

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

June 13, 2022

The meeting was called to order Monday, June 13, 2022 at 12:03 p.m.

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

**Approval of Minutes of May 23, 2022:**

The minutes of May 23, 2022 were presented to the Board for approval.

Heirbrandt made the motion to approve the minutes of May 23, 2022, seconded by Dillinger and approved unanimously.

**Professional Services Agreement - Elwood Wilson Drain, E. M. Hare Arm:**

Duncan stated this agreement is for construction services associated with the reconstruction of the Elwood Wilson Drain, E. M. Hare Arm as proposed by Clark Dietz. This project was awarded, and these services would be for construction staking, inspection, grade checks during construction as well as asbuilt surveys in the amount of 263,990.00.

Altman stated technically this is an amendment to the original agreement, correct?

Duncan stated correct.

Heirbrandt made the motion to approve the agreement with Clark Dietz in the amount of \$263,990.00 for construction staking, inspection, grade checks during construction and asbuilt surveys, seconded by Dillinger and approved unanimously.

**Professional Services Agreement - Elizabeth Lynch Drain Reconstruction:**

Duncan presented an agreement with Banning Engineering for the Elizabeth Lynch Drain for engineering and survey in the amount of \$50,000.00 and alternate professional services in the amount of \$7,000.00 to the Board for approval.

Heirbrandt made the motion to approve the Professional Services Agreement with Banning Engineering in the amount of \$50,000.00 for engineering and survey and \$7,000.00 for Alternative Professional Services, seconded by Dillinger and approved unanimously.

**Professional Services Agreement - Clark & Compton Drain:**

Duncan presented an agreement with Banning Engineering for the Clark & Compton Drain for survey location, elevations and depth on Marathon Pipeline Crossing of the Clark & Compton Drain upstream of the original project area in the amount of \$3,000.00 to the Board for approval.

Heirbrandt made the motion to approve the Professional Services Agreement with Banning Engineering in the amount of \$3,000.00 for survey location and ground elevations and depth of Marathon Pipeline Crossing, seconded by Dillinger and approved unanimously.

**Clara Knotts Drain, Park Broadway Arm Phase 2 - Easements:**

Duncan stated these are a group of easements. These are four of eleven that are required for the project. The offers were made and accepted so these are acceptance documents for the Board to accept the grant of the easement for the project.

Altman stated I do have a question on Mr. Craig's easement. According to our paperwork the property's titled in co-ownership and we only have Mr. Craig's signature.

Duncan stated we can work to get the proper signature.

Altman stated it's actually completed in his name alone, so I don't know whether there was a change or whether a survivorship affidavit is necessary.

Howard asked, did the Surveyor look at this?

Duncan stated the Surveyor did look at this and Tim (Knapp) notarized the signature.

Howard stated so there could have been an intervening affidavit of survivorship or quit claim deed.

Altman stated I just think we ought to hold on that. Do you need that to go forward with construction?

Duncan stated no, we can look into it.

Altman stated I would suggest we accept all of the easements except for the Craig easement and table the Craig easement.

Heirbrandt made the motion to accept the easements for Hendricks, Reeves and Hayes and table the easement for Craig, seconded by Dillinger and approved unanimously.

**Survey FAQs - Hamilton County Surveyor's Office:**

Duncan stated this is for the Board's information. We're reevaluating or updating the FAQ's that are on the County Surveyor's Website related to survey questions. These are frequently asked questions. The main thing we're looking at is fence encroachments.

**Hearing Request:**

Duncan presented the following item to the Board to set for hearing on July 25, 2022: Mud Creek/Sand Creek Drainage Area, T. J. Patterson Arm, Hyde Park Phase 3.

Heirbrandt made the motion to set the item presented for hearing for July 25, 2022, seconded by Dillinger and approved unanimously.

**Final Reports:**

Ybarra presented the following final reports to the Board for approval.

**"To: Hamilton County Drainage Board**

**June 9, 2022**

**Re: Thistlewaite Drain: Aaron Rawlings: Maple Run Section 3B**

Attached are as-built, certificate of completion & compliance, and other information for Maple Run Sec. 3B Arm. 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 26, 2021. The report was approved by the Board at the hearing held July 26, 2021. (See Drainage Board Minutes Book 20, Pages 100-102)

The changes are as follows: the 48" RCP was shortened from 140 feet to 132 feet. The open ditch was lengthened from 175 feet to 185 feet. The length of the drain due to the changes described above is now **654 feet**.

The non-enforcement was approved by the Board at its meeting on July 26<sup>th</sup>, 2021 and recorded under instrument #2021054946.

The following sureties were guaranteed by National Indemnity Company and released by the Board on its June 13, 2022, meeting.

Bond-LC No:70NGP185032  
Amount: \$215,120.04  
For: Storm Sewers  
Issue Date: May 6, 2021

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**

**June 9, 2022**

**Re: Thistlewaite Drain: Aaron Rawlings Arm - Maple Run Sec. 4 Arm**

Attached are as-built, certificate of completion & compliance, and other information for Maple Run Section 4. 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 there were no significant changes made to the drainage plans submitted with my report for this drain dated June 8, 2021. The report was approved by the Board at the hearing held July 26, 2021. (See Drainage Board Minutes Book 20, Pages 102-104)

Therefore, the length of the drain remains at **470 feet**.

The non-enforcement was approved by the Board at its meeting on July 26, 2021 and recorded under instrument #2021054947. The surety for this project was obtained and held by the Town of Sheridan.

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

Sincerely,

\_\_\_\_\_  
Kenton C. Ward, CFM  
Hamilton County Surveyor "

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

**Big Cicero Creek Joint Drainage Board:**

Duncan presented the minutes of the Big Cicero Creek Joint Drainage Board of April 27, 2022 to the Board for their information.

Heirbrandt stated there's no update. We're still moving forward with the project.

Altman asked they're under construction for the two stage, aren't they?

Heirbrandt stated yes, they are.

Altman asked what's the estimated time on that?

Heirbrandt stated another seven months to completion. We're going to be doing a new ride down Big Cicero Creek to check for sand bars and trees.

**Clara Knotts Drain Reconstruction Phase 1 - Change Order No. 3:**

Cline presented his report to the Board for approval.

"May 25, 2022

To: Hamilton County Drainage Board

Re: Clara Knotts Drain Reconstruction, Base Bid  
Change Order #3

Change Order #3 was required due to additional sanitary laterals relocations.

The following item are changes to the reconstruction of the Clara Knotts Drain Reconstruction:

2 additional gravel driveway and repair at \$800 each -----	\$ 1,600.00
14 additional feet of 36" RCP with granular backfill -----	\$ 1,820.00
Engineer's Estimate for Base Bid -----	\$599,432.17
Contract Bid -----	\$358,290.00
Change Order #1 -----	\$ 1,500.00
Change Order #2 -----	\$ 3,000.00
Change Order #3 -----	\$ 3,420.00
Total Base Bid Reconstruction Cost	\$366,210.00
Difference -----	\$233,222.17

Submitted By:

Luther Cline  
Inspector"

Heirbrandt made the motion to approve Change Order No. 3 on the Clara Knotts Drain, Park Broadway Arm Phase 1, seconded by Dillinger and approved unanimously.

**Ream Creek Drain Reconstruction, Orchard Park Arm - Change Order No. 1:**

Cline presented his report to the Board for approval.

"June 9, 2022

TO: Hamilton County Drainage Board

RE: Ream Creek Drain Reconstruction - Orchard Park Arm  
Change Order #1

Attached is a request from Morphey Construction for an increase due to material costs.

Additional cost 48" dia. steel pipe	\$ 47,205.60
Engineers Estimate for base bid	\$ 886,415.40
Contract bid	\$ 808,000.00
Change Order #1	\$ 47,205.60
Total construction cost	\$ 855,205.60
Difference	\$ 31,210.00

Sincerely,

Kenton C. Ward, CFM  
Hamilton County Surveyor

KCW/pl1"

Duncan stated construction has not started, normally we see change orders after construction starts. The contractor has indicated that there's a significant increase in the cost of steel. This project proposes a trenchless installation of a 48" pipe. There's a narrow area between two existing homes that we proposed to jack and bore the pipe through that area using a steel pipe. There's a \$47,000.00 increase simply due to material cost from the contractor's bid. This would be the change order to cover that cost and our understanding is the cost is going up almost on a daily basis, so the contractor has recommended that we lock him into this price before it goes up any more.

Altman stated the question is, how did he bid the project?

Duncan stated he bid it as a steel pipe, but it's been some time and he's had other material delays that he hasn't ordered all the materials for the project so it hasn't started.

Altman asked didn't we go through this on some other things? How did we get around the bid laws that we have; did he bid time and material?

Duncan stated no, it was a linear foot cost for it.

Altman stated we had the same thing at Highway. Did we come to any conclusions on how we address these issues?

Sullivan stated I reached out to a contact with the Attorney General's Office as you requested, and I have not received a response. I sent an email and a text message. I have not received from them how they would like us to proceed with that.

Altman stated it seems like the contractor's inferring that it's our concern. Why has he not locked in the price?

Duncan stated I would have to ask the contractor.

Heirbrandt stated I'd like to get some answers before I approve something especially when it's bid and then all of sudden they come to find out; I understand there are increases in here, but how do we know and are you verifying too that's exactly what the prices are or are they putting more money on it. I don't feel comfortable until I get legal advice on how to proceed forward especially when we're taking low bid. I just don't think its fair to the public and the taxpayers unless we do our due diligence.

Howard stated I think we're going to find out from the Attorney General's Office that there is some flexibility, but I think it's important what was the price on the day his bid was accepted? Even though there may have been a change from the time he made his bid, when that's accepted if he sits around waiting on product and doesn't get his bid that day whose problem is it? This is happening all over and I told Sullivan let's look at the Attorney General's Office because the alternative is these guys start walking away and you start calling their bid bond and we need to see how they're going to address it.

Altman stated that would be on the performance bond I assume.

Howard stated and at a very minimum I think it's important when did he place the order for the pipe? I think after the date the contract is accepted at a very minimum he has a deal, it may have been a couple of weeks, but if he waits around for six months and the cost of pipe goes up 25% it may be a personal problem of his more likely than not.

Duncan stated I'll talk to the contractor and get a little bit more background.

Heirbrandt asked would it be appropriate to authorize the President to okay it if we get the information back in between meetings that they can make the decision to sign it depending on what we find or not?

Altman stated I don't know why we couldn't.

Howard stated just authorize the President to sign off.

Altman stated what concerns me most about the comments is the fact that he's attempting to shove off the risk of future increases against the Board where unless we bid it time and material that would be inappropriate. That's why the base question is, why isn't he doing what he can to secure what he needs to secure.

Howard stated so we need to know what the price is the day he bid and the day we accepted the bid and we're looking into it. The best answer would be the sooner he locks in; if it's going up then it would be in his best interest.

Duncan stated my understanding is there's a shortage of steel. I've heard that from at least one other contractor.

Altman stated I understand the market conditions, but maybe if it's a situation where they would not let him purchase it, that's a different situation.

Duncan stated I will find out.

Altman stated I would suggest maybe a motion to approve the change order in the event we receive an allowance from the Attorney General's Office before the next meeting.

Howard stated and you want it up to the price of the day of the contract and not on a go forward basis.

Heirbrandt made the motion to approve Change Order No. 1 presented in the event we receive an allowance from the Attorney General's Office up to the price of the day of the contract and not on a go forward basis, seconded by Dillinger.

Howard stated in other words if he's sitting there waiting...

Heirbrandt stated we want an explanation.

Altman asked do you know when this contract was signed?

Duncan stated I do not remember. It's been some time.

Altman stated I don't think that's going to solve anything for that contract. I don't want to put that condition on it I just want to know how the State's handling it. It's like Steve (Dillinger) said at the Highway meeting we have to tread on this in a fair manner or we'll lose bidders in this volatile market.

Sullivan stated all the local attorney's ask questions, I know this has come up and I was checking this weekend and there's not been a definitive answer. Everyone says yeah, we're curious as well and everyone is going to try to find a resolution and come back, but it's affecting every local municipality.

Howard asked you might check with Matt (Light, City of Noblesville) to see if he knows somebody at the State Board of Accounts because that's where the rubber's really going to meet the road whether or not you're going to get an audit comment if you do pay more.

Altman stated I would suggest you go back to the contractor and encourage him secure what he needs to secure as quickly as possible while we sort this out.

Howard stated if it's going up that rapidly then he can sell it.

Duncan stated this is the case with several of our projects where we let the contract some time ago with everything that the contractor world is experiencing there's a lot of contracts that they haven't been able to start yet.

The motion had been made and seconded to approve Change Order No. 1 presented in the event we receive an allowance from the Attorney General's Office and approved unanimously.

**Cool Creek Drain - Wilson Wetland (INDOT):**

Altman asked is this the one Heirbrandt was contacted on?

Heirbrandt stated yes.

Altman stated I would like the Surveyor's Office to send out, when we get a uniform offer to the Board because it's been pending since April 18, 2022. That's the first request because it is made to the Drainage Board and this is the first time I saw it in my packet. I don't like to sit on these especially with INDOT.

Heirbrandt stated they've been sending emails trying to get this resolved. They were supposed to meet this morning.

Duncan stated this has been before the Board. The land that INDOT is wanting to acquire from the County where we had a design for a wetland mitigation area there and it will need to be redesigned and the Surveyor wanted to discuss with them.

Altman asked has the Surveyor called INDOT?

Duncan stated he did, and they had a meeting a week ago.

Altman asked what was the result of that meeting?

Duncan stated I was not there for it.

Heirbrandt stated we need to get this done.

Altman stated I don't want to redesign a wetland unless INDOT is willing to cover that cost. They've offered us \$2,680.00 on this. That's not going to redesign a wetland or find the new land. Let's hold on this.

**Non-enforcements:**

Clark stated at the last meeting there were two non-enforcements, neighboring property owners, that were tabled. One of the property owners initially did attend the meeting asking for one foot closer to the property line than what we were recommending. We tabled the non-enforcement for the purpose of asking for new information. Since then the property owner has stated that he is willing to go with what we initially approved. We tabled the neighbor's non-enforcement because it was conditional on the other neighbor and since then they have agreed for what we initially approved.

Clark presented a non-enforcement request for the Williams Creek Drain, Centennial Arm filed by Jonathan Tooker and Siara Chupp for parcel #08-09-15-00-16-035.00 for a fence. The Surveyor's Office recommends approval.

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

Altman stated what you would be asking us to approve is what you initially recommended at our first meeting.

Clark stated yes.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Centennial Arm filed by Jacob and Madison Weide for parcel #08-09-15-00-16-036.000 for a fence. The Surveyor's Office recommends approval.

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

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Maple Knoll Arm filed by Mary Smetak for parcel #08-09-10-00-03-061.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Overbrook Farms Arm filed by Martha Rodriguez and Gabriel Rivera for parcel #17-09-19-00-09-006.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Long Branch Drain, Long Branch Estates Arm filed by John Nayagam for parcel #17-09-31-00-01-057.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Westmont Arm filed by Matteo Vatta for parcel #17-09-21-00-19-014.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Stony Creek Drain, William Locke Arm filed by Berry Comm for parcel #12-07-35-00-00-002.001 for a fiber optic line. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Stony Creek Drain, E. O. Michaels Arm filed by Berry Comm for parcel #12-07-36-00-00-002.000 and 12-07-25-00-00-015.005 for a fiber optic line. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Bluffs at Flat Fork Arm filed by Brad and Cindy Stanley for parcel #13-16-05-00-10-001.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by Claire Coleen Decker for parcel #13-16-08-00-24-019.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by Simon and Sarah Pratt for parcel #13-16-08-00-24-025.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by Jamie and Robin Roberts for parcel #13-16-08-00-24-028.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Woods at Vermillion Arm filed by Robert and Catherine Bumgarner for parcel #13-16-08-00-23-018.000 for a fence. The Surveyor's Office recommends approval.

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

**Violation - Stony Creek Drain:**

Liston presented his report to the Board.

**"NOTICE OF VIOLATION  
VIO-2022-00003**

Certified Mail: 7021 1970 0001 9530 3220

June 8, 2022

Donald Booster  
12302 E. State Road 32  
Noblesville, IN 46060

**RE: STONY CREEK - Un-Authorized Fill in Floodway/Floodplain & Easement  
BOOSTER - 12-07-35-00-00-030.000**

It has been brought to the attention of this office that un-authorized fill has been placed in the Stony Creek Floodway/Floodplain at 12302 E. State Road 32.

This is direct violation of IC 36-9-27-72(C) and/ or Hamilton County Ordinance No. 4-26-99-C which prohibits placing fill in a floodway/floodplain in unincorporated areas of Hamilton County.

Upon receipt of this letter, you have ten (10) days in which to correct the violation according to the standards set forth by this office.

If not removed within the ten (10) day period, the ordinance provides that the County Surveyor may remove the fill and additional pipe, and to add an amount sufficient to pay for the work to the next annual assessment made against the land of the owner.

Please contact Mr. Daniel Ybarra of the Hamilton County Surveyor's Office at 317-776-8495 upon receiving this Notice of Violation to discuss what measures need to be made to correct the situation.

Sincerely,

Kenton C. Ward, CFM  
Hamilton County Surveyor

KCW/pll

Cc: Hamilton County Planning & Zoning (C.J. Taylor)"

Altman asked is this on Stony Creek?

Liston stated yes, it's just on the east side of Stony Creek on the north side of SR 32 where the drain crosses the road. INDOT is doing a new bridge project.

**Taylor & Jessup Drain:**

Mr. Robert McDaniel and Mr. Amanda McDaniel were present for this item.

Altman stated this is the project where we have homeowners that are having to pump water affecting other homeowners and we had I think, come up with a solution that was approved where we would create capacity within the regulated drain on another parcel to attempt to alleviate that situation pending reconstruction. I believe in the interim we received a letter of concern from the property owner where that work would be performed. Gary, have you spoken with that property owner?

Duncan stated yes, I had a chance to talk with them last week and discuss the project and go over exactly what would occur on their property and they're not in favor of the project. The project is being done completely on their property. In essence this will be a six-foot-deep, forty-foot-wide detention area for a temporary solution for what could be a period of two years until the drain could be reconstructed. That was the basis for their objection to the project. There are a few other things. The drain is really in need of reconstruction downstream in order to alleviate any of the issues. I explained to them one of the main benefits of the project is; there are segments on their property where the regulated tile goes from a four inch up to a ten inch and obviously the ten inch has the most capacity compared to the smaller one. In essence this project would remove those smaller segments and it should allow, when there's not water staged in the storage area it would allow the private tile that serves the properties to the north to have a free outlet. It should be an improvement.

Dillinger stated the McDaniel's disagree with that, right?

Duncan stated they do, yes.

Heirbrandt asked, all three of them?

Duncan stated no, just the McDaniel's.

Altman stated the ones affected.

Duncan stated the ones affected by the project.

Howard asked is the discharge a ten inch?

Duncan stated it's a ten inch at the south property line on the McDaniel's. It slowly gets larger actually I think it becomes a field tile farther south.

Altman stated but where we're going to dig, the outlet for that area, what size tile is it?

Duncan stated it would be a ten inch.

Altman stated so at the bottom of the new capacity area, it will discharge at the rate of ten inches.

Duncan stated correct, so we're removing restrictions, those existing smaller tiles may present to a private tile that is upstream.

Howard asked, and the entire dig is within the regulated drainage easement?

Duncan stated it would be within the regulated drain easement on the McDaniel's property. We would stockpile the soil there because the intent would be when we reconstruct the Taylor and Jessup Drain, we put a tile in and then push the soil material back in there. One of the solutions that they had suggested was rather than have a hole in their front yard was extending the ten-inch across their property. That is something that the Surveyor and I had considered, but tile is expensive, and it really would be considered throw away for these two years, for whatever cost that would be. The drain is in the red already so we don't want to incur the additional cost which would be realized if we put a tile in. Really, we still feel the best solution would be to open up the tile, create an area for the water to stage and then go back down from a cost effectiveness standpoint.

Altman stated I did suggest that perhaps we should be sensitive if there is any residual standing water that it be treated for mosquitos to make sure it's not an issue and Duncan indicated that would not be a problem.

Duncan stated I'd be happy to contact the Health Department to get that on the schedule they have.

Altman stated I just wanted to bring that up to make sure that we addressed the concerns. I don't know how we resolve those concerns and not create the capacity necessary.

Heirbrandt asked are the property owners here?

Mosbaugh stated the McDaniel's are here today.

Altman stated as a fairness come on up and if you want to reiterate more, but we've just got an immediate problem that we have to fix.

McDaniel (Amanda) stated I think our concern is just that it's going to tear up our whole front yard and continue to have the same standing water that is there making it more difficult for us to maintain that area of our yard than it already is. It's pretty much wet already beyond where the regulated drain is and over across to the street for most of the year. We've only a month or two where we can go out and mow it and take care of it as it is. The property owners to the north of us are pumping onto our property on the other side of our driveway. We believe that tile is already decomposed into the area where you're going to build this pit. We don't think that's going to move the water from the north side of our driveway to the south side of our driveway. Now we're just going to have messes everywhere on all sides of our front yard.

Altman asked Duncan, would you address her concerns?

Duncan stated one of the things we talked about is we know that the tile needs to be reconstructed. There's been 65 drainage complaints on this tile since 2000 and there's been a total of 54 work orders. We are trying to keep the drain functioning before it's reconstructed. We know it needs to be reconstructed. Really the best thing that the County and the Surveyor can do is after this project, if this area is not draining, we need to investigate and make sure that the tile is functioning in the interim. It's really the best we can do if there's a break down somewhere or a clog from roots.

Heirbrandt stated we need to get this thing resolved. I get emails almost every day from someone, whether it's Sedwick's, McDaniel's and they're having issues and we need to try to help to some extent. This is a complicated situation.

Duncan stated it really is and as the Board knows, doing anything to the Taylor & Jessup Drain won't be affective until we dredge the Clark & Compton Drain, which we do have plans for, we're moving that forward, this is just a matter of timing. I know that two years is a long time.

Heirbrandt asked is it already designed?

Duncan stated the Clark & Compton Drain is designed, yes. The Taylor & Jessup Drain we have released the survey for that; no, I think we already released the design for that. We're moving forward, it's just a matter of time. My understanding from the Oswalds and Kinney's, the owners north of the Sedwick property, the standing water up there and the soil conditions are such that their septic systems are having issues. Being sensitive to that, I understand that, but also the regulated drain doesn't go up to their properties. The Board and the Surveyor's Office is limited to what we can offer in terms of solutions. To your point Commissioner Heirbrandt, yes, this is a complicated situation in that...

Heirbrandt asked is this going to solve the situation? Can you assure us that this is going to solve the issues temporarily until we can get this constructed, fully constructed?

Duncan stated until we can get it fully constructed and the other thing is in order to fully resolve the issues, we need to extend the regulated drain across the Sedwick property to serve the properties to the north. Really, it's not a guarantee, it will be a better condition than it is now because the private tile north of the McDaniel's...

Heirbrandt stated I just want to assure anybody that, I don't want to do this project and then get phone calls; this tile is clogged, this is this; I want to assure them that...

Altman stated but that's going to take a reconstruction. That's the long and short.

Duncan stated we can't give that assurance. We would have to respond to the condition of the tile downstream to continue to do the spot repairs that we've been doing.

Howard asked is the downstream in easement?

Duncan stated it is, yes, it's a regulated drain.

Howard asked is the low point of this open ditch that you're planning to construct, does that go under McDaniel's driveway?

Duncan stated it's south of their driveway, but completely on their property.

Howard stated but their driveway is upstream.

Duncan stated correct. The design is about a twenty-foot offset from the edge of their drive to where the slope would go down. To Mrs. McDaniel's point, most of the area where she's describing is patent soil which is historically very poorly drained.

Heirbrandt stated I'm also concerned about the septic system too. You have a health issue.

Duncan stated even if the drain had completely been reconstructed up to this point we would still be limited in what we could do as a Board and Surveyor to remedy that specific situation because the drain does not extend to the properties that are having the septic system issues.

Howard stated I bet you they'll give you an easement pretty quickly.

Duncan stated we would have to approach Mr. Sedwick for that easement. Those property owners probably would, the Oswalds and the Kinney's.

Howard stated so they're upstream from Sedwick.

Duncan stated correct.

Altman asked how are they going to get their water down to this retention area?

Duncan stated it would have to flow through their existing private tile.

McDaniel stated currently that private drain ties in; it goes under our driveway and ties in the middle. We're pretty sure that the private drain is not going to tie into this new solution.

Duncan stated it would discharge to it. It would open up that tile.

McDaniel stated the Sedwick's told us that they've already requested that the County Drain be extended onto their property.

Duncan stated I'm not aware of that.

Heirbrandt stated I'm not aware of that one either.

Duncan stated I'm sorry, yes, there was a petition for that, but that's a petition for the reconstruction. I don't know if it talks about the specifics.

Howard stated where, when and how far.

Duncan stated right.

McDaniel stated I think the position we're in right now is that all the neighbor's that are complaining to you are also complaining to us and we want to help be part of the solution, but right now the only solution is build more private drains all the way across us because the county drain isn't functional. We don't want to give up more easements to more people.

Duncan stated that would be a private matter if additional easements.

McDaniel stated but we don't want to have to do that. Ideally, the county drain works and then you can tie into the end of the county drain and not have all these private things going back and forth.

Duncan stated if I had to guess, these private easements would be for the property owners upstream of Mr. Sedwick to bypass his property.

McDaniel stated we get approached all the time for people to tie into that drain and right now we're rejecting that because the drain doesn't drain and then the neighbors are complaining to us that they need to come and figure out why their drains aren't draining. We're in this awkward position of being the terrible neighbors that are not fixing the drainage problem.

Duncan stated you're at the connection point. It is a very complicated situation and, in the end,, it boils down to timing. If we decide to do nothing it would be just a matter of a year or two before we could finally provide relief.

McDaniel stated I think the risk we see is that if you do this and we have no confidence that it's going to work is that our front yard is just going to be this dug up muddy mess for the next three to four years until this all gets done. That's our worry. If we had some confidence that this was going to solve the problem, we would be supportive of moving forward, it just doesn't feel that way.

Duncan stated we will continue to maintain the existing drain and make sure it continues to function. That's the best we can do.

Howard stated solve may not be the correct word, make it better may be more appropriate. To solve is to reconstruct the whole drain.

Duncan stated to solve is the full reconstruction.

Howard asked Duncan, how big a watershed is this?

Duncan stated I've only looked at the area that drains to the McDaniel's property, about 60 acres. The entire watershed, I don't remember that number. This is fairly long drain, if I had to guess I'd say it's a mile and a half if not two miles.

Altman stated my bigger concern is getting the water into the detention area. I don't feel I have a clear answer.

Duncan stated the water would move through the private tile across the Sedwick property into the detention facility that we would construct on the McDaniel's property.

Altman asked have we scoped that? Have we sent a camera through that tile?

Duncan stated we have not because it's private.

McDaniel stated that tile they've been pumping into it and there's big sink holes where that tile is in our yard right now where they've blown it up with the pumping that they've done.

Altman stated, but in your yard, it would be part of the regulated drain, wouldn't it?

Duncan stated yes.

McDaniel stated the private tile is going across our yard too and that's where they're continuing to damage it as they continue to pump. They're creating sink holes.

Altman asked, you have the private tile and a regulated tile?

Duncan stated the private tile probably is about 30 feet across from their northern parcel line to the regulated drain, between 20 and 30 feet.

Altman asked how many places do we tie in? I really wish we could pull this up on the screen, so we know what we're talking about.

**Cool Creek Drain - Wilson Wetland (Continued):**

Heirbrandt stated I did get a response back from Jennifer Beck with INDOT and I'm going to read her text that she just sent me, "the meeting went well. INDOT will need to acquire more right of way when the added travel lane project comes through. This right of way is only to replace the existing bridge which is in poor condition and needs to be replaced as soon as possible. The new bridge will not accommodate the future added travel lane as we do not know where that alignment will be. When we widen and add travel lanes in the future, we will need more right of way and will address added costs for redesign of the wetland mitigation at that time, which is likely one to two years. The request was for the Drainage Board to accept the offer as presented for the land value only and we will address redesign costs when we require more in the near future, if that makes sense".

Howard stated it still begs the question of whether or not there is a wetland. If any part of the right of way they're acquiring is a wetland. We need to answer that question because if there is then the question is, are they buying our ground and are they doing the mitigation?

Duncan stated we have a wetland designed there for future mitigation. There's not an existing wetland there now.

Howard asked, so there's no existing?

Duncan stated no.

Altman asked do we need that future mitigation now? Is that something we were planning on building in the next three or...

Howard asked are we mitigating a wetland somewhere else that's got the clock ticking? If the clock's not ticking...

Duncan stated not that I know of, no.

Altman stated but we have design costs on the parcel. I don't know how we can settle for that land when we have added improvements via design. That's the issue.

Duncan stated the letter states that they're acquiring 0.51 acres of land. That's a small strip of ground.

Howard stated that's like 66 square feet.

Duncan stated right. I can't imagine that what they're asking for in this letter; I'm wondering if they presented something more substantial when we first looked at this.

Howard stated let's look at it solely to see if this adversely affects an existing wetland or land that we have acquired to mitigate an existing wetland. That's the only thing we need. If we're not affecting an existing wetland, I think we could have a motion to authorize the president to approve if they're not affecting an existing wetland.

Altman stated the problem is we have dollars tied up in this real estate that are potentially worthless by allowing the easement. That's what I want to make sure we have an agreement currently before we accept anybody's offer.

Howard stated the second question you have then, we need to superimpose the plat of what they want in our easement and see if we're adversely affecting the easement. Does it affect the easement, and does it affect the wetland?

Altman stated yes, because the property is more valuable than what they've offered given our design costs, in my opinion. I want to get that commitment in writing. That's all we want.

Duncan stated the right of way they're requesting the purchase today the embankment pushes up in the right of way so from a constructability standpoint the changes we would lose volume of mitigation area and that embankment would need to be pushed farther to the north.

Howard asked is it a pond or a wetland?

Duncan stated my thought would be it's a wetland so it's probably flat, would hold water up to a point and then percolate into the soil then flow out to the waterway of Cool Creek.

Howard stated now that I have a picture, I concur with Commissioner Altman fully that if that's our wetland and we've got a duty to maintain it then it needs to be redesigned to accommodate the future square footage of the wetland. That needs to be included either in what they compensate us for, or they need to do it on their nickel.

Altman stated I don't mind the commitment if they'll take care of it later, but generally I like to see things within the document that says all of that.

Howard stated if they're talking about widening that bridge they're going to be back sometime later.

Duncan asked, would it be a reasonable request for INDOT to include that commitment in their offer for this current acreage?

Howard stated at a minimum.

Altman stated or just incorporate what they said in there, I'm okay with that as long as they commit, they'll fix it or give us capacity.

Duncan stated we can have them add that.

Heirbrandt asked who's going to follow up with INDOT?

Duncan stated I will.

**Taylor & Jessup Drain (Continued):**

Altman stated I pulled this drain up on GIS on the McDaniel's property and I'm only seeing the regulated drain just going north of the McDaniel's driveway and not going further.

Duncan stated correct, that's where it stops. That's what makes this complicated.

Altman stated these folks that have a drainage problem aren't even close to a regulated drain, correct?

Duncan stated correct, they are separated by the Sedwick property.

Altman stated well it's not even up in their property. There's no regulated drain north of the McDaniel's.

Duncan stated correct.

Altman stated I'm not sure if we did as we proposed how the water is going to get down there.

Duncan stated it would drain through the private tile across the Sedwick property into where we're going to create the open ditch.

Altman stated the private tiles don't show up. Is there a base layer that shows private tiles?

Duncan stated we don't have any record of the private tiles. The low spot comes into the drain.

McDaniel stated the private tile comes into where the breather is. There are holes in the private tile. Right now, the water just all pools and they're pumping so it pools even worse than it did a year or two ago.

Altman stated I was ready to act on this today, but I've got more concerns. I think we have to have permission to scope that private tile to see if the water can even go there.

Howard stated you're trying to solve the northern problems, just putting the ditch there they may not be able to get there.

Altman stated from the descriptions from the homeowners that came in I thought it was a hop, skip and a jump to get to the regulated drain, but it is not. You've got a whole property.

Duncan stated yes, there's a whole property in between.

Heirbrandt asked McDaniel, would you give us permission to scope that private drain?

McDaniel stated yes.

Heirbrandt asked when can you get that done?

Duncan stated I will have to check on our contractors. It's a complicated issue because the immediate issue is not within a regulated drain easement. I know the Board wants to do what we can to help and try to help.

Altman asked, have we talked to them about detention on their own property?

Duncan asked, Mr. Sedwick?

Altman stated the people to the north.

Duncan stated no, we did not.

Altman stated these are large parcels.

Duncan stated correct. That is certainly something that may help the issue.

Heirbrandt stated we just want to resolve this thing.

McDaniel stated we agree, and our goal is not to be bad neighbors, but we're not clear why we're the only solution in our front yard. It's kind of we're all sharing this common problem and until it can be resolved we should all do what we can.

Altman stated I don't even think the reconstruction's going to help these people.

Duncan stated we need to extend the drain across the Sedwick property.

Altman stated tell them the reconstruction is two years away isn't going to solve their problem either.

Duncan stated correct, it's a matter of timing.

Altman stated it's a matter of cooperation among neighbor's that turned a private tile into a regulated drain.

**Thistlewaite Drain - Maple Run Section 6:**

Mr. Brian Robinson and Mr. Bill Evans were present for this item.

Heirbrandt stated we have Arbor Homes that has been working with the Surveyor's Office on Maple Run Section 6 drainage outlet for some time now. There's been a lot of email correspondence and they're at wits end trying to get this thing done. I forwarded you not only voice mails, but also a long history of emails trying to address this issue. I'd like to get an update of where this is at because we need to get moving on this thing.

Cash stated the project called Maple Run Section 6 is located near 226<sup>th</sup> Street and Mule Barn Road. During the review of this project we started receiving phone calls from the neighbors of some drainage problems that were located along Mule Barn Road. During this review I was checking watersheds to find out what's going on. This is a photo taken from Mule Barn Road looking west. In the background you can see Maple Run Subdivision. During the design of Section 3 of Maple Run there was a lot that was constructed that ended up causing a drainage problem in our opinion.

Altman asked did they interrupt a private tile?

Cash stated there is a private tile that is located there.

Altman stated that's a lot of water.

Cash stated the biggest problem is that we believe this originated with the establishment of this lot. The photo we just saw was looking towards the subdivision from the east. All this drainage...

Altman stated the place that was under water, put your finger on that.

Cash stated the place that was under water; this is Mule Barn, this is 226<sup>th</sup> Street; there's a culvert that goes under Mule Barn and then drainage flows towards this corner of Maple Run Subdivision. We have about 80 acres, from my calculation, that flows from this area through a culvert across the Newton property and across the horse barn property and is blocked right in this area. When Section 3 was designed all that water was flowing to this point. Section 2 was designed with a 30-inch pipe with an end section and that pipe flows north, routes through the subdivision and goes to the Thistlewaite Drain.

Howard asked is it regulated?

Cash stated the Thistlewaite Drain is regulated; this is not regulated; the 30 inch pipe is not regulated.

Altman asked but does it subject itself in the covenants to the Drainage Board?

Cash stated I would anticipate that it would. I have not personally gone through the covenants to see if it did or not. I believe they got an outlet permit when that was installed back then, but the problem that has occurred with this particular lot; you can see the grading of the lot comes all the way back here and water is trying to get to this 30 inch pipe. We have about 80 acres that are trying to surface flow this direction. There's a small swale, there's a swale behind this lot, but it's not draining affectively. We're getting a lot of calls and some of the neighbors have tried to take matters into their own hands and have kind of made their own situation worse or worse for the other neighbors. Throughout this I have some discussions with Mr. Brown from Stoepelwerth about this particular offsite area. They felt like it was part of Section 2 and that it should affect Section 6, but the flooding came about during my review of this section. It was started by Andy Conover before he left the Surveyor's Office. Admittedly, Arbor is frustrated because of the long time that Section 6 has taken to move forward for approval. There's nobody that doesn't like that any more than me. I want projects to be gone through quickly. However, when presented with this I needed to investigate the watershed because we have an existing problem. These are the photos that were taken out there. Throughout all of this we've been looking at the watershed and felt like there was a big section, a big portion of that watershed that was not incorporated into their drainage report.

Howard asked Cash, would you go back to the previous map and show us where the regulated drain ends and where they are proposing to connect to the regulated drain?

Heirbrandt stated to Cash, my only comment is I'm copied on a lot of these emails and I know people take vacations and they're gone all the time, but we need to get better at responding back to some of these. I'm copied on them and I think we should be a little more responsive whether we're waiting on the Surveyor or whatever the case is. We need to be more responsive, in my opinion, after looking at these.

Altman stated I don't know what you want these people to do.

Howard stated if we're going to fit it in the Statute we have to know where they're planning to connect to a regulated drain and if the regulated drain is adequate to accommodate the flows without reconstruction.

Altman stated plus, are they obligated to accept ground surface water from property that's not theirs if there's no private drain or water course in place?

Heirbrandt stated exactly.

Altman stated that's the issue.

Howard stated it's got to get to a regulated drain for us to have subject matter jurisdiction or if it can't get to a regulated drain, they just bought swamp ground and not our problem.

Heirbrandt stated agreed.

Duncan stated as development occurs, we have always looked at offsite watershed and provided them an outlet. We've always done that. An adequate outlet for that future section to connect to because that's where the water discharges today.

Altman stated let's back up here. That's apples and oranges. My question is, I buy a parcel A, somebody else has parcel B, their water just kind of sheets over my parcel, that's common enemy, in my understanding, I can block that if there's no established watercourse. Am I wrong?

Howard stated no. As far as the Drainage Code is concerned though, can they discharge to a regulated drain and is that regulated drain adequate? I think what we've looked at traditionally in development in this county, if it can't get to a regulated drain or a river or a creek we don't permit approved projects in the middle of swamp ground or projects that are going to put the neighbor into swamp ground. That's the question. We saw a lot of standing water. Where are the pipes that could possibly drain this on the face of the earth compared to your picture?

Cash stated I'm sorry I didn't have an overall, I wasn't quite aware that I'd be going through all of this, but this is a map of the overall Thistlewaite Watershed prior to the creation of this subdivision. This is the Thistlewaite Drain, the location of Maple Run Subdivision is located in this area and also up in there.

Howard asked the developed or the proposed to be developed?

Cash stated the developed. The proposed developed is located in this area on this parcel as well as a piece over here. The photos that we were looking at are here.

Altman stated we're going to back up into other meetings. I think what we're asking you to do is identify the problem that's holding up the development and send us a memo and a map showing it.

Heirbrandt stated yeah, we've got to get this thing moving.

Altman stated we're hearing from the developer that everything is resolved, we're hearing from you it's not. You tell us what's not resolved and what the Surveyor wants to do.

Heirbrandt stated I just look at all the emails and I see all the timelines and then how the delayed responses that we get back. We just need to be more responsive.

Evans stated we can resolve this pretty quickly. Section 6 is to the west of where Cash is talking about. The overall development, it is part of Maple Run and the pipe that Cash is talking about is in Section 1 and 2. That was developed by CP Morgan. In 2019 Section 3 was developed by Arbor. What I proposed to Cash is that we get conditional approval for Section 6 so we can start moving dirt and satisfy our contractor needs and get moving on this. I'm willing to send Stoeppelwerth out to the site, take topo of that area that Cash and the Surveyor is concerned about and do the due diligence to make an adequate call on what we need to do there. One other thing I noticed is that you folks are going to listen today to pull surety on Section 3. Section 3 is adjacent to where you're at. I'm willing to postpone the approval of the surety to be released for a month while we do that due diligence so I can get an approval for them to start Section 6. We are wanting to be a good steward in the subdivision. We spent a ton of money in there to actually help the drainage in that area starting with Section 3 all the way to Section 6. If you go back and you do the drainage calcs and you look at it, we don't design minimums. That 30-inch that he's talking about in Section 1 probably does serve that area, was intended to serve that area, but lets take a topo and lets see what we need to do to fix that situation. If they think there's a structure and a pipe that needs to be added to that, we'll talk about it.

Altman asked does the new section he wants approval for in any way affect how the water is ponding?

Cash stated no.

Altman stated then it's two different situations, correct?

Cash stated two different sections, same subdivision, yes.

Altman stated and his company didn't build the section that seems to be a problem.

Cash stated his company did build Lot 1 where we feel that's causing the restriction.

Altman stated on the record, will you correct Lot 1 to correct drainage if it can be fixed?

Evans stated on the record, we will...

Altman asked has somebody built on Lot 1 yet?

Evans stated I do not know that. There are easements in place, we'll take a look at that and we will do the topographic and I will look at the drainage study from Section 1 and Section 2 to make sure that water was intended to go there and then we will make a commitment to help that situation.

Howard stated as we are today, you don't know where the discharge point's going to be?

Evans stated I do not know.

Heirbrandt made the motion to move forward on Mr. Evans request on this project. In that motion I want to make sure I'm copied in on every bit of correspondence on this thing and any meeting that happens as part of my motion.

Altman stated with the commitment to fix it I think the release is to move dirt.

Evans stated that's correct.

Dillinger seconded Heirbrandt's motion.

Howard stated and you understand if the drainage doesn't work after you move the dirt, you're eating the cost of moving the dirt.

Evans asked, you mean in Section 6?

Howard stated in any of the sections. If you do not have a drainage plan that's going to drain the area where you're moving the dirt and you start moving the dirt before you have a drainage plan whose problem is it?

Heirbrandt stated that's Section 6.

Duncan stated if I could add, the Surveyor still has to approve the construction plans and he's the only one who's authorized to do that.

Altman stated he's asking to move dirt, not to build anything yet. He's not putting pipe in the ground, he's moving dirt.

Howard stated he's going to have to have adequate proof that there's an adequate discharge from this property to plat.

Evans stated no, what I'm saying we have adequate discharge for Section 6 right now.

Altman stated that's all we have to deal with right now. We're giving you permission to move dirt with expectations you will work with us on the current drainage problems in Section 1, 2 and 3.

Evans stated exactly; well, in that area because everything else is fine that we know of.

Motion approved unanimously.

**Mallery-Granger Drain Reconstruction - Change Order No. 4:**

Liston presented Change Order No. 4 to the Board for approval.

"June 9, 2022

TO: Hamilton County Drainage Board

RE: Mallery Granger Drain Reconstruction  
Change Order # 4

The following items are additional to the Mallery Granger Drain Reconstruction contract being done by 5 Star Company, Inc.

H9 Compacted #53 Stone	\$ 117.00
R-New Clean Culvert at Railroad Tracks	\$ 1,974.00
Engineer's Estimate	\$1,074,515.75
Total Cost of Change Order #1 (Time Extension - 45 Days)	\$ 0.00
Total Cost of Change Order #2	\$ 53,935.00
Total Cost of Change Order #3	\$ 44,847.25
Total Cost of Change Order #4	\$ 2,091.00
Total Cost of Change Orders #1, #2, #3, and #4	\$ 100,873.25
Contractor's Bid	\$ 925,533.00
Total Additions from Change Orders #1, #2, #3 and #4	\$ 100,873.25
Contract Deletions from Change Order #3	\$ 194,333.20
Total Reconstruction Cost	\$ 832,073.05

Submitted By

Jerry L. Liston  
Hamilton County Surveyor's Office"

Heirbrandt made the motion to approve Change No. 4 presented, seconded by Dillinger and approved unanimously.

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

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Christine Altman - President

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Lynette Mosbaugh  
Executive Secretary

Hamilton County Drainage Board  
June 13, 2022