

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

July 24, 2023

The meeting was called to order Monday, July 24, 2023 at 9:00 A.m.

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

Approval of Minutes of July 10, 2023:

The minutes of July 10, 2023 were presented to the Board for approval.

Altman made the motion to approve the minutes of July 10, 2023, seconded by Dillinger and approved unanimously.

52.5 Hearing - Vestal/Kirkendall Drainage Area, Russell Shugart Arm - Midland Pointe

Onsite Reconstruction:

There were no objections on file. Mr. Jared Wilkerson, Mr. Buzz Weisigh and Mr. Allen Fetahogic were present for this item.

Cash presented the Surveyor's report to the Board for approval.

"July 17, 2023

To: Hamilton County Drainage Board

Re: Vestal - Kirkendall Drainage Area, Russell Shugart Arm, Midland Pointe Onsite Reconstruction

Attached are petition by Midland Pointe LLC, and plans for the proposed reconstruction and relocation of a portion of the Vestal - Kirkendall Drainage Area, Russell Shugart Arm. This project is to be paid for by the developer. In order to facilitate site improvements for a mixed-use commercial and residential development, the proposal is to reconstruct the existing drain per the construction plans by Kimley - Horn called "Midland Pointe Infrastructure" revision date 7/17/2023, project No. 170222000.

The proposed Midland Pointe development is located at the southeast corner of the intersection of State Road 32 and Hazel Dell Road in the City of Noblesville. Per the plans by Kimley - Horn, a portion of the existing Russell Shugart Arm tile will be reconstructed on the Midland Pointe site and will affect the following parcels: 10-10-03-01-01-002.000 and 10-10-03-00-00-002.001 owned by Midland Pointe LLC; as well as, the State Road 32 right-of-way of owned by the State of Indiana (INDOT).

Per the plans, the upstream end of the drain reconstruction will be at Str D200 located in Block 4 of Midland Pointe. Currently, Block 4 is owned by Midland Pointe LLC, but will be dedicated as right-of-way for State Road 32 in the future. The downstream end of the reconstruction will outlet into the existing manhole at Str D2002. This manhole was the upstream end of the "Midland Pointe Offsite Reconstruction" previously approved by the Board in 2022.

The reconstruction will consist of the following:

306' of 24" RCP 463' of 36" RCP 567' of open drain (pond)

The length of the reconstruction will be 1,336'. This project will subtract 259' from the overall length of the Vestal - Kirkendall Drainage Area, Russell Shugart Arm. Within the project limits, 1,595' of existing tile installed in 1914 as part of the Russell Shugart Drain (portions of the main drain & Arm 2) will be vacated. The existing drain to be vacated approximately equates to the following stations of the original 1914 drain: Main drain - Sta. 0 to 10+05 (1,005'); Arm 2 - Sta. 0 to 5+90 (590'). The combined total to be vacated is 1,595'.

The length of the open drain through the pond is calculated as a straight line between Str D205 and Str D2000A. The open drain utilizes the pond as a means of conveyance. The detention pond (Common Area 2) is not to be considered part of the regulated drain. The maintenance of the pond such as sediment removal, and erosion control along the banks, mowing and aquatic vegetation control will be the responsibility of the owner. The Board will also retain jurisdiction for ensuring the storage volume for which the pond was designed will be retained, thereby, allowing no fill or easement encroachments.

Per the project plans, this relocation project involves the following proposed structures: Str. D200, D202, D203, D204, D205, D2000A, D2000, D2001, and D2002.

Regarding easement, the new drain will be located within regulated drain easement and right-of-way as per the secondary plat for Midland Pointe. A Non-enforcement request has been submitted. I recommend approval of the non-enforcement at this time.

The original Russell Shugart Drain was established in 1914 per Hamilton County Circuit Court records, Viewers Report May 23, 1914 (OB61, pages 398, 413-415). In 2000, a portion of the Russell Shugart Drain was reconstructed as the "Russell Shugart - Hazel Dell Woods Offsite Reconstruction" per my report dated June 12, 2000 and approved by the Drainage Board at hearing on July 24, 2000. See Drainage Board Minutes Book 5, pages 402-406. In 2009, the Russell Shugart Drain was made an arm of the Vestal - Kirkendall Drainage Area per my report dated December 18, 2008 and was approved by the Board on March 23, 2009. See Minutes Book 11, pages 538-540. The "Vestal - Kirkendall Drainage Area, Russell Shugart Arm, Midland Pointe Onsite Reconstruction" was approved by the Board on November 28, 2022, per my report dated November 7, 2023. See Minutes Book 21, pages 66 - 68.

The cost of the project is to be paid by the developer. The petitioner has not submitted surety for the proposed drain reconstruction at this time. Per the Board's policy, if approved, the developer shall submit surety in the amount of 120% of the engineer's estimate prior to reconstruction.

This proposal meets the criteria for reconstruction of a regulated drain as laid out in IC-39-9-27-52.5. I recommend the Board approve the petition at this time.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/stcash"

Heirbrandt opened the public hearing and asked if anyone cared to address the Board; seeing no one Heirbrandt closed the public hearing.

Dillinger made the motion to approve the Surveyor's report including the non-enforcement request, seconded by Altman.

Altman asked what type of residential does this include?

Cash stated this includes apartments.

Howard stated and probably some commercial along S.R. 32 and apartments along Midland Trace.

Cash stated there will be a Crew Carwash and some other things go in. Also, I want to note that there were two variance requests further down that were also involved with this project. As of Friday, the engineer revised the construction plans to avoid needing any variances. Those two variances will not be heard.

The motion had been made and seconded to approve the Surveyor's report along with the non-enforcement request and approved unanimously.

"FINDINGS AND ORDER

CONCERNING THE PARTIAL VACATION OF THE

***Vestal/Kirkendall Drainage Area, Russell Shugart Arm
Midland Pointe Onsite Reconstruction***

***Main Drain - Station 0 to Station 10+05
Arm 2 - Station 0 to Station 5+90***

On this **24th day of July, 2023**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the ***Vestal/Kirkendall Drainage Area, Russell Shugart Arm, Midland Pointe Onsite Reconstruction (Main Drain - Station 0 to Station 10+05 and Arm 2 - Station 0 to Station 5+90)***.

Evidence has been heard. Objections were presented and considered. The Board then adopted an order of action. The Board now finds that the costs of continued maintenance to the portion of the above drain exceed the benefits to the real estate benefited by the portion of the drain to be abandoned and issues this order vacating the above section of the ***Vestal/Kirkendall Drainage Area, Russell Shugart Arm, Midland Pointe Onsite Reconstruction (Main Drain - Station 0 to Station 10+05 and Arm 2 - Station 0 to Station 5+90)***.

HAMILTON COUNTY DRAINAGE BOARD

Mark Heirbrandt
President

Christine Altman
Member

Steven C. Dillinger
Member

Attest: Lynette Mosbaugh "

"STATE OF INDIANA)
) ss: BEFORE THE HAMILTON COUNTY
COUNTY OF HAMILTON) DRAINAGE BOARD
) NOBLESVILLE, INDIANA

IN THE MATTER OF THE
RECONSTRUCTION OF THE
***Vestal/Kirkendall Drainage Area, Russell Shugart Arm, Midland Pointe Onsite
Reconstruction***

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the ***Vestal/Kirkendall Drainage Area, Russell Shugart Arm, Midland Pointe Onsite Reconstruction*** came before the Hamilton County Drainage Board for hearing ***on July 24, 2023***, on the Reconstruction Report consisting of the report and the Schedule of Damages and Assessments. The Board also received and considered the written objection of an owner of certain lands affected by the proposed Reconstruction, said owner being:

Evidence was heard on the Reconstruction Report and on the aforementioned objections.

The Board, having considered the evidence and objections, and, upon motion duly made, seconded and unanimously carried, did find and determine that the costs, damages and expenses of the proposed Reconstruction will be less than the benefits accruing to the owners of all land benefited by the Reconstruction.

The Board having considered the evidence and objections, upon motion duly made, seconded and unanimously carried, did adopt the Schedule of Assessments as proposed, subject to amendment after inspection of the subject drain as it relates to the lands of any owners which may have been erroneously included or omitted from the Schedule of Assessments.

The Board further finds that it has jurisdiction of these proceedings and that all required notices have been duly given or published as required by law.

Wherefore, it is ORDERED, that the proposed Reconstruction of the ***Vestal/Kirkendall Drainage Area, Russell Shugart Arm, Midland Pointe Onsite Reconstruction*** be and is hereby declared established.

Thereafter, the Board made inspection for the purpose of determining whether or not the lands of any owners had been erroneously included or excluded from the Schedule of Assessments. The Board finds on the basis of the reports and findings at this hearing as follows:

HAMILTON COUNTY DRAINAGE BOARD

Mark Heirbrandt
PRESIDENT

Christine Altman
Member

Steven C. Dillinger
Member

ATTEST: Lynette Mosbaugh
Executive Secretary "

Professional Services Agreement - Taylor & Jessup Drain Reconstruction:

Duncan stated this reconstruction is under design and this agreement is to develop easement descriptions by Banning Engineering in the amount of \$4,000.00.

Dillinger made the motion to approve the Professional Services Agreement in the amount of \$4,000.00 for easement descriptions on the Taylor & Jessup Drain by Banning Engineering, seconded by Altman and approved unanimously.

Professional Services Agreement - Martha Darrah Drain Reconstruction:

Duncan stated this reconstruction is under design and this agreement is to develop easement descriptions by Banning Engineering in the amount of \$1,000.00.

Dillinger made the motion to approve the Professional Services Agreement in the amount of \$1,000.00 for easement descriptions on the Martha Darrah Drain by Banning Engineering, seconded by Altman and approved unanimously.

Professional Services Agreement - Raymond Briles Drain Reconstruction:

Duncan stated this reconstruction is under design and this agreement is to develop easement descriptions by Banning Engineering in the amount of \$1,000.00.

Dillinger made the motion to approve the Professional Services Agreement in the amount of \$1,000.00 for easement descriptions on the Raymond Briles Drain by Banning Engineering, seconded by Altman and approved unanimously.

Professional Services Agreement - Jacob Yansel Drain Reconstruction:

Duncan stated this reconstruction is under design and this agreement is to develop easement descriptions by Banning Engineering in the amount of \$1,000.00.

Dillinger made the motion to approve the Professional Services Agreement in the amount of \$1,000.00 for easement descriptions on the Jacob Yansel Drain by Banning Engineering, seconded by Altman and approved unanimously.

Private Drain Petition - Wright vs Dhani (Dhani Invoice for Removal of Obstruction):

Duncan stated if the Board recalls there was an issue between the Dhani and the Wright parcels. There's an order drafted and approved by the Board March 12, 2023 where the Dhani's were ordered to remove an obstruction and were provided 30 days to remove that obstruction. The time had passed and so as part of that order the Board's contractor removed the obstruction and the Dhani's will be billed for the work. The work has been completed, performed by Agricon in the amount of \$16,887.00 and the Surveyor would like approval by the Board to send this invoice to the Dhani's.

Howard stated I'd like to prepare the cover letter for this invoice because the Statute says if it's not done within a reasonable amount of time; a lot of places you can file a lien for drainage, but for this one you wouldn't have to go court, but it includes court costs and reasonable attorney's fees.

Altman stated okay, let's set a deadline of 30 days.

Howard stated that would be reasonable.

Altman made the motion to have the County Attorney send out that billing with a due date of 30 days from the date of mailing, seconded by Dillinger and approved unanimously.

Hearing requests:

Duncan presented a request for hearing on the Morrow Follett Drain, R. J. Follett Arm, 1st Street Relocation for August 28, 2023.

Altman made the motion to set the hearing on the Morrow Follett Drain, R. J. Follett Arm, 1st Street Relocation for August 28, 2023, seconded by Dillinger and approved unanimously.

Duncan presented a request for hearing on the Beaver & Brooks Drain for August 28, 2023. We did reach out to the City of Fishers last week and we have not received a response. The Board had asked the office to do that in regard to cost share. You can see in the report what the Surveyor is suggesting in terms of cost share.

Altman asked how many people are on this drain?

Duncan stated I do not remember the number, but the watershed is small, it's only 160 acres.

Altman stated so we have 160 acres with a cost of \$3,000,000.00 plus. Am I on the right drain?

Duncan stated it's even less than that. The benefitted acres is significantly less than that.

Altman asked is this commercial?

Duncan stated no, it's all residential. This is for the roundabout project at 106th Street and Hoosier Road and the drain goes through primarily residential area.

Howard asked is there a proposal that the owner and/or constructor of the roundabout participate at a little higher level than the pro-rata?

Altman stated a lot higher.

Duncan stated with the numbers the Surveyor has proposed a 25%/75% cost share, but then also of that 75% the county would pay the amount then through that. What would be assessed to the City of Fishers totals 42%.

Altman asked is this necessitated by the road project or is it a reconstruction?

Altman made the motion to table the hearing request for the Beaver & Brooks Drain until we get more information because people are going to freak out when they see \$4,000,000.00; I would. I want more information, personally, before we send out this notice with pictures and why are we doing this? I think he had in there ARPA and I don't want to put ARPA money toward a road project.

Dillinger seconded Altman's motion to table and approved unanimously.

Final Reports:

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

"To: Hamilton County Drainage Board

July 17, 2023

Re: Morrow-Follett Drain: RJ Follett Arm-Duke Energy Carmel 69 Substation Relocation

Attached are as-built, certificate of completion & compliance, and other information for Duke Energy Carmel 69 Substation Relocation. 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 December 30, 2020. The report was approved by the Board at the hearing held February 22, 2021. (See Drainage Board Minutes Book 19, Pages 500-502)

The changes are as follows: the 48" RCP was shortened from 324 to 321 feet. The length of the drain due to the changes described above is now **321 feet**.

Work was done within existing regulated drain easement and road right of way. Sureties were not posted as the project was paid for by the City of Carmel.

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

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor"

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

Capital Asset Notifications:

Duncan presented the following Capital Asset Notifications to the Board for approval: Mud Creek/Sand Creek Drain, Hawthorne Hills Arm Section 1; Mary Nagle Drain; Williams Creek Drain, Reserve at Springmill Arm Section 2.

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

Citizens Energy Group - Service Advisory Board:

Duncan presented the minutes of the Service Advisory Board of May 16, 2023 and June 20, 2023 to the Board for their information. He asked if there were any questions.

There were no questions.

Non-enforcements Approved on July 10, 2023 (Needing Signatures):

Liston stated at the last meeting the following three non-enforcements did not get signed by the Board: Ross & Mann Drain, Carlisle Field Drainage; Thorpe Creek Drain, Comcast Cable; and Vermillion Drain, Woods at Vermillion Arm, Hege Retaining Wall. I called in sick that day and they were left on my desk, but they were approved during the meeting.

Non-enforcements:

Furst presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by Mark and Lauren Keating for parcel #13-16-08-00-19-012.000 for a fence. The Surveyor's Office recommends approval.

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

Furst presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by Chatocqua Gore Brumfield and Janal A. Brumfield for parcel #13-16-08-00-21-023.000 for a fence. The Surveyor's Office recommends approval.

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

Furst presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by Zachary and Taylor Johnson for parcel #13-16-08-00-29-008.000 for a fence. The Surveyor's Office recommends approval.

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

Furst presented a non-enforcement request for Vermillion Drain, Enclave at Vermillion Arm filed by Sukti Acharya for parcel #13-16-08-00-29-018.000 for a fence. The Surveyor's Office recommends approval.

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

Furst presented a non-enforcement request for the Village of Mount Carmel Drain filed by Thomas and Patricia Dean for parcel #17-09-23-02-09-007.000 for a fence. The Surveyor's Office recommends approval.

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

Furst presented a non-enforcement request for the Village of West Clay Drain filed by Ryan Blute for parcel #17-09-28-00-52-017.000 for a fence. The Surveyor's Office recommends approval.

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

Furst presented a non-enforcement request for the Oliver Shoemaker Drain, Woodberry Arm filed by Leland and Lauren Adams for parcel #19-11-20-01-02-017.000 for a fence. The Surveyor's Office recommends approval.

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

Furst presented a non-enforcement request for the Oliver Shoemaker Drain, Woodberry Arm filed by Kevin and Beth Yorn for parcel #19-11-20-01-02-018.000 for a fence. The Surveyor's Office recommends approval.

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

Variance Requests:

Altman stated going back we had a staff report dated July 9, 2023, variances for water main crossings.

Duncan stated yes, those were for the Vestal/Kirkendall that were on the agenda.

Mosbaugh asked are you talking about the William Baker Drain?

Altman stated yes.

Mosbaugh stated those were all pulled.

Altman stated it looked like it was our sewer project.

Mosbaugh stated yes, the engineer made arrangements to go around and didn't need the variance.

Altman stated okay, I thought it was a private development only that got pulled.

Violations:

Furst presented the following violations to the Board for their information.

"NOTICE OF VIOLATION

VIO-2023-00031 - Certified Mail 7021 0350 0000 0884 5805

July 10th, 2023

Kelly, Justyna & Ryan
11022 Jasmine Dr.
Carmel, IN 46032

Parcel ID#: 17-13-05-00-17-031.000

RE: Springmill Run Drain, Estates at Towne Meadow- Pool Installation

Our office has been made aware of a pool installation on Lot 31 in Estates at Towne Meadow. The Regulated Drainage Easements on the lot have been disturbed as well as non-authorized outlet pipes connected to the drainage infrastructure on the lot. The pool, pipes, and disturbance occurred without the permission of the Hamilton County Drainage Board and is in violation of IC 36-9-27-33.

Upon receipt of this letter the property owner has (ten) days in which to correct the violations (listed below) according to the standards set forth by this office and the Hamilton County Drainage Board.

- There are no Erosion Control measures installed on site. This is in direct violation of Hamilton County Ordinance No. 0-5-09-05-A and Hamilton County Ordinance No. 5-09-05-B.
- At least two outlet pipes drain into and connect to the drainage infrastructure on the lot. An approved *Outlet Permit* for **Each** pipe will need to be obtained from the Hamilton County Surveyor's Office.
- If, the pool, pool (concrete) apron, and/or any pool infrastructure such as retaining walls shall be located within the regulated drainage easements on the lot then an approved *Non-Enforcement of Drainage Easement of Individual Tracts* permit must be obtained from the Hamilton County Surveyor's Office.

Please contact Mrs. Clara L. Furst at the Hamilton County Surveyor's Office upon receiving this violation letter to discuss what measures are needed to correct the situation. The number is 317-776-8495.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/clf

Cc: City of Carmel-Libby Brown
Estates at Towne Meadows HOA
Luther Cline- HCSO Inspector "

"NOTICE OF VIOLATION

VIO-2023-00030 -Certified Mail 7021 0350 0000 0884 5829

July 10th, 2023

Meyer, Jeffrey L. & Kristina D.
18247 Pennington Rd.
Noblesville, IN 46060

Parcel ID#: 12-07-35-00-00-023.006 & 12-07-35-00-00-023.005

RE: Stony Creek Drainage Area, William Locke Drain- Fill in the Floodplain

The Hamilton County Surveyor's Office has been made aware of an un-authorized fill in the floodplain located within the Stony Creek Drainage Area at 18247 Pennington Rd. Noblesville, IN 46060.

These actions are in direct violation of Hamilton County Ordinance No. 4-26-99-C which prohibits placing fill in the Floodway/Floodplain in areas of Hamilton County and IC 36-9-27-33 of Indiana Drainage Code.

Upon receipt of this letter, the property owner has seven (7) calendar days in which to correct the violation according to the standards set forth by Hamilton County.

Hamilton County Drainage Board
July 24, 2023

The property owner receiving the notice of violation may appeal the determination of violation to the County Surveyor. "The notice of appeal must be received within seven days from the date of the Notice of Violation," pursuant to IC 14-25-2-15 (b).

If the fill is not removed and the grade of the area returned to original conditions within the seven (7) day period, the landowner could be a Class A infraction which may result in a fine of up to \$2,500 per violation per day.

Please contact Clara Furst-Engineering Technician/MS4/Permits with the Hamilton County Surveyor's Office at 317-776-8495 to discuss this issue.

Copies of this Notice of Violation may be provided to the State of Indiana Department of Natural Resources and the State of Indiana Department of Environmental Management.

Thank you for your cooperation.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

CC: Hamilton County Planning - C.J. Taylor"

Violation Update:

Furst presented the following report to the Board for their information.

"July 19th, 2023

Allen, Ashley
16291 Kenora Lane N
Fortville, IN 46040
Parcel ID#: 13-16-08-00-07-024.000

RE: Woods at Vermillion Drain-Woods at Vermillion Sec. 1 Arm-Final Notice

In October of 2017, our office was made aware of a fence encroachment on Lot 241 in Woods at Vermillion Section 1. The Notice of Violation was not resolved. The Notice of Violation 2017-00010 Follow-up Letter dated December 7th, 2022, was not resolved.

The fence encroaches into the regulated drain easements on the lot. The fence was installed without the permission of the Hamilton County Drainage Board and is in violation of IC 36-9-27-33.

This letter shall serve as the 'Notice' that the Hamilton County Surveyor's Office will be scheduling a third-party contractor to access the drainage easement and remove the fence at the expense of the real property owner(s) pursuant to IC-36-9-27-16(d) (3) (c) and 36-9-27-16 (d) (4).

If, the fence is removed from the limits of the Regulated Drain easement or a Non-Enforcement of Drainage Easement for Fences permit is filed with the Hamilton County Surveyor's Office by end of day **August 4th, 2023**, then the contractor may be halted.

Please contact Mrs. Clara L. Furst at the Hamilton County Surveyor's Office upon receiving this notice letter to resolve the situation. The number is 317-776-8495.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/CLF

CC: Woods at Vermillion HOA"

Altman stated personally, I don't want her on the agenda until she has filed the paperwork. Is that understood?

Furst stated yes, and she is planning on doing that and I made that very clear to her that's how that process works.

Williams Creek Drain, Claridge Farms Arm - Stephan Fence (Tabled 07/10/2023 - Furst stated if the Board recalls from the last Drainage Board meeting the Stephan's for a non-enforcement fence permit visited and discussed their particular fence situation. At that point in time the Board moved to table the non-enforcement until more information was brought forth with the violating fence and then revisit it. Since that conversation at the Board meeting the Stephan's called in and they are retracting their non-enforcement and they are not pursuing a fence and will deal with the children running through their backyard to the pools. The clarification point from the Surveyor was that now that they are retracting their non-enforcement and proposed fence does the Board wish for our office to go ahead and violate the neighbor that is residing within the drainage easement or just let them be?

Altman asked, what's the standard practice? You can't treat people differently.

Furst stated typically if it's within drainage infrastructure within the drainage easement our policy in the office is that we proceed with a violation.

Heirbrandt asked Furst, do they know, have you had any discussion with them?

Furst stated no.

Altman stated my guess is, the neighbor has.

Spills:

William Lehr Drain, Booth & White Arm - Furst stated on April 19, 2023 our office received a text from EMA regarding a vehicle fire in Noblesville off of Coldstream Road near Ruoff Music Center. At that point in time we did not have all the details because of the Fire Department responding. We waited until the next day and did an investigation and determined that there was a vehicle fire that was within the entrance of that neighborhood, which had been extinguished and the Fire Department did confirm it was just water that was used to put out the fire. I did walk the inlets that went along Coldstream Road and there are three ponds that are considered the post construction BMP's for that system that leads to the William Lehr Drain. They were dry and there was no evidence that the spill had ended up in the drains. There are still charred marks on the ground and to our office's recollection that is not a complete cleanup so we did reaffirm the protocol with Noblesville on on-call and after hours and then what steps can be taken further to remove more debris from the roadway. To our knowledge Noblesville reached out to the fire chief to continue MS4 illicit discharge response.

Williams Creek Drain, Claridge Farms Arm - Stephan Fence Continued:

Dillinger stated I want to revisit that fence on the neighbor a little bit. What did you tell her she should do?

Altman stated follow protocol.

Dillinger asked, what's protocol? We have fences all over the place. We're going to cause a neighborhood war with this.

Altman stated it doesn't mean we have to enforce it; they get a variance. We can't just close our eyes to violations, or we might as well go out of business.

Heirbrandt stated I think it would be good to notify them that they are in the easement because if we go there and tear their fence out when we need to; do you see what I mean?

Dillinger stated that's true, alright.

Furst stated also as you all are aware sometimes we just want them to get a permit on file and allow them to leave their fence where it resides. The Surveyor's point, that he wanted me to figure out, is if that was the process you wanted or do you want us to have the end result of them moving their fence in.

Altman stated we don't know. We don't know what the circumstances are until they file their variance.

Howard stated anytime you have a variance, somebody comes in and the next owner decides to put a new fence in somewhere else at least that variance kicks up in their chain of title so it's a red flag that there may be a fence issue on that property. Even if you grant the variance on the existing you don't want them to come in and move one right in the middle of that tile.

F. M. Musselman Drain, W. S. Burnau Arm Reconstruction - Change Order No. 2:

Liston presented his report to the Board for approval.

"July 19, 2023

TO: Hamilton County Drainage Board

RE: F. M. Musselman Drain, W. S. Burnau Arm Reconstruction - Change Order # 2

The following items are an additional to the F. M. Musselman Drain, W. S. Burnau Arm Reconstruction contract being done by Morphey Construction.

Change Order # 2	
Item H1 - Additional 90.33 SYS for Pavement Demolition (196 th Street)	\$ 8,129.70
Item H2 - Additional 49 LF 48" RCP	\$ 17,640.00
Item B22 - Additional Seeding 0.9 Acre	\$ 9,900.00
	<u>\$ 35,669.70</u>
Change Order # 1	\$ 43,105.60
Change Order # 2	<u>\$ 35,669.70</u>
Total Cost of Change Order # 1 and # 2	\$ 78,775.30
Morphey's Contract	
\$1,392,000.00	
Total 15% Contingency	<u>\$ 208,800.00</u>
Total	<u>\$1,600,800.00</u>
Revised Construction Total to Date	\$1,470,775.30

Submitted By

Jerry L. Liston
Hamilton County Surveyor's Office"

Altman asked, we're within the contingency amount?

Liston stated yes.

Dillinger made the motion to approve Change Order No. 2 on the Burnau Arm of the F. M. Musselman Drain, seconded by Altman and approved unanimously.

Construction Updates:

Elwood Wilson Drain, E. M. Hare Arm Reconstruction - Liston stated the contractor is finishing up the Presley Drive work resetting the box culvert. There was a water main there that we thought may conflict with this project, but it did not. The contractor is getting ready to go back and start at the low end and work their way through the project closing things out and finishing things up. The contractor will end the project with the Promise Road work that requires the setting of a new box culvert there.

William Lehr Drain, Joseph & Brooks Arm, 156th Street Reconstruction - Liston stated the contractor is still waiting on structures for that and we anticipate a start date soon.

Duncan stated the structures have been ordered. They were waiting for utilities to clear and I believe they have.

2022 Reconstruction of the W. S. Burnau Arm of the Musselman Drain - Liston stated the contractor has completed all the work. We're working with Duke Energy to come back. Early on we informed the Board that Duke had a conduit in the way of this work and we notched our pipe and put it over the conduit. Now we're working with Duke to come back and finalize that repair and then we'll be done with that project.

Jonas Rogers Drain, J. M. Gustin Arm Reconstruction - Liston stated this work is complete and the final report will be coming.

Duncan stated the asbuilts are on my desk for review.

William Lehr Drain, J. S. McCarty Arm Phase 1 Reconstruction - Liston stated we're anticipating an August 1st start date for this project.

Adam Ault Drain Reconstruction - Liston stated we're sending out notification for our preconstruction meeting.

Clara Knotts Drain, Park Broadway Arm Phase 2 - Cline stated the utilities still haven't moved in to do anything. I was there on Friday and no sign of anything happening.

Altman asked which utilities again?

Cline stated AT&T is our worst and CenterPoint.

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Duncan stated Carmel Water says they don't have any conflict. I spoke with CenterPoint about two weeks ago and they had done their design and they were going to move it to their contractor. It should have already been given to them as a work order.

Altman stated I was wondering, we almost have to have a bad boy list that we stop all permits whether it's Highway or drainage for any offending utility that doesn't get out of the way. Lets work on coming up with some rules on that that make sense. Unless we get some leverage, they'll never do anything. I'm tired of it.

Howard stated the real problem is if you go in and tear the stuff out, it's our citizens and they're stuck. Maybe we threaten to go out and have our own contractor do it, but contractors aren't jumping up and down to take work to remove somebody else's infrastructure.

Altman stated but if we withhold permitting and slow them down on another project; why would we give them a permit when they're not cooperating on our work.

Howard stated I think that's the effective way to do it, the most effective without getting into a real problem with service to these people. I think some of those ordinances you and Connor (Sullivan) drafted over a year ago kind of address those issues.

Duncan stated they do we just haven't taken action under the threat of enforcement under those ordinances. We just haven't done it yet.

Altman stated then you need to bring it to us so we can. We're not reading minds here.

Howard stated I think Clara Knotts is probably the poster child for those offences.

Altman stated people are getting flooded while we wait for them to move.

Ream Creek Drain, Orchard Park Arm (Pending Asbuilts) - Cline stated the asbuilts are under review. There are a couple of items we need to check on and then we should be able to sign off on them.

Canal Place Drain, Strongbow Gate Arm (Pending Final Report) - Liston stated the report has been written. The Surveyor has reached out to the City of Fishers for a cost share on this project.

Drainage Board Attorney (Pending Items):

Interest on Borrowed Maintenance Dollars - Howard stated I sent the Board a memo on interest payments from GDIF trying to look at a way that it can become more equitable.

Martha Darrah Drain - Howard stated the other memo was on the Martha Darrah Drain and I think that is the epitome of what we're going to be looking at up and down out in the rural areas as we provide sewer and water. There's going to be developers that jump out there and the idea of how we address the reconstruction like in that 6,600-foot drain and how much we want the developer to pay on that because if the developer doesn't pay then you've got the alternative of very high assessments and/or less higher assessments and funding it from GDIF. That's going to become an issue and in the memo I suggested that we use that framework to put an ordinance in place. We don't want to add interest to a project that's going to be more trouble counting the money than the money is worth, but did suggest, for example, if we go over up \$300,000.00 or more from GDIF that we impose an interest rate at 5% or 6%, whatever the Board suggests. There are other places in the code where it suggests 8%, but if we don't do that it's going to be the first end sucks up all the funds in GDIF and it's not going to be there. The other thing in talking with the Surveyor, by the end of the year he anticipates moving the maintenance balances in all drains up to the eight years collections because interest from those funds is one of the primary contributors to GDIF.

Altman stated that's not a reason to up it.

Howard stated no, it's not a reason to up it, but it's there and sometimes helps.

Altman stated I have a question that we've never explored and probably we can't, but if we put in water and sewer infrastructure we can require connection fees.

Howard stated yes.

Altman stated can you require a connection fee to a legal drain?

Howard stated I think under 17D that I put in the memo I think you can charge a disproportionate amount to the developer. If they want to hook on, here's what they have to do. I think you're talking a more systematic...

Altman stated it's almost a Barret assessment. Let's find that out because it makes sense especially in Bakers Corner. We're putting infrastructure in that will allow development to occur, both sewer, water and drainage. Let's find out whether there's a mechanism we can do so we recoup back and look at another source to get this stuff in.

Howard stated I think the Urban Drain Assessment is that vehicle. In other words, we assess the new development at the urban level, but then we can raise the assessment.

Altman stated unless it happens in year one when the developer holds it you're just charging the people. That won't work unless we figure out how to get creative on this.

Howard stated the Surveyor has done a pretty good job of using 17D to get to the same place, but I think your suggestion would be more uniform and probably more fair across the Board.

Altman stated we're not talking about every meeting on every drain.

Howard stated if there is construction within five years that there would be cap on in addition to.

Altman stated they're not going to be able to do anything unless they have a place to discharge their water into a regulated drain, simple. Just like you can't build anything density wise, without a tap to water and sewer.

Howard stated anything we can do to enhance that revenue stream because you're going to have, like the Martha Darrah Drain, you've probably got 75% of that acreage is not under contract. That contract, the one you got the memo on, evidently that option is a pretty high per acre price because all of the land acquisition condemnations along there know that person and they're using that as their per acre value for everything. We'll work on the tap on fee and you want me to move forward with the interest to GDIF with \$300,000.00 at 5%.

Altman stated it's not hard to make that calculation. I think that's a pretty high threshold. Let's talk to staff and see how difficult it is. We're making a presumption that I think is an erroneous one in how hard this is, but it's not rocket science, it's math.

Duncan stated I can ask Janet (Hansen) to put a summary together.

Altman stated I don't want to make her life hideous, but I think \$300,000.00 is a pretty generous threshold. I think it should be coming down.

Howard stated I'll also talk to Janet. Once we get that assessment number and add the percentage right on the front end then all collections after that should be pro rata for new tap on's. We'll probably have some tap on fee language in that ordinance to get us there.

Wright vs Dhani Private Drain Petition - Howard stated we'll get that done.

Heirbrandt stated I'd make sure you have everything ready to go to litigation.

Altman stated plus send it out certified mail, return receipt to make sure there's not an argument "I never got the bill".

Howard stated the always delaying, delaying, delaying person that we saw up to construction date appeared on site and was very conciliatory with everyone.

Altman stated trying to find a contractor may have been difficult.

Heirbrandt stated could be. I know when he was here he was fighting adamantly about this with his attorney's and everything. I just want to make sure you have every "i" dotted and "t" crossed.

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

Mark Heirbrandt - President

Lynette Mosbaugh
Executive Secretary