing something?

The Surveyor stated yes, it will be after this meeting tomorrow.

George Coverdale Drain - 785 W. 193rd Street:

Conover stated this person bought a property where 200 acres comes through his property.

Heirbrandt stated I need something to be able to respond to him.

Altman stated I thought they did and that they said it was designed as an agricultural drain and it's functioning fine.

Heirbrandt stated that was what he thought it was, but I don't know that I got any clear answer.

Conover stated there's 232 acres that come through here, has always come through here. It's an agricultural drain as I had explained in the past and these agricultural drains are only designed to lower the water table to make the ground tillable. Everything else travels on the surface with an agricultural drain. Reitz says the drain's not working. The drain is serving its function as an agricultural drain. He doesn't like the surface water coming through there, but you can't stop it. That water is coming through here. The only thing he can do is put a swale in and direct that water where he wants it. There's not enough to buy a big enough pipe to put that water in the ground. Reitz bought this existing situation and he doesn't like it, but there's nothing we can do.

Altman stated or should do because it's functioning as designed.

Conover stated yes. It's an agricultural drain. These people want to live in the country, this is country living.

The Surveyor stated also, he bought that tract, then he split this lot off, now he wants to sell it for the house there and guess what goes through the middle of it. He wants us to fix his...

Altman stated to fix his development problem.

Heirbrandt stated this helps me better understand. The only thing I see when I look at these pictures is "what the hell is this?".

Conover stated this is what I put in my letter, a swale.

Steiner Properties, LLC - 624 W. 206th Street:

Conover stated another one that we're going to hear about, and you asked we get these that we can't do anything about. Baitz took a picture back in March.

Heirbrandt stated I remember seeing that.

Conover stated now Westfield has issued a building permit on this lot. There's not a regulated drain there, the nearest regulated drain is an agricultural drain, which is about an eight-inch tile about a half mile away from here. Currently, they're bringing fill dirt in, which may compromise their ability to put a septic system in there. I've notified the Health Department on that.

Altman stated you can't put septic on fill, can you?

Conover stated right, that's why I gave them a heads up. There's about 30 acres that feed into this property.

Heirbrandt asked has the City of Westfield responded to you?

Howard asked Conover, when you use the term agricultural drain, it's private? Basically, a private field tile?

Conover stated on this one it is. It looks like there's a couple of field tiles that go through this parcel.

Howard stated but it's not a regulated drain tile.

Dillinger asked if it's not a regulated drain why are we even concerned with it?

Conover stated because we're going to get a call.

The Surveyor stated we're going to hear about it the first time it rains like that.

Howard stated they're in the watershed.

Conover stated they're in a regulated drain watershed.

Howard stated but they're upstream of the regulated part.

Heirbrandt stated I think you need to get some correspondence out now.

The Surveyor asked, to Westfield?

Heirbrandt stated yes, we need to get it out now.

The Surveyor asked Conover, have you emailed Westfield about it?

Conover stated no, this just came in Friday when I got the call that fill was being brought in.

Baitz stated Westfield knows about it, as a matter of fact the property owner to the south, Mr. Carey, contacted me and he said Wes Rood from Westfield told him to call us.

Heirbrandt stated we need to have this in writing, and it needs to come from our attorney.

Conover stated this is just what happens. These people buy this ground out in the country and like Howard said not too long ago the farmers get rid of ground that's marginal ground and floods and then it becomes our problem.

Altman stated the best time to sell is in the fall and in the winter.

Howard stated to Conover, get names and addresses to me and come over for about 30 minutes one day this week and let's sit down and draft a letter to these people. We strongly recommend they don't build there for the following reasons and if they go ahead and build, they build.

Altman asked where are we on all these ordinances? Until we get the ordinances enacted with the fines and everything else, we can't charge anything and we can't enforce anything.

Howard asked on the utility fines?

Altman stated on all of them, fencing and all of that stuff.

Howard stated we've got fencing.

Altman stated I know, but we talked about getting everything updated and moving.

Howard asked you want massive...

Altman stated that we can enforce and instead of talking about it, doing it.

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

Steven C. Dillinger - President

Lynette Mosbaugh
Executive Secretary