

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

July 12, 2021

The meeting was called to order Monday, July 12, 2021 at 12:01 p.m.

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

**Approval of Minutes of June 28, 2021:**

The minutes of June 28, 2021 were presented to the Board for approval.

Altman made the motion to approve the minutes of June 28, 2021, seconded by Heirbrandt and approved unanimously.

**ARP Funding - Discussion:**

Duncan stated the Board requested a list of the top ten projects for the ARP Funding and the Surveyor put that list together.

Altman asked did the Surveyor share with you the criteria he used?

Duncan stated the majority of them are projects that have longstanding problems that if they were to come before the Board for a regular reconstruction it's likely that the shed wouldn't be able to afford the project, so Arcadia is one, the J. S. McCarty is another one. Elwood Wilson is one we would like to do to prepare for future development; there's a big cost for that. The A. F. Ingerman is one that is in the interest of a long-term plan for the east side of Cicero. The Burnau Arm has long term issues that we'd like to use against that as well as the Marion Blanton Drain.

Altman asked, can you put on the side the parcels in the watershed, houses or businesses?

Duncan asked the number of people benefitted?

Altman stated correct.

Duncan stated yes. The Board had asked for information about where these drains are.

Altman stated a map of it would be good too.

Duncan stated we are still working on that actively. We met about it last week and we're putting those together for the Board.

**Hearing Request:**

Mr. Joe Marx and Mr. Brett Huff were present for this item.

Cash stated the Surveyor would like to request that this project be placed on the Drainage Board agenda for August 23, 2021. It involves the installation of 1,000 feet of 12" RCP, which will reconstruct an existing six-inch subsurface drain in the Hawthorn Hills Subdivision. This is part of the Iron Pointe Project. This is the offsite storm. Easements have been secured. Brian Rayl of our office has been working with their surveyor to make sure all the easements are correct, and we'll have those easements for the Board's acceptance at that time we have the hearing.

Altman made the motion to set this item for hearing for August 23, 2021.

Heirbrandt asked isn't this a public hearing?

Altman stated no, this is to put it on for public hearing.

Heirbrandt seconded Altman's motion to set this item for hearing for August 23, 2021 and approved unanimously.

Altman asked why do we require surety before we've approved? I saw the red note that said surety wasn't posted at the time of the application.

Cash stated typically we require those be posted before; we like to have everything taken care of before we get it to the Board because it's dealing with existing infrastructure. They typically post those. Are you saying that you'd prefer those to be posted after the hearing?

Altman stated I'm trying to figure out; if there's a delay or we turn them down we've required the person doing the work to incur those costs when it might not be necessary or they may be sitting on a surety bond longer than they need to and it's charged by a time period.

Cash stated that is correct and that can be true. When the Drainage Board does give approval typically, they're able to start the construction if they've coordinated with our inspector that very afternoon.

Altman stated that would be their choice though. They're not going to put a bucket in the ground until they have posted as a condition of the permitting.

Cash stated yes, that's typically what we would require whenever they reconstruct our infrastructure.

Altman stated no, it's requirement by State Law so they can't proceed unless they've got the surety in place. I'm just wondering, sometimes people apply for things and it may be sitting on a desk for quite a while until it gets on our agenda.

Howard stated if I understand you're saying that the bonds now, under current practice, are posted at the time of the application?

Altman stated that's what this indicates.

Howard stated and we could move that back to, it would be posted upon approval or approval would be conditioned upon that.

Cash stated that is our current practice with fill in the floodplain when a floodplain compensatory storage is being proposed. Those are actually posted; typically, those can be posted after the approval because the Board may turn that down. On drain reconstructions or others hopefully, we've worked out those details ahead of time that way those issues, obstacles or hurdles are already dealt with before they get to this point.

Howard asked do you require the bond before your office starts reviewing the plans?

Cash stated no, it's part of the concurrence. It's often just before it goes to the Drainage Board. It's often the very last thing that we require.

Altman stated as long as it's the very last thing I don't have an objection, but if we have things sitting on someone's desk to review, I do have an objection because that's just wasted time and money.

Cash stated and that can happen, it certainly could.

Altman stated let's just make a policy change unless I have an objection from the Board. My concern is we have a bond posted at the time of construction. I don't want to make people jump through hoops unnecessarily, it's just one more thing the inspector can say "is the bond in place". That's the only thing the inspector has to say because you have to coordinate your inspector before construction, correct?

Cash stated right.

Dillinger asked is there a problem with that?

Cash stated no, if there's an issue to get going.

Altman stated then they can always post it before, it's an option.

Cash stated okay.

Howard stated but it would not be required until approval.

Altman stated right.

Altman made the motion to allow the developer to post a surety after the hearing and before construction starts, seconded by Heirbrandt.

Conover stated in my review letters the last review letter that goes out to the developer and I think Steve and Sam are the same way, the plans are approved, everything is ready to go, all that is required at this point is the actual petitions and the bonds come in before we take it to the Board. Usually we have everything worked out as far as plan review and the last letter says you're plans are approved, please submit the bond to the Board. We have everything worked out before it comes to the Board.

Howard stated you say the plans are approved by you or the Board?

Conover stated through our office. We bring the plans...

Howard stated but the motion is that the Board would not require the bond until the Board approved the project.

Altman stated you can still say the same thing in your letter saying "you won't be able to start construction upon Board approval until the bond is in place, you can submit your bond at any time before you want to dig in the ground".

Cash stated as long as the public's interest are protected, we will accommodate them.

Dillinger asked Conover, do you have an objection to this motion?

Conover stated no, I just wanted to clarify.

Howard stated we're not at risk until the shovel goes in the ground and that's when we need to ensure the risk with the bond.

The motion had been made and seconded to allow the developer to post a surety after the hearing and before construction starts and approved unanimously.

**Final Reports:**

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

**"To: Hamilton County Drainage Board**

**June 9, 2021**

**Re: Long Branch Drain: Waterfront of West clay Sec 5A**

Attached are as-built, certificate of completion & compliance, and other information for Waterfront at West Clay Sec. 5A. 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 20, 2019. The report was approved by the Board at the hearing held April 22, 2019. (See Drainage Board Minutes Book 18, Pages 413-414)

The changes are as follows: the 15" RCP was shortened from 136 feet to 120 feet. The 18" RCP was shortened from 130 feet to 127 feet. The 21" RCP was shortened from 314 feet to 280 feet. The 24" RCP was shortened from 212 feet to 207 feet. The 6" SSD was shortened from 1264 feet to 1246 feet. The length of the drain due to the changes described above is now **1,980 feet**.

The non-enforcement was approved by the Board at its meeting on April 22, 2019 and recorded under instrument #2021042244.

The following sureties were guaranteed by Bond Safeguard Insurance Company and released by the Board on its April 26, 2022 meeting.

Bond-LC No: 5053193  
Amount: \$66,681.00  
For: Storm Sewers & SSD  
Issue Date: September 20, 2018

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 report presented, seconded by Heirbrandt and approved unanimously.

**Capital Asset Notification:**

Duncan presented a Capital Asset Notification for Morrow-Follett Drain to the Board for approval.

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

**Big Cicero Creek Joint Drainage Board:**

Duncan presented the minutes of May 26, 2021 for the Big Cicero Creek Joint Drainage Board to the Board for their information. He asked if there were any questions.

Altman stated Steve Holt was talking about a new FEMA program.

Heirbrandt stated it doesn't apply to this.

Altman asked does it apply to anything we might be doing?

Heirbrandt stated it could to something we do, but it didn't apply to that. We already checked into it.

Altman asked but is it something our office is aware of that we ought to be scratching for money?

Heirbrandt stated yes, we ran that through Todd (Clevenger).

Altman stated okay, I just wanted to make sure we were looking too.

**Thorpe Creek Drain - Collins Mitigation Easement:**

Cash stated the Collins project received approval for a fill in the floodplain and floodplain compensatory storage area to be created. The Board previously accepted the easements, but the Commissioners will need to also sign this easement, so I'll be at your meeting this afternoon.

**Preliminary Variance Request - Sand Creek Floodplain Compensatory Storage:**

Mr. Bill Butz and Mr. Steve Ball were present for this item.

Cash stated we have a proposal for an introduction of Hyde Park which will involve an area west of Hamilton Towne Center. This is affecting Mud Creek and the T. J. Patterson Regulated Drain.

Butz stated we are looking at the area west of Hamilton Towne Center right along the Sand Creek Drain and T. J. Patterson Drain. What we're looking at doing is creating quite a bit of compensatory storage in that area. We're looking at trading some of the green areas that are floodplain for development areas and then in the red cross hatched area you'll see all of that will be maintained and extended at floodplain. The proposal does meet the 3:1 that the Board usually likes to see. I thought it was important to note too, the volumes that we're talking about with this proposal, we're looking at adding well over 200,000 cubic yards of volume to the floodplain. To kind of put a bit of a window on that, it's a football field that's 110 feet deep. It's filling this very building three times full of water and it's somewhere in the neighborhood of about 75 Olympic sized swimming pools. So, we're adding an awful lot of volume to the floodplain as a part of this project and in doing so we will add back somewhere in the neighborhood of about 40 acres of developable ground to the area. Most of what we're doing is taking some of the shallower areas and then we're making the dish section itself a lot more efficient.

Altman asked do you have the firm map for this area to show where the floodway is?

Butz stated you can kind of see it on this map. The outer edge of the green area is there...

Altman stated the hatched red is already floodway.

Butz stated some yes and some no. We're adding some floodplain and we're also taking away some floodplain.

Altman asked you've added floodplain, is it 40 acres, is it 10 acres is it 2 acres?

Butz stated it's about 3.5 to 4 acres.

Altman stated so it's not significant.

Butz stated no, it's not dramatic. We're take a very flat dish and making it a lot more efficient.

Altman stated making a gigantic detention area.

Butz stated we're not proposing any detention in the floodplain. It's just volume for the flood. Other than the compensatory and the added fill in area it's not really going to do much for us.

Altman stated so you have a net plus acreage.

Butz stated yes.

Altman made a motion for preliminary approval based on those facts, seconded by Heirbrandt and approved unanimously.

**Preliminary Variance Request - Williams Creek, Jackson's Grant Section 8:**

Clark stated Doug Wagner on behalf of Republic Development is requesting fill within the floodplain of Williams Creek for Jackson's Grant Section 8. This is for preliminary approval on the condition that a mitigation ratio will be set at 3:1 and a review will be conducted by Christopher Burke Engineering.

Heirbrandt made the motion for preliminary approval, seconded by Altman and approved unanimously.

**Non-enforcements:**

Mr. Rajesh Venkat was present for this item.

Duncan stated with the exception of one non-enforcement, all others are recommended for approval by the Surveyor's Office. The one that was requested for discussion is the Williams Creek Drain, Estates of Towne Meadows Arm.

Altman stated I thought they were all approvals.

Duncan stated we recommended approval on it and the petitioner would like to discuss our recommended approval with the Board.

Altman stated it shows it's approved, but he doesn't like that.

Duncan stated correct.

Clark presented a non-enforcement request for the Crooked Creek Drain, Village at Weston Park Arm filed by Robert Montock for parcel #17-13-06-00-05-057.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Overbrook Farms Arm filed by Timothy and Sarah Langlais for parcel #17-09-19-00-03-015.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Long Branch Drain, Cass Estates Arm filed by Jeffrey and Amanda Kolodkin for parcel #17-13-06-00-11-048.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Albert Shaw Drain, Ashmoor Arm filed by James and Reyna Dodds for parcel #17-09-30-00-09-051.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Claridge Farm Arm filed by Thomas and Jocelyn Owen for parcel #17-09-34-00-04-010.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Springmill Crossing Arm filed by Caroline Dury for parcel #17-09-23-03-01-031.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Springmill Streams Arm filed by Erik Muse for parcel #17-09-27-00-01-002.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Wilshire Arm filed by Kyle and Kira Kimmel for parcel #08-09-10-00-19-044.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Woodside at West Clay Arm filed by Jose Martinez for parcel #17-09-21-00-23-031.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Castetter & Randall Drain filed by CenterPoint Energy for parcel #15-10-36-04-02-017.001 for an 8" steel gas main. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by Patrick Price and Jessica Condit for parcel #13-16-08-00-24-012.000 for a fence. The Surveyor's Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by Mary Goetz and Jennifer Fraser for parcel #13-16-08-12-019.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Estates at Towne Meadow Arm filed by Rajesh Venkataramakrishnan for parcel #17-13-05-00-17-005.000 for a fence. What we were recommending was a 7.5-foot encroachment into the east 15 foot drainage easement, which is shown, but deviating from what he had asked for; what we were recommending was only a 7.5 foot encroachment into this fifteen foot easement. The entirety of this 30 foot easement is within the confines of his property, but what we were going to be doing to make sure that the drain was outside of the fence, we were going to put the fence 7.5 feet into this north easement and keeping the drain outside the fence. Essentially what the property owner was asking for; one thing is there is an existing fence that was placed on his rear property line. Behind the lot there is not a drainage easement. Behind the lot there is a large mansion style lot.

Altman asked is it the neighbor's fence that is there?

Clark stated it is the neighbor's fence, correct. Technically they're not in violation because there isn't any easement on their side.

Altman stated no, they're not in violation at all.

Clark stated essentially what the property owner was wanting to do is connect to that existing fence, which would bring his fence all the way to his rear property line upon the condition, that he is aware of, that there would be removable panels at the point where the fence intersects the drain.

Venkataramakrishnan stated the drainage is outside. I do agree with your assessment on this side having to stay 7.5 foot. We would like to put the fence well inside. I would really appreciate, put removable panels. I completely understand the liabilities there if you need to come in for maintenance work. That's on me.

Altman asked how big a pipe is this?

Clark stated I believe it's a 12" reinforced concrete pipe. At this point you're looking at a depth of about three feet below the ground. I think that's what the profiles indicate. It isn't a subsurface drain; it is a reinforced concrete pipe.

Altman asked is it possible to work with the fencing company to make sure that the posts are centered on each side?

Clark stated it would be removable panels, yes.

Altman asked and you're talking eight feet, is that enough to get machinery in?

Clark stated we usually go with ten feet, that's what we've done in the past in terms of removable panels. Basically, ten feet between the two posts.

Altman asked and that would be big enough to get equipment in?

Clark stated depending on what type of work we needed done. There's always a risk, but that minimizes the risk of having to do it.

Altman asked what's your concern other than we're straddling a pipe, which is a concern, is that the main concern?

Clark stated that's our primary concern. The purpose is to proactively try and avoid future maintenance issues.

Howard stated Jerry (Liston) just passed down a question. There's a tree preservation easement. Where is that?

Clark stated it seems to be ten feet off of the property line.

Howard stated it's outside...

Clark stated yes, we're not sharing that.

Altman stated in Carmel they make you separate the drainage and it should be about fifteen feet as I recall.

Clark stated preservation easements tend to be ten feet in my experience.

Altman asked Venkataramakrishnan, have you talked to Carmel Zoning to make sure you can put fence in the preservation area?

Venkataramakrishnan stated yes.

Duncan stated we have to be clear that the Board's approval is not related to that tree preservation easement. He would have to get approval from Carmel.

Altman stated it would be subject to Carmel approving because they are really quite adamant about the tree preservation area.

Duncan stated yes, the Board's approval would be limited to the drainage easement itself.

Altman stated yes, you may have bigger problems than you thought. If there's not a strong objection as long as it's a ten-foot span where you're poles are straddling the pipe I'd move to approve subject to you dealing with Carmel on the tree preservation area, seconded by Heirbrandt and approved unanimously.

**Spills:**

Mud Creek (Nancy Kimberlain Drain) - Arvin stated this spill was a Hamilton Southeastern Utilities (SAMCO) raw sewage spill. This was located at 106<sup>th</sup> Street and Cumberland Road. There are two lift stations at the northeast side of the intersection and one of them was down for maintenance and it caused an exceeding capacity at the other manhole. About 15,000 gallons spilled into the Nancy Kimberlain Ditch. Fluid Waste Services came out and vacuumed the residual wastewater, sprayed it down and also put lime down.

Altman asked was any of their work in a regulated drain?

Arvin asked the maintenance work?

Altman stated yes.

Duncan stated the lift station itself was where the work was occurring.

Altman asked that was outside our easement?

Duncan stated I think it has to be. The two-stage ditch runs behind and then it runs from the northeast to the southwest, south of the park.

Altman stated I'm just trying to figure out how to get them to come to us if we have a potential like this again because this happens a lot with this utility, to demonstrate if they're going to divert flow that the lift station that they divert flow to can handle the capacity issues. This is, to me, almost a fineable offence because they should have known that what they were overloading was going to be overloaded.

Duncan stated this lift station was the reason for another recent one where they had to divert flow away from this station and it caused an overflow at 116<sup>th</sup> Street.

Howard asked does IDEM fine them on any of this stuff? This happens over and over again.

Altman stated they don't have backup pumps; it's a poorly designed system and it happens over and over.

Duncan stated I would have to check to see if IDEM has fined them. I myself think, absolutely we should be able to permit or at least have them apply for...

Altman stated if they're outside the regulated drain easement I don't know how we do that.

Howard asked but did the overflow go into our easement?

Duncan stated yes, it did.

Howard asked was it a surface easement or is our easement a pipe?

Duncan stated our ditch there is open drain and what this did was it flowed out of the manhole, flowed overland through the park and then into our regulated drain.

Altman stated unbelievable. Give some thought to this because at some point we've got to get their attention.

Howard stated there are rumors...

Altman stated Fishers is purchasing part, supposedly, of the system.

Howard asked they're purchasing all of it?

Altman stated no, I just heard it was a portion of it.

Heirbrandt stated it wasn't disclosed.

Duncan stated I would agree that I'm not certain that anybody really reviews and approves their plans for diverting flow, minimizing the risk for overflows.

Altman stated this is just math. This isn't really rocket science, it's just math.

Duncan stated we can look into that and we'll check to see if they actually were fined by IDEM.

Howard stated the drainage ordinance that's pending for review from your office and the Surveyor, I just put down open drain fines. I think we would not have subject jurisdiction if it didn't affect our structure, but when that structure is an open ditch...

Altman stated we all know where it's going to go, downhill.

Duncan stated exactly, it goes downhill to our drains. There's no other place for it go.

Altman stated well maybe we send a letter saying the next spill, if you've not gotten preapproval and proof that you won't overflow will be subject to fine. Does anybody have a problem with that?

Heirbrandt stated no.

Altman stated let's put them on notice. I know what we're dealing with.

Duncan stated it would be a way to ensure; of course, we want them to do the maintenance for the system to work, so to find a balance in there at least to have them make sure they have a contingency in place. I think that's a reasonable request. If they don't have one, it doesn't appear that they have one, that's the issue.

Altman stated no, they have one, it just goes downhill. That was their contingency plan.

Duncan stated one thing for an extreme event or whatnot but in the instances of maintenances where they actually have, by design, some portions of their system down I think some of those things should be considered.

Howard stated it sounds like a lot of deferred maintenance. I'm just afraid the stockholders are just barely hanging on by their fingertips.

Cheaney Creek (Lift Station Spill Follow-up) - Liston stated Altman had asked who the owner of this lift station was, and it is the City of Fishers, it's in their service area.

**Violations:**

Thorpe Creek Drain, Martha Ford Arm - Liston stated the office has issued a violation to the property owner in Barrington Estates for landscape material and mounding in our easement.

J.W. Brendel Drain, Saddlebrook at Shelborne Arm - Cline stated the office issued a violation for having a fence on top of our drain.

Waterwood Drain, Waterwood Section 1 Arm - Clark stated this violation needs to be rescinded. We had gotten a call from a property owner who had gotten a fence non-enforcement approved on the condition that removable panels be place at the point where the fence intersects the drain. I got a call from the property owner indicating that something was punctured. I went out to the lot and did a precursory review and the hole where the auger was driven into the ground, there are pieces of PVC or HDPE material right by it. I thought that was in fact our drain because it was near where our drain should be, but upon further inspection by our maintenance coordinator, Steve Baitz, he ran a camera through our drain and discovered that this was not our drain, but another utility.

Altman asked they did have permission to be working in the easement?

Clark stated yes, they did.

**Surety Acceptance:**

Liston stated that at this afternoon's Commissioners meeting the Board would be accepting the following sureties: Performance Bond No. Q90 7370286 in the amount of \$98,022.00 for Citizens Energy Water Tower, Little Eagle Creek Drain, George Coverdale Arm Reconstruction; Subdivision Improvements Performance Bond No. 3705255 in the amount of \$284,856.00 for Chatham Villages Section 1, Isaac Jones Drainage Area, W. C. Inman Arm Reconstruction.

**Construction Updates:**

Intracoastal at Geist Drain - Liston stated we're still waiting on utilities. Duncan may have an update on that, but I did at Altman's request, notify Duke Energy by email on July 6, 2021 to Bren Streeter. I have yet to hear back from her on that, but the Surveyor, when he saw my email, fired an email off to Mark LaBarr and Mark did get back with us through an email. We have heard from Comcast who's also in the way. AT&T, we still have had no response.

Duncan stated Mr. LaBarr's response was that a work plan had been submitted to the Surveyor's Office regarding the relocation and indeed it had. We have reviewed it and we're looking at that presently. Our position on a previous project where a utility had asked us to sign a work plan was that we felt we did not need to sign the work plan, that they could proceed with relocations without us needing to sign anything. In this case it might be a little bit more complicated than that.

Heirbrandt stated I wanted to get their opinions on this.

Duncan stated to Howard, it is a drainage and utility easement. It doesn't bare the regulated drainage easement designation.

Howard stated just to weigh in on this, I did look at that agreement, Duncan and I discussed it. It's a form that they use with INDOT when they move things and most of those things don't even apply to us. In other words, if they ever have to move again it's probably going to be at the request of Fishers, not us and we don't have the authority to mind Fishers so Duncan was going to check on a couple of things and we will have a reply out to them.

Altman asked when it's a shared easement is there any validity to first in time, first in right? Our stuff goes in the ground first.

Duncan stated in this particular case the easement itself was created by plat.

Altman stated right, I'm just going through the construction process. Normally we're there first.

Duncan stated I can't say with certainty, but typically the drainage infrastructure is installed before the power, but I can't say that's always the case and I can't certainly say it's the case here.

Howard stated in this case that transformer is actually over our structure, is it not?

Duncan stated yes, that's true.

Howard stated in this one logically "A" is below "B", so "A" happened before "B". That is a good point, if they were on at least constructing; the question is are they really a trespasser; they knew or should have known.

Altman stated they would have had a locator out there.

Duncan stated the curb inlets are right in front of this. You should be able to deduce that there's a drainpipe there.

Altman stated we're going to run into this all the time with the old plats. Old is 2020 and before.

Howard stated DU&E, what does that mean. Good question.

Mallery Granger Drain Reconstruction - Liston stated the work is progressing. We've had some material delays and getting those on site. Last week the contractor did the 211<sup>th</sup> Street crossing, James Road and the private crossing on the Blackwell property. He still has 206<sup>th</sup> Street to do. We were set up to do that on Friday morning, but there was a change in backfill material and we could not get it on site so we had to push that one back. It will probably happen either tomorrow or Wednesday. This project has been interesting because Covid-19 issues, getting materials, corrugated metal pipe was almost next to impossible and for the tile outlets we had to change and go with an SDR-35, which is an acceptable standard.

Ellis Barker Drain Reconstruction - Cline stated we're still waiting on Westfield to finish their East Street project. I saw an email this morning that said they thought by the end of this week they would have S.R. 38 and Anthony Road intersection, which is where the new East Street comes out, open. That hopefully will get us into the position to be able to finish this project.

Clara Knotts Drain, Park Broadway Arm - Cline stated I was there on Friday and AT&T is still working. Every time I'm down there I don't see anybody from AT&T working, but they have new holes opened up and I saw some cables. The gas company is down there and has been for the last month lowering all their gas lines.

Overman-Harvey Drain, Village Farms, Adios Pass Reconstruction - Cline stated I talked with the engineering company last week and they have all the field work done and are in the process of getting the asbuilts done.

**Budget & Permit Update:**

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

Altman asked on the drains, the grand total for drain maintenance, you might come up with an explanation for the next meeting on the tenth item. It's probably been there for a long time, but it just kind of resonated with me. It's right underneath the Westfield Washington.

Duncan stated we'll take a look at that.

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

Ordinance on Utility/Drainage Standards - Duncan stated I would like to thank Sullivan and Howard for putting that together. Our office is still reviewing that, its circulating around between our inspectors, plan reviewers and myself. The Surveyor has not had a chance to look at it yet, but we're hoping to wrap that up very quickly and meeting with Sullivan to discuss any comments that we have.

Interlocal on Loan to Washington Township Trustee - Howard stated you signed that as Commissioners several months ago and I will get that to Lynette (Mosbaugh) and under that agreement \$1,000,000.00 is to be reimbursed by September 15, 2021 and the balance October 15, 2021. The way claims are going through they expect that to happen right on schedule.

Drainage Maintenance Funds (West 146<sup>th</sup> Street) - Howard stated as you recall there was a borrowing from drain maintenance funds to the Highway Department for \$10,000,000.00 to complete different phases of 146<sup>th</sup> Street. As part of the refinancing that we did several months ago and 96421 TIF was there, we adjusted some cash flows and \$5,000,000.00 of that has been paid, the Auditor made that payment a week or so ago back to the drainage maintenance funds. We expect from the Fall distribution of TIF \$300,000.00 to be paid and the balance within a year. That will be paid back into those maintenance funds.

Penalties/Fees - Howard stated some of these other issues will fall off when we get that ordinance because we were looking to consolidate all of the fines, etc. in one ordinance and we'll continue to work on those.

**Moffitt & Williamson Drain - St. Elizabeth Seton Church:**

Heirbrandt stated Duncan, myself and Sullivan met with people from St. Elizabeth Seton Church last Friday. If you recall they came into a meeting, their attorney, Matt (Skelton) and Suzan from St. Elizabeth Seton to talk about some drainage issues that they have at the church. At that time there was a lot discussion about replacement of a culvert. We immediately hired Banning Engineering to go out to assess the situation, put pricing together for the replacement of that culvert. It is very excessive. I did talk to Matt Skelton with Duncan in my office a couple of weeks ago. There's a different expectation that St. Elizabeth Seton Church has from what we originally proposed with just the replacement of the culvert. I've also had additional conversations with Commissioner Altman about why that area and the church is so badly flooded and it's because the City of Carmel has done several ancillary projects that have allowed significant water to retain and flood St. Elizabeth Seton Church. We did have a lot of conversation about that, we're trying to figure out what we may be able to do to help these people resolve the issue. This has caused significant damage to their second entrance, so they had to close it off. That creates safety issues for exiting the church. I think there needs to be further discussion with the City of Carmel to figure out how we're going to help these people mitigate all the damage that's occurring on their property.

Altman stated I would like the Surveyor's Office to look at our interaction with the City of Carmel with respect to regulated drains. I don't know if they're coming to us with permission on connections and revisions that affect our drains. My guess is they are not based on some other experience I've had, which, to me, is totally inappropriate because we now have these kinds of consequences. I don't want our rate payers to pay for something that should be on the City of Carmel if indeed they have caused the condition.

Howard stated just a question on this particular issue for either one of you. The drainage issues that are now known to be deficient were approved by Carmel and as far as we know without permission from us.

Altman stated any discussion with us would be my guess.

Howard stated for discharge into our drain.

Altman stated correct.

Duncan stated I managed the construction of the projects upstream back in the day, but I do not recall the discussions the engineer department and the Public Works had with the County at the time. It's probably because I was not involved, so I can't discuss that and say to the Board what that included. I just merely managed the construction projects. I do know that those projects were done to alleviate roadway flooding upstream.

Altman stated yes, they just moved it downstream.

Duncan stated they just moved it downstream, yes. I would be the person to be able to report to the Board those exceptions, but I don't recall being involved in that.

Altman asked is any of this water coming from Keystone?

Duncan stated it does go all the way over to Keystone, yes.

Heirbrandt stated to Duncan, I'd like for you to schedule a meeting with, I don't know who the necessary people at Carmel need to be at that meeting, but also I'd like our attorney as well on that call. I don't know if anybody here...

Altman stated if you need help, I'm...

Howard asked is that Jeremy (Kashman)?

Duncan stated it would be Jeremy. I think through the engineering department and how that process works where he recommends a project approval through the Board of Public Works.

Heirbrandt stated if Commissioner Altman would like to take the lead whether it's virtual or whatever at least to get this ball rolling because the church is losing a lot of revenue, especially for events that they can't have. It's damaged the roadway; it's already got a sink hole in it. In my opinion this needs to be addressed sooner rather than later.

Altman asked Heirbrandt, can you send me a quick email about who all was involved on your end and we'll follow up on that.

**William Krause Drain - Grant:**

Duncan stated you may have seen this in the paper, this past Saturday it was posted in the Hamilton County Reporter that the Surveyor's Office received a grant from Indiana-American Water in the amount of \$3,000.00. We applied for this grant at the end of March and it was for the creation of a native vegetation area up on the William Krause Drain where we created a new open ditch with Phase 1 of the William Krause projects. This is really a test area to see how it works, but the goal would be to reduce our mowing requirements by planting with native vegetation.

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

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Steven C. Dillinger - President

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Lynette Mosbaugh  
Executive Secretary