

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

August 9, 2021

The meeting was called to order Monday, August 9, 2021 at 12:08 p.m.

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

**Approval of Minutes of July 26, 2021:**

The minutes of July 26, 2021 were presented to the Board for approval.

Heirbrandt made the motion to approve the minutes of July 26, 2021, seconded by Altman and approved unanimously.

**Professional Services Agreement - Cornthwaite Drain:**

The Surveyor presented a Professional Services Agreement to the Board for approval for the Cornthwaite Drain for survey work by Banning Engineering as soon as crops are out at a cost of \$24,211.00.

Heirbrandt made the motion to approve the Professional Services Agreement with Banning Engineering in the amount of \$24,211.00, seconded by Altman and approved unanimously.

**Professional Services Agreement - M. E. Scherer Drain:**

The Surveyor presented a Professional Services Agreement to the Board for approval for the M. E. Scherer Drain for survey work by Banning Engineering as soon as crops are out at a cost of \$23,100.00.

Heirbrandt made the motion to approve the Professional Services Agreement with Banning Engineering in the amount of \$23,100.00, seconded by Altman and approved unanimously.

**Professional Services Agreement - Revis-Carson Drain:**

The Surveyor presented a Professional Services Agreement to the Board for approval for the Revis-Carson Drain for survey work by Banning Engineering as soon as crops are out at a cost of \$20,691.00.

Heirbrandt made the motion to approve the Professional Services Agreement with Banning Engineering in the amount of \$20,691.00, seconded by Altman and approved unanimously.

**Professional Services Agreement - Weaver & Hooke Drain:**

The Surveyor presented a Professional Services Agreement to the Board for approval for the Weaver & Hooke Drain for survey work by Banning Engineering as soon as crops are out at a cost of \$22,473.00.

Heirbrandt made the motion to approve the Professional Services Agreement with Banning Engineering in the amount of \$22,473.00, seconded by Altman and approved unanimously.

**Professional Services Agreement - Beaver & Brooks Drain:**

The Surveyor stated this is on the Beaver & Brooks Drain for engineering services by GAI Consultants. This has already been surveyed by GAI Consultants previously. The Board had them survey that particular ditch and this is for the engineering services.

Heirbrandt made the motion to approve the Professional Services Agreement for engineering services by GAI Consultants in the amount of 79,800.00, seconded by Altman and approved unanimously.

**Anchorage Drain Erosion Study - Amendment No. 1**

The Surveyor stated this is for the survey work and some engineering on the Anchorage Drain by Burke Engineering. This is Amendment No. 1 to their contract.

Heirbrandt made the motion to approve Amendment No. 1 for the Professional Services Agreement with Burke Engineering in the amount of 27,900.00, seconded by Altman.

Altman stated I want to clarify for the record that the Burke Amendment on one of these agreements had a subcontract for survey.

The Surveyor stated correct.

Altman stated and we went ahead and requested quotes and found out that their subcontract was indeed favorable to the rate payers.

The Surveyor stated correct.

The motion had been made and seconded to approve Amendment No. 1 for the Professional Services Agreement with Burke Engineering in the amount of 27,900.00 and approved unanimously.

**J. S. McCarty Drain - IMI Easement Appraisal:**

The Surveyor stated this is for the appraisal for the easement from IMI for the J. S. McCarty Open Ditch.

Altman asked and there's an appraisal fee of?

The Surveyor stated \$1,930.00 and a review fee of \$970.00.

Heirbrandt made the motion to approve the agreement to obtain an easement appraisal on the IMI property for the J. S. McCarty Open Ditch in the amount of \$1,930.00 with a review fee of \$970.00, seconded by Altman and approved unanimously.

**Hearing Requests:**

The Surveyor asked the Board to set the following items for hearing on September 27, 2021: McMahon-Overdorf Drain, Washington Business Park Partial Vacation; Mary Nagle Drain, Auburn Estates Section 1 Relocation; Little Eagle Creek Drain, Alva Osborn Arm, Atwater; Little Eagle Creek Drain, Stephens & Clark Arm, Atwater; Little Eagle Creek Drain, George Stephens Arm, Atwater.

Heirbrandt made the motion to set the items presented for hearing on September 27, 2021, seconded by Altman and approved unanimously.

**Final Reports:**

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

**"To: Hamilton County Drainage Board**

**July 29, 2021**

**Re: Anna Kendall Drain: US 31 Reconstruction**

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

During construction, changes there were no significant changes made to the drainage plans submitted with my report for this drain dated February 28, 2013. The report was approved by the Board at the hearing held May 28, 2013. (See Drainage Board Minutes Book 15, Pages 6-7) Therefore, the length of the drain remains at **355 feet**. It should be noted that the project removed 381 feet of existing drain.

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

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

Sincerely,

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

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

**Capital Asset Notification:**

The Surveyor presented the following Capital Asset Notifications to the Board for approval: Cool Creek Drain, Anna Kendall Arm; W. R. Fertig Drain, J. W. Hawkins Arm; Isaac Jones Drainage Area, W. C. Inman Arm.

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

**1948 Drainage Law - Chart of Procedure:**

Altman asked do you have a better copy of this? It's actually quite fascinating.

The Surveyor stated there isn't a better chart. Brian Rayl brought this in. His father is closing his office and cleaning house and had a 24x36 copy of this. If you like we can get that for you.

Altman stated actually I think it would be fascinating to reproduce.

Heirbrandt stated not only that, but even to frame it.

Altman stated that would be good, knowing drainage law it hasn't changed.

The Surveyor stated a lot of this was put in the 1965 code. That's what I thought was interesting. A lot of that if you go back to 1863, the original, it's a lot of the same stuff.

**Big Cicero Creek Joint Drainage Board:**

The Surveyor presented the minutes of June 23, 2021 of the Big Cicero Creek Joint Drainage Board to the Board for their information. He asked if the Board had any questions.

There were no questions.

**Hamilton County Water Availability Project - Minutes of August 2, 2021:**

The Surveyor stated we had a kickoff meeting with INTERA and these are the minutes from that meeting. One of my action items was to get from the Board how often and how detailed you want the updates from that committee.

Heirbrandt stated I'd like to be involved in it. I know there's a couple of Council people that would like to be involved in the meeting, one of them is Sue Makki.

The Surveyor asked involved in the meetings?

Heirbrandt stated in the meetings or however we have them.

Howard stated or at least have notice of the meetings.

Heirbrandt stated yes.

The Surveyor stated they were talking about doing the meetings at the Wellhead meetings. We'll put those invites out.

Altman asked where are you having the meetings?

The Surveyor stated the Conference Room 1A.

Altman stated I do like having the summary for those who can't get there.

The Surveyor stated we will provide those minutes.

**Duck Creek Drain Bank Stabilization Project - Final Report:**

Baitz presented his report to the Board for approval.

"July 12, 2021

TO: Hamilton County Drainage Board

RE: Duck Creek Bank Stabilization Maintenance Project

ITEM: Final Report

Location: The Duck Creek Bank Stabilization Maintenance Project was located in Section 8, Township 20, Range 6 of White River Township in Hamilton County.

Purpose: The project consisted of stabilizing approximately 200 lineal feet of severely eroded regulated drain ditch bank adjacent to a Panhandle Eastern Pipeline high pressure natural gas pipeline.

The Duck Creek Bank Stabilization Maintenance Project was presented and approved at the November 23, 2020 Drainage Board Meeting. (Drainage Board Minute Book 19—page 422). The contract was awarded to Van Horn Excavating. Van Horn Excavating was the only responding bidder at a cost of \$98,181.04. A portion of his project was funded by a \$50,000.00-dollar LARE (Lake and River Enhancement Program) Grant obtained through the Indiana Department of Natural Resources. The grant application, initial survey data, engineering design and drawings for this project was completed by Butler, Fairman & Seufert consulting Engineers at a cost of \$38,800.00 dollars. This contract was approved at the April 8, 2019 Drainage Board Meeting. (Drainage Board Minute Book 18—page 404) The Butler, Fairman & Seufert contract included an estimated cost of \$4,00.00 dollars for easements. These were determined not to be needed and those costs deleted. This made the final cost of the Butler Fairman & Seufert contract \$34,800.00 dollars. Due to the length of time in getting the permit approvals, pipeline conditions & approvals for working within the Pipeline Easement, and weather conditions experienced during that time frame, a change order was required. Change Order #1 for crane mat rental (material used to minimize impact on area around pipeline), additional rip rap and topsoil was approved at the May 10, 2021 Drainage Board Meeting at a cost of \$11,367.74 dollars. (Drainage Board Minute Book 19—pages 26 & 27) It was also determined that the contract bid item for mulch would not be required. This bid item cost of \$1,800.00 dollars was deleted from the contract with this change order.

Van Horn Excavating completed the project on April 26, 2021. Butler, Fairman & Seufert's final report dated June 16, 2021 was received by the Hamilton County Surveyors Office and the State of Indiana on June 21, 2021. This report states the work meets the contract specifications and is complete and acceptable. The Surveyors Office received a letter from the Indiana Department of Natural Resources on July 6, 2021 stating that all the requirements for the LARE Grant had been met and the project was considered complete and acceptable.

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The grant funds were received from the State as listed below:

Claim	Vendor	Date	Grant
No. 1	BF&S	7/24/2019	\$ 778.25
No. 2	BF&S	9/24/2019	\$ 1,850.75
No. 3	BF&S	12/16/2019	\$ 5,615.50
No. 4	BF&S	1/22/2020	\$ 1,556.50
No. 5	BF&S	3/26/2020	\$ 3,113.00
No. 6	BF&S	4/17/2020	\$ 778.25
No. 7	BF&S	5/1/2020	\$ 778.25
No. 8	BF&S	5/26/2020	\$ 778.25
No. 9	BF&S	8/5/2020	\$ 778.25
No. 10	BF&S	11/5/2020	\$ 778.25
No. 11	BF&S	12/2/2020	\$ 311.30
No. 12	BF&S	1/6/2021	\$ 466.95
No. 13	VanHorn	1/19/2021	\$ 7,594.27
No. 14	VanHorn	2/3/2021	\$ 6,870.09
No. 15	BF&S	2/17/2021	\$ 778.25
No. 16	VanHorn	2/24/2021	\$ 4,322.69
No. 17	VanHorn	3/17/2021	\$ 5,573.95
18-19-20-22	VanHorn	7/19/2021	\$ 4,299.00
No. 21	BF&S	7/22/2021	\$ 2,978.25
		Total:	\$50,000.00
		Design Total:	\$21,340.00
		Construction Total:	\$28,660.00

Summary of Costs:

Van Horn Excavating bid	\$ 98,181.04
Change Order # 1	\$ 11,367.74
	<u>\$109,548.78</u>
Mulch bid item (deleted)	- \$ 1,800.00
Van Horn Excavating's final contract costs	<u>\$107,748.78</u>
Butler, Fairman & Seufert	\$ 38,800.00
Easement costs (deleted)	\$ 4,000.00
Butler, Fairman & Seufert final contract costs	\$ 34,800.00
	<u>\$107,748.78</u>
	\$ 34,800.00
Total Bank Stabilization Project Costs	<b>\$142,548.78</b>
LARE Grant	- \$ 50,000.00
Amount funded by Duck Creek Maintenance Fund	<u>\$ 92,548.78</u>

The Butler, Fairman & Seufert report, IDNR letter, and list of payments disbursed, and claims are attached.

The Surveyors Office released the bond for this project at the July 26, 2021 Drainage Board Meeting.

Please consider this the final report on the Duck Creek Bank Stabilization Maintenance Project.

Sincerely,

Stephen Baitz  
Drainage Inspector  
Hamilton County Surveyors Office"

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

**Variance Request - Isaac Jones Drain - Chatham Pointe Fill in the Floodplain:**

Clark presented his report to the Board for approval.

"8/05/2021

TO: Hamilton County Drainage Board

**RE: Isaac Jones Drain, Floodplain Fill Variance for Chatham Pointe, DV-2021-00003**

Attached is a request by Cripe Engineering for a variance from the following ordinances and standards in connection with the Chatham Pointe project.

Summary:

- Ordinance No. 09-26-16A: regarding fill in the flood plain.

Summary:

As part of a new development project in the City of Westfield, the petitioner proposes to regrade portions of a property (tax parcel: 08-05-24-00-02-136.000) which results in new fill within the flood plain. To offset the fill, the project will excavate compensatory flood plain storage area near the Isaac Jones drain. The construction will require placing 1,648 cubic yards of fill within the flood plain and removing 4.944 cubic yards from the flood plain. The actual amount of floodplain storage being proposed with this project is 6,374 cubic yards. The cut/fill ratio meets the standard 3:1 ratio required for consideration of the variance with a proposed ratio of 3.87:1.

This proposal received preliminary concurrence by the Drainage Board to proceed with engineering on June 14<sup>th</sup>, 2021.

The engineering review has been conducted by Clark Dietz Inc. See attached approval letter dated June 29, 2021.

Staff Recommendations:

1. If this variance is approved by the Drainage Board, the Surveyor has recommended that as a condition of approval the following items be met:
  - a. Protection of floodplain compensatory area with dedicated easement for areas outside of the 75' statutory regulated drain easement. Easement to be in the favor of the Hamilton County Drainage Board.
  - b. Surety to be posted to cover the construction costs of the flood plain compensatory storage area. The amount of the surety should be 120% of the engineer's estimate.
  - c. An engineer's estimate or copy of the contract for the storage area to be submitted along with the surety.
2. The Surveyor also requests the following conditions be met for release of surety:
  - a. Site inspection approval by Surveyor's Office.
  - b. Submittal of as-built drawings showing the cut and fill sections and dirt balances. As-built drawings are to be stamped and sealed by a professional engineer.
  - c. As-built drawings to be reviewed by Clark Dietz Inc., for compliance.
  - d. Fulfillment of developer financial responsibility for review fees incurred.
3. The maintenance of the flood plain compensatory area, including but not limited to sediment removal, erosion control along the banks, mowing and aquatic vegetation control will be the responsibility of the Homeowners Association and/or owner of record.

The Board will retain jurisdiction to enforce the storage volume for which the flood plain compensatory area was designed will be retained, thereby, allowing no fill or easement encroachments. In the event that the Homeowners Association or owner, in the sole discretion of the Board, fails to adequately maintain the flood compensatory area, after 30 days written notice to the owner of record, the Board may perform the required maintenance and assess the cost thereof to the owner of record as a special assessment.

The above language will be attached as a Page 2 of the Variance when recorded.

Based on this information, this report is respectfully submitted for your consideration.

Sincerely,

Samuel T. Clark  
Plan Reviewer"

Heirbrandt made the motion to approve the variance request presented, seconded by Altman.

Altman stated we need a correction on the staff report in the first paragraph under the summary "the removal is, I assume, 4,944 cubic yards".

Clark stated that's the requirement, but the proposed engineering actually exceeds that amount of storage.

Altman stated correct, but you've got 4.99.

Clark stated that is true.

Altman stated you'd better make that a comma. That would be a big excess. The other thing is will there be platted lots in the fill area?

Clark stated yes, there is. There are two lots.

Altman asked do we have the requirement that they be so noted on the plat?

Clark stated yes, we have the language from a previous variance that you vetted a couple of years ago.

Altman stated on these variances when we do have platted lots that will be sold make sure that is included in our requirements, if you would.

Howard asked in the initial report?

Altman stated correct, so the developer knows that it's going to have to be full disclosure that buildings will be placed on filled soils.

Heirbrandt amended his motion to include the disclosure for building on filled soils, seconded by Altman and approved unanimously.

**Non-enforcements:**

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Maple Village Arm filed by Roberto Mandujano for parcel #08-09-03-00-02-076.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Long Branch Drain, Wexley Chase Arm filed by Yanshuo and Paijun Liao for parcel #17-09-29-00-09-038.000 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 Richard Moffitt Drain filed by Rick Garlin for parcel #17-13-01-03-19-013.000 for a gable style screen room. 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 Morrow-Follett Drain filed by John Slatten for parcel #16-10-30-09-02-016.000 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 Mud Creek/Sand Creek Drain, James D. McCarty Arm filed by Everstream GLC Holding, LLC for parcel #13-11-24-00-00-26.000 for fiber optic cable. 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 Thorpe Creek Drain, Bayview Estates Arm filed by Everstream GLC Holding, LLC for parcel #13-15-01-00-06-003.000 for fiber optic cable. The Surveyor's Office recommends approval.

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

**Mallery Granger Drain Reconstruction - Change Order no. 2:**

Liston presented his report to the Board for approval.

"August 4, 2021

TO: Hamilton County Drainage Board

**RE: Mallery Granger Drain Reconstruction  
Change Order #2**

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

R2	9 Tile Outlets (\$700.00)		\$	6,300.00
R6	60" CMP; Drive Crossing (Arm 1 Sta. 72+82)	25 LFT	\$	10,000.00
R7	Compacted #53 Stone (26 Ton)		\$	1,690.00
H1	48" CMP; 211 <sup>th</sup> Street (Arm 1 Sta. 30+56)	0.50 LFT	\$	295.00
H3	38" x 60" CMP; James Road (Arm 1 Sta. 56+60)	21 LFT	\$	10,500.00
H5	60" CMP; 206 <sup>th</sup> Street (Arm 1 Sta. 58+42)	31 LFT	\$	12,400.00
H7	60" CMP; James Road (Arm 1 Sta. 75+49)	30 LFT	\$	12,750.00
Total Cost of Change Order # 2				<u>\$ 53,935.00</u>

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Total Cost of Change Order # 1 (Time Extension - 45 Days)	\$ <u>0.00</u>
Engineer's Estimate	\$1,074,515.75
Contractor's Bid	\$ 925,533.00
Total Cost of Change Orders # 1 and # 2	\$ 53,935.00
Total Reconstruction Cost	<b>\$ 979,468.00</b>

The additional pipe lengths were required by the Hamilton County Highway Department after 5 Star had submitted their bid for the project.

Submitted By

Jerry L. Liston"

Heirbrandt made the motion to approve Change Order No. 2 presented, seconded by Altman and approved unanimously.

**Surety Acceptance:**

Liston stated that at this afternoon's Commissioners meeting the Board would be accepting the following sureties: Irrevocable Letter of Credit No. 1438ENC6 in the amount of \$97,748.10 for Enclave at Vermillion Section 6, storm sewers; Irrevocable Letter of Credit No. 1439ENC6 in the amount of \$37,484.04 for Enclave at Vermillion Section 6, erosion control.

**Construction Updates:**

Intracoastal at Geist Drain - Liston stated as you know we've been working with utilities to get them out of the way so we can proceed with this project. Another curve ball was thrown at us this morning. AT&T is not the phone and internet provider. I received an email this morning after a phone call to AT&T that this is not their service area. What can we do to proceed with this?

Altman asked, a little more background please?

Howard stated this is where the electric service is sitting above a bunch of utilities and obstructing drainage improvements to drain the street in the subdivision. It's been going on for a year now.

Altman asked and we thought our only problem was Duke at that point?

Howard stated Duke is primary, but then everybody else; Duke's transformer is sitting right in the way, but there are other utilities that have to be moved when Duke moves.

Heirbrandt asked what is the process? This is similar to what we had at the parking garage with Duke and then Duke sent out letters to everybody that was connected.

Howard stated this is underground. Duke owned those poles. I would suggest; did AT&T tell you who it might be?

Liston stated no, they did not.

Howard stated the IURC would be the appropriate entity to find out.

Liston stated we could do locates, and the locators could tell us who that is. Since that email popped up this morning, I've reached out to Nine Star Connect, which is in the area, also Century Link. I don't think it's Nine Star Connect, but I did talk to Eric Myer this morning at Nine Star, one of their engineers, and he gave me who I needed to contact. I've left messages with George Pollensky of Nine Star, but I don't think it's Nine Star. That pedestal, when I talked to our contractor a while ago that's under contract for this, he even said on the pedestal it says AT&T. What we're thinking is whoever installed that facility used a pedestal that's incorrectly labeled.

Altman asked how old is this subdivision?

Liston stated about 20 years old.

Altman asked do you have record of the TAC meetings when they approved the plat? What jurisdiction would have been the planning entity?

The Surveyor stated Fishers.

Altman stated I'd call Fishers and see if they'll look at the; at the same time get that going, just request them to check who all the utilities were on TAC.

Liston stated I even emailed the property owner to see if they could tell us who they get bills from.

Howard stated that would be a good start. Since this information is less than a day old and this project has been on hold for quite a while, I think we make effort for at least two more weeks and then maybe the cut and run becomes the remedy. We've got to get this done.

Altman asked who else is in there? Is that just the two? Are we dealing with any other utility?

Liston stated it's Duke, Comcast and whoever this phone and internet provider is. There's gas, but they've told us they believe they're out of the way.

Altman asked but Duke has to get out first?

Liston stated yes, that's a major outage with 75 households.

Heirbrandt stated be ready to report to us in two weeks.

Mallery Granger Drain Reconstruction - Liston stated the dredging portion of the work is completed. I'm waiting on the contractor to tell me when they want to do a walk through.

Canal Place Drain, Strongbow Gate Arm - Liston stated we have done the utility notification. I'm meeting on Wednesday with Nine Star Connect who I believe has fiber in the way. This is the project the Surveyor would like to ask for three quotes from our maintenance contractors, maybe sometime in September bidding this project and then construction starting in October.

Ellis Barker Drain Reconstruction - Cline stated I've sent a couple of emails to Westfield about being able to close the road but haven't heard back. The contractor is busy on other jobs right now. It won't take long to finish once we're able to close the road.

Clara Knotts Drain, Park Broadway Arm - Cline stated AT&T has all their lines out of the way now and from what I read on Friday it looks like the gas company has as well. Once Carmel Water moves their lines, we should be good to start on this project.

Overman-Harvey Drain, Village Farms, Adios Pass Reconstruction (Pending Asbuilts) - Cline stated we received the asbuilts and they have been approved by our office.

**Budget & Permit Update:**

The Surveyor presented the budget and permit update to the Board for their information. I did send the question Altman had to State Board of Accounts and have not heard back from them. Janet (Hansen) said it is maintenance and GDIF (General Drain Improvement Fund).

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

Lake Stonebridge Agreement (Backflow Preventer) - Howard stated this item was signed at your last meeting.

Utility/Drainage Ordinance - Howard stated we should have this on the agenda at the next meeting.

Altman asked so we can avoid the utility conflicts?

Howard stated the goal is to minimize them anyway.

Lake Stonebridge Agreement (Backflow Preventer) - The Surveyor stated we are waiting for Red Valve to get the information to Burke and then Burke will turn that around and get that back to Red Valve and put in in the queue for them to start. We still don't know if there is any increase in cost on that. I don't have anything to put in that blank line yet.

Howard stated Lake Stonebridge HOA acknowledged they would pay the whole amount, but we still need to put that amount in there before we green light it so there's no sticker shock.

The Surveyor stated we did find out that the gentleman we've been emailing that to has been in the hospital. I found that out on Thursday. They now have somebody else that's going to be going between Mr. Fox at Burke and Red Valve.

**Lunsford Estates:**

Mr. Robert Lunsford, Mr. D J Lunsford, Mr. Nathan Althouse, Mr. Marc Zipper, Mr. Russell Spiars and Mr. Jim Hellmann were present for this item.

Altman stated we don't have an agenda item for Mr. Lunsford. I need to caution Mr. Lunsford that this is an accommodation should you choose to be on the agenda you need to be on the agenda with the appropriate information. You have ten minutes to present.

Lunsford stated I've been working on the Zipper property for seven months. I'm coming in front of you because 1) The right of way you guys are asking for is 50, all the way down Schulley Road, right now it's 25. I would like to keep the black fence running all the way down there so I would like to see what the Commissioners can do on that for me.

Altman stated you'll need to make a formal request for variance at the Highway Department, they'll examine it and they'll bring it before us.

Lunsford stated okay, very well. Then there's an ordinance for shared driveways per the Highway Department.

Altman stated you're at the wrong meeting, sir. Anything Highway has told you about that needs to go through a variance process where it will be investigated.

Lunsford stated okay. Then I'd like to have Rusty Spiars speak regarding the drain map.

Spiars stated the main point and our main contention is that Bob is trying to develop that 43 acres and you'll see on you map of the 60% land, north and west, other parcels, offsite property, typically your ordinance would require that he detain for his own area on storm water and he puts in a pond with his offsite water coming through it that can be passed through anticipating when those other areas develop they'll have their own detention and their own facilities, which is common. The criteria also say that he has to have a destination, not going in somebody's back door and out their front door. That's the case here. It goes in the backyards, on the east side, flows south and of these show new homes and if all the drainage systems are clogged it would pass through eastward onto a street without causing any issues. The other point is it seems like there's not really even a problem in those backyards. Water ponds for a while, like everywhere else, it may be worse here, it drains away, it doesn't go in any homes that we've heard of. It doesn't stay for hours and hours. We think it would be reasonable; another thing is the matter of impervious surface adding to these lots' averages 4.5% per lot, so we're not doing a whole lot of development out there. Our request would be to be treated like the other developments where we only process through here, offsite water from an area that would most likely develop at some other point possibly by somebody else that it be treated as passthrough water and the detention basin be rebuilt to handle that water pass it through and be sized so obtain the water that comes off the project site itself.

Heirbrandt asked the Surveyor, have you looked at this?

The Surveyor stated Steve Cash in my office reviews those plans. I also passed out today, or Steve did, two drainage complaints of the people downstream, one from a Mr. Thompson showing the standing water in his yard and I believe an adjacent yard and the other from a Mr. Mark Hall also showing the water in his yard. Both of these are downstream of the Lunsford project and I personally don't want to see anymore letters come in and not be able to tell these people with a straight face that I tried to help them and was unsuccessful. I think that Mr. Lunsford knows the rules, Mr. Spiars knows the rules and I believe we should adhere to those rules.

Howard asked is there an application before us?

Altman stated no.

Howard stated I mean, you're not on the agenda, you don't have an application, we don't have an opportunity to study your calculations. What are we doing?

Spiars stated we're asking to be held to the same standard. If we were held to that standard, we would be improving the situation downstream, hold water back, just not everybody else's water. There's no flooding in the homes and when we're done according to your standards, there would be much less water in any of those yards, but it wouldn't fix the entire problem, which really is debatable whether there's even a problem.

Altman asked where are you on the plans? Do you have your plans developed with your site work and calcs?

Spiars stated we're trying to nail down what the goalposts are. Do we have to detain to those other sites or just our own and that's a big design fundamental so we can't proceed beyond our concept plan with detailed drawings until we know how much water we have to handle and how do we handle it? That's the point.

The Surveyor asked Spiars, did you not receive the information from the City of Noblesville telling you what the available capacity for that tile is?

Spiars stated yes, I did.

The Surveyor asked, are you adhering to that available capacity?

Spiars stated with our stuff we would, but there's a passthrough. We don't have the capacity so you pass it through and I have an analysis showing that it doesn't do any damage and one day when everybody else detains that capacity will be met and even now with the capacity not being met there's not a problem back there. That's all theoretical, the capacity of the pipe is met, but when water fills up it doesn't get close to any homes and if you follow the policy of every upstream watershed developed to handle their own stormwater and by the time that all came in that pipe capacity would be met, but even now if it surcharges it goes in the yards, in the streets, it does not go in your homes. I don't think there's even a problem.

The Surveyor stated my thought is whether or not it goes in the homes it doesn't matter because I'm still going to get the phone calls, the Board will still get the phone calls, the City of Noblesville will still get the phone calls.

Spiars stated you can say we've done a major portion to reduce the amount of water coming in the yards and that would be true. Our project was done by your regulations and would greatly reduce the amount of water coming into the yards.

Heirbrandt asked where is the City of Noblesville on this?

Hellmann stated we have reviewed the project. The biggest issue is most of their site drains through Oak Bay Subdivision. As this project was going through Planning Commission we were forwarded on, I think Mr. Cash presented a couple of photos to the Board of having issues at Planning Commission. We had several people speak at the last Planning Commission expressing concern of drainage. The main issue at hand is the storm sewer that is at the western edge of Oak Bay that does not have the capacity to serve this. Basically, they're changing the use of the property and they would be basically flooding through us. We're holding them to the capacity of the storm sewer that it has. Saying that just because they want to release it higher than the capacity of the storm sewer that was to design and flooding through someone's backyard, I don't think is acceptable just because it doesn't go into a house. You're basically using someone else's property as detention for the benefit of an upstream development.

Altman asked does Noblesville have the jurisdiction on the approval of the Lunsford Plat?

Hellmann stated this is a very unique one because the development is outside city limits. We were engaged with the County Surveyor's Office because this is discharging through the City's storm sewer. Mr. Spiars had actually, before Planning Commission, provided a proof of concept that the City was acceptable to and apparently there might have been a request to change is what I'm kind of guessing what this request is. I don't know for sure. We did approve a proof of concept that met our system's capacity.

Altman stated ultimately you are the gatekeeper on your system, correct?

Hellmann stated correct.

Altman stated so they could design the most brilliant plan and we could give them the most wonderful variances, but if you say they cannot connect they have no outlet point, correct?

Hellmann stated yes. We're not going to be in support of anything that exceeds the capacity of storm sewer.

Altman stated I think it makes our job fairly simple that we won't allow this to go through without a connection to an outlet and if Noblesville will not allow that connection then the variance is immaterial, if I'm thinking correctly.

Hellmann stated we have a system capacity, we have a proof of concept that has been approved by us, we just want to make sure if needed it was approved in advance of the last Planning Commission.

Howard stated but their plan that they're asking to use today doesn't meet that.

Hellmann stated I have seen a plan that meets the whole criteria. That's why we had a favorable recommendation to Noblesville Planning Commission.

Heirbrandt stated I think there needs to be a meeting with Noblesville, you gentlemen, the Surveyor's Office and the attorney to set out a clear path before you come to a meeting like this. Number one, it needs to be on the agenda, and I think you should have this worked out before you even come.

Altman stated yes, to me it's real simple, if there's no point of outlet then there's nothing to talk to us about.

Howard stated the Drainage Code is very clear that if the water coming from the project is going to exceed the capacity then you deny the connection to the drain until it's reconstructed. In the municipal law it arises out of ownership of the downstream pipe. The same issue is there, and I understand that sometimes the first developer in incurs substantially more cost and somebody else becomes the beneficiary of it. At the end of the day neither the city law or the county law allows construction if the first words coming out of people's mouth is "it isn't going to work".

Heirbrandt stated to Mr. Lunsford, I think we'd really like to help you, but right now we don't have the tools or the information to be able to help you. I'd be willing to sit in on a meeting on behalf of the county and the Drainage Board along with the Surveyor's Office and somebody from Noblesville and our attorney to lay out a clear cut path of what really needs to happen in order for you to be successful in what you're trying to do.

Howard asked Hellmann, do we know what the solution; what is the solution?

Hellmann stated essentially providing detention. Like I said they provided a plan that we were acceptable to. We have three outlets that they will be connecting to through Oak Bay as long as they meet those release rates of the existing storm pipe's capacity, we're okay with that.

Howard stated but right now the system they're talking about doesn't accomplish that goal?

Hellmann stated no and like I said it floods from the upstream property all the way to the west, floods those people's yards. We've never had this concern before, but when there was a public meeting those concerns were shared with the Surveyor's Office and the Surveyor's Office shared those concerns with us.

Howard stated in summary, it is one of those things sometimes it's not fair to the first guy in to have to overbuild capacity.

Altman asked can it be graded to berm their property to avoid the incoming water? Can you berm to keep the other people's water out? I always understood that's possible.

Hellmann stated if I understand correctly, all the contributing areas are owned by, essentially, one family on that. Some of their property is on the west side of Schullley Road if they could do something on that side, a swale to kind of help slow it down, those are all options, it does not all have to be on this site. You can look at it at different places and there's different flexibilities.

Altman stated the common enemy rule when I studied it said you could protect your property from other people's water and that is an opportunity for you if you want to berm out your invading waters. I presume that's going to be acceptable and that will have you detain your own water to meet the capacity.

Spiars asked even if that backs up water that would probably stand on those properties?

Altman stated that's up to your attorneys. I'm not speaking to you as an attorney, I'm just speaking in terms of my understanding of common enemy laws. I'd suggest you get legal council to look at that or detain on your parcel.

Zipper stated we've been going through all these iterations and demands by the city to try to accommodate all the water risks and all the water shed on the property for over a year now and each time we come back with a solution they give us something else that we have to address. It's been a back and forth issue for almost a year now. A part of it, not only are we going to have to put in retention ponds, two of them on this site, that will take up about four to five acres we're also going to have to cut swales between the home sites to drain into the ponds. In addition to that I'm now being told that there's going to be 65 feet of easements along Schullley Road and 85 feet of easements along Little Chicago Road. That comes out to almost fourteen to fifteen acres of my 45 acres. A third of my land is going to be basically confiscated. I would like to see if we've gotten approval from the city to go ahead if we put in the ponds and the swales, if we meet those all I'd like to ask is that you approve this contingent on us meeting the city's request.

Altman stated we don't have any of that documentation, you're not on the agenda, this is about the third time this subdivision has come up, not on the agenda and you need to go through the right channels and the right requests or you're going to continue to face delays because I'm not going to vote on anything I don't understand or comes with a positive recommendation or an explanation that make sense. That's where we are today. I think we've given you a roadmap to move forward and it's certainly your choice on how you choose to move forward, but we will not entertain any further impromptu visits without going through the agenda process, the variance process and the right channels.

Heirbrandt stated we meet again in two weeks. We want to help, but I can't take this information that's handed to me right before you guys come up unannounced when you're not on the agenda. That's why we have these agendas and we study these before we come out so we can ask good questions, understand the project and make sure that we're making good decisions on behalf of our constituents in the county. All we're asking is, I think we can come to some type of compromise but we need to sit down, get all the people of the party and it's really simple to be able to do that; go through that process and come back here if we can meet within the two weeks and be able to have a better educated on our behalf information that we can make a decision on.

Lunsford asked who do I contact to set up this meeting?

Howard stated Surveyor's Office, Bob, you didn't just come into town. You know how to get on the Drainage Board agenda. You go to the Surveyor's Office, they'll ask for your information, they'll put a report together and they'll get it on the agenda.

Heirbrandt stated they'll copy me on it and the attorney.

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

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Christine Altman - Vice President

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Lynette Mosbaugh  
Executive Secretary

Hamilton County Drainage Board  
August 9, 2021