

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

August 23, 2021

The meeting was called to order Monday, August 23, 2021 at 9:01 a.m.

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

Approval of Minutes of August 9, 2021:

The minutes of August 9, 2021 were presented to the Board for approval.

Altman made the motion to approve the minutes of August 9, 2021, seconded by Heirbrandt and approved unanimously.

Bid Opening - Ream Creek Drain Reconstruction, Orchard Park Arm:

Howard stated the first bid is from Morphey Construction with all required forms present a bid of \$808,000.00. This appears to be all the bids for this project. Do any person know of any other bids; none appearing I recommend the bids be referred to the Surveyor's Office for review and recommendation on September 13, 2021.

Altman made the motion to refer the bids to the Surveyor's Office for review and recommendation on September 13, 2021, seconded by Heirbrandt and approved unanimously.

Mud Creek/Sand Creek Drain, Hawthorne Hills - Iron Pointe Arm:

There were no objections on file. Mr. Brett Huff and Mr. Joseph Marx were present for this item.

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

"August 18, 2021

To: Hamilton County Drainage Board

Re: Mud Creek - Sand Creek Drainage Area, Hawthorn Hills Drain, Iron Pointe Arm

Attached are plans and petitions for the extension of an arm to and partial reconstruction of the Hawthorn Hills Drain, which is an arm of the Mud Creek - Sand Creek Drainage Area. This project is to be paid for by Pulte Development. The proposal is for the extension of a storm sewer and reconstruction of existing sub-surface drain and open drain which will serve as the outlet for the proposed Iron Pointe subdivision. This is to be constructed per project plans for the Iron Pointe, Sec.1, by Kimley-Horn, KHA Project No. 170140002, dated 05/03/2021.

Per the plans, the proposal involves installing an offsite storm sewer beginning at a manhole (MH 130) near the northwest corner of the Iron Pointe subdivision. The subdivision project site is located on the south side of 106th street, west of Fall Road, east of Mollenkopf Road in Fishers, Indiana. The route of the drain is as follows: The pipe will extend west from the site along the south side of 106th street right-of-way through existing easement on parcel 13-15-08-00-00-025.003 owned by Steven A. & Lori J. Kinder (Wilson's Subdivision, Tract 1) to the northwest corner of said parcel; then, will cross to the north side of 106th street owned by Hamilton County; then runs west parallel to 106th street on the south side of parcel 13-15-05-04-07-010.000 (Hawthorn Hills, Sec. 1 lot 110) owned by Glen R & Valentia R Jacobs; crosses parcel 13-15-05-04-03-044.000 owned by Department of Public Utilities for City of Indianapolis acting by and through Board of Directors for Utilities as Trustee of Public Charitable Trust for the Water System; then, turns north at a manhole and crosses parcel 13-15-05-04-03-043.000 owned by Michael R & Sandra A Gonzalez; then, continues north across parcel 13-15-05-04-03-042.000 (lot 17, part 18 & part 117) owned by Joseph E & Patricia G Gray (with LE & Joseph E & Patricia G Gray Family Trust), then outlets into the existing open drain in the Augusta Blvd right-of-way owned by the City of Fishers. As part of this proposal, the existing 6" SSD located on parcel 13-15-05-04-03-042.000 (Gray) will be replaced by the proposed 12" storm sewer.

The open ditch located along the north side of parcel 13-15-05-04-03-042.000 (Gray) and parcel 13-15-05-04-07-001.000 (lot 118) owned by Jason A. Golden & Jennifer Lynn McGuire will also be regraded and erosion control measures will be installed as part of this project. Because of their proximity, other parcels potentially affected by this project include parcel 13-15-05-04-07-011.000 (Pt 117) owned by Travis J Spencer & Marcy E Trinkle; parcel 13-15-05-04-08-013.000 (Lot 127) owned by Robert J Jr & Joy C Richards; and parcel 13-15-05-04-02-010.000 (Runnymede Estates, Lot 7, Pt 11) owned by Saur, Brigitte.

The new arm will consist of the following:

1,000' of 12" RCP

The new drain involves the lengths of drain between the following structures: 130, 131, 132, 133, 141, 142, 134, and 135.

The existing 236' of 6" SSD (between ex. strs 101 - 100) located on parcel 13-15-05-04-03-042.000 (Gray) and Augusta Blvd right-of-way will be removed and vacated as regulated drain. This project will add 764' to the overall length of regulated drain.

The original Hawthorne Hills drain was approved at public hearing by the Drainage Board on September 7, 1982 per my report dated July 2, 1982 as referenced in Minutes Book 1 pages 482 and 490. On February 22, 2010 the Hawthorne Hills Drain was made an arm to the Mud Creek - Sand Creek Drainage Area per my report dated December 21, 2009. See Minutes Book 12 pages 432 - 424.

Easements for this project have been acquired by the developer on the following parcels: 13-15-05-04-07-010.000 (Instr. No. 84-7722) owned by Glen and Valentia Jacobs; 13-15-05-04-03-044.000 owned by Department of Public Utilities for City of Indianapolis acting by and through Board of Directors for Utilities as Trustee of Public Charitable Trust for the Water System; 13-15-05-04-03-043.000 (Instr. No 2015059017) owned by Michael and Sandra Gonzalez; 13-15-05-04-03-042.000 (Instr. No. 2021029505) owned by Joseph and Patricia Gray.

The easement for this drain shall also include the secondary plat for Iron Pointe, Sec. 1; the existing easement (15' SD&UE) on the Kinder parcel (13-15-08-00-00-025.003; Wilson's Subdivision Tract 1, Instr. No. 8744423); the existing right-of-way for 106th street; the existing right-of-way for Augusta Blvd.; and the existing easement in Hawthorn Hills, Sec. 1 replat as recorded in the office of the Hamilton County Recorder.

The cost of the project is to be paid by the developer. The petitioner has submitted surety for the proposed drain at this time. The surety which is in the form of Performance Bond from the developer is as follows:

Agent: Berkley Insurance Company
Date: July 30, 2021
Number: 0240584
For: Storm Sewers
Amount: \$93,084.60
HCDB-2021-00028

The subdivision is annexed by the City of Fishers. Fishers has required the developer to post surety for the onsite storm system. With the exception of the proposed regulated drain, the maintenance of the onsite storm system falls under the jurisdiction of the city.

This proposal meets the criteria for extending an arm to a regulated drain as laid out in IC-39-9-27-66 and for reconstruction as laid out in IC 36-9-27-52.0. I recommend the Board set the hearing for August 23, 2021.

Sincerely,

Kenton C. Ward
Hamilton County Surveyor

KCW/stc"

Howard asked are these easements expressly dedicated regulated drainage easements?

Cash stated they are regulated drain easements.

Dillinger opened the public hearing; seeing no one Dillinger closed the public hearing.

Heirbrandt made the motion to approve the Surveyor's report, seconded by Altman.

Altman stated we just do the main line of the drain; we don't pick up any of the infrastructure within the subdivision.

Cash stated that is correct. Our drain will begin at the very northwest corner of the subdivision. All the internal is the City of Fishers. It's been annexed and is within their jurisdiction.

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Altman stated it seems to make a whole lot more sense to me and in contrast to Carmel where we have subdivisions where we're picking up internal parts of the subdivision. That may be a policy question we want to look at, at some point, because Carmel has a storm water fee that they charge, and they're not shy about the rate. I don't know why we would pick up and then overlay and additional cost on subdivisions when the people that live there, we could reduce, in theory, our rates on some of these drains. I just point that out that this seems to be the better practice that let us handle the major parts of regulated drains to keep them flowing.

The motion had been made and seconded to approve the Surveyor's report and approved unanimously.

"FINDINGS AND ORDER

CONCERNING THE PARTIAL VACATION OF THE

**Mud Creek/Sand Creek Drainage Area,
Hawthorne Hills Drain, Iron Pointe Arm**

Existing 6" SSD between Structure 101 and Structure 100

On this **23rd day of August, 2021**, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the **Mud Creek/Sand Creek Drainage Area, Hawthorne Hills Drain, Iron Pointe Arm (Existing 6" SSD between Structure 101 and Structure 100)**.

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 **Mud Creek/Sand Creek Drainage Area, Hawthorne Hills Drain, Iron Pointe Arm (Existing 6" SSD between Structure 101 and Structure 100)**.

HAMILTON COUNTY DRAINAGE BOARD

Steven C. Dillinger

President

Christine Altman

Member

Mark Heirbrandt

Member

Attest: Lynette Mosbaugh _____"

"STATE OF INDIANA)
) ss:
COUNTY OF HAMILTON)

BEFORE THE HAMILTON COUNTY
DRAINAGE BOARD
NOBLESVILLE, INDIANA

IN THE MATTER OF THE
RECONSTRUCTION OF THE

Mud Creek/Sand Creek Drainage Area, Hawthorn Hills Drain, Iron Pointe Arm

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the **Mud Creek/Sand Creek Drainage Area, Hawthorne Hills Drain, Iron Pointe Arm** came before the Hamilton County Drainage Board for hearing **on August 23, 2021**, 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 **Mud Creek/Sand Creek Drainage Area, Hawthorne Hills Drain, Iron Pointe Arm** 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

Steven C. Dillinger
PRESIDENT

Christine Altman
Member

Mark Heirbrandt
Member

ATTEST: Lynette Mosbaugh
Executive Secretary"

Mud Creek/Sand Creek Drain, Hawthorne Hills, Iron Pointe Arm - Easements:

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

Cash presented four easement documents obtained by the developer for Iron Pointe for acceptance by the Board.

Altman made the motion to accept the easements as described, seconded by Heirbrandt and approved unanimously.

Canal Place Drain, Strongbow Gate Arm - Request for Quotes:

The Surveyor stated we're asking for quotes to be received and opened on September 13, 2021 for Strongbow Gate.

Heirbrandt made the motion to receive quotes on September 13, 2021 for Strongbow Gate, seconded by Altman and approved unanimously.

Final Reports:

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

"To: Hamilton County Drainage Board

August 11, 2021

Re: Lynnwood Hills Drain: 131st St & Allisonville Rd Reconstruction

Attached are as-built, certificate of completion & compliance, and other information for the 131st St. and Allisonville Rd. Reconstruction. An inspection of the drainage facilities for this section has been made and the facilities were found to be complete and acceptable.

During construction, changes were made to the drain, which will alter the plans submitted with my report for this drain-dated October 3, 2018. The report was approved by the Board at the hearing held November 26, 2018. (See Drainage Board Minutes Book 18, Pages 298-300)

The changes are as follows: the new 36" pipe remained at 250 feet. The drain removed with this project involved 153 feet of 30" RCP, 145 feet of 6" SSD, and 40 feet of open ditch. It should also be noted that the 6" SSD across lots 166-167 and lot 75 was never installed. This was outlined in the report to the board dated September 18, 1981. However, this was erroneously mapped and will remove an additional 225 feet of drain. The length of the drain due to the changes described above is now **250 feet**. The length of drain to be removed from the drain's overall length is 563 feet.

The ownership and maintenance for all the BMP's are the responsibility of the City of Fishers. This includes the water quality unit attached to structure 410A. Sureties were not required for this project as it was paid for by the City of Fishers. All work was completed within existing road right of way and regulated drain easement.

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

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor"

"To: Hamilton County Drainage Board

August 10, 2021

Re: Barrington Estates Drain: Sturgill Relocation

Attached are as built, and other information for the Sturgill 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 April 6, 2016. The report was approved by the Board at the hearing held May 9, 2016. (See Drainage Board Minutes Book 16, Page 550)

The changes are as follows: the 88 feet of 6" SSD was not installed. The length of the drain due to the changes described above is now **0 feet**. It should be noted that the existing 72 feet of 6" SSD was vacated.

The following sureties were guaranteed by Western Surety Company has expired.

Bond-LC No: 62747353
Amount: \$6,000
For: SSD
Issue Date: April 21, 2016

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

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor"

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

Citizens Energy Group - Service Advisory Board Minutes of July 20, 2021:

The Surveyor presented the minutes of the Service Advisory Board for July 20, 2021 to the Board for their information. He asked if there were any questions.

There were no questions.

Variance Request - White River Fill in the Floodplain (Tabled 04/26/2021):

Mr. Scott Cornelius, Ms. Carrie Doehrmann and Ms. Peggy Shepherd were present for this item.

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

Cash presented his staff report to the Board.

"April 21, 2021

To: Hamilton County Drainage Board

Re: White River, Variance for Milestone Restoration, DV-2021-00004, Parcel No. 10-10-12-00-00-010.000

Attached is a request by Milestone Contractors requesting approval of a variance from the following ordinance and standard in connection with the Milestone Restoration project:

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

Summary:

As part of a flood plain restoration project required by Indiana Department of Natural Resources, the petitioner proposes site grading and excavation which results in new fill being placed in the flood plain. The project is located along the west bank of the White River, northeast of 160th and River Road in Noblesville Township. The proposed cut/fill will restore the floodway conveyance to the 1973 pre-fill capacity. To comply with Hamilton County requirements to offset the fill, the project will excavate compensatory floodplain storage along White River, which includes excavating a new

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overflow channel. The cut/fill ratio (proposed condition vs. 2004 topography) meets the standard 3:1 ratio required for consideration of the variance with a proposed ratio of 3.6:1.

This proposal received preliminary concurrence by the Drainage Board on March 22, 2020.

The plans have been designed by Christopher B. Burke Engineering, Ltd.

Due to the proposed construction in the floodway, a permit has been obtained from the Indiana Department of Natural Resources-Division of Water. (For additional information see attached DNR Certificate of Approval FW-30591-0).

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. Easement to be in favor of the Hamilton County Drainage Board and Hamilton County Commissioners.
 - 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 Burke for compliance.
 - d. Fulfillment of developer financial responsibility for review fees incurred.
3. The following is to be recorded against the parcel: The maintenance of the floodplain 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 owner of record. The Board will retain jurisdiction to enforce the storage volume for which the floodplain compensatory area was designed will be retained, thereby, allowing no fill or easement encroachments. In the event that the 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.

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

Sincerely,

Steven T. Cash
Plan Reviewer

STC:stc"

Altman asked this is more for forgiveness than approval? It's retroactive more or less because the fill has already been placed?

Cash stated yes, this is part of an enforcement action by IDNR and the Army Corps of Engineers, but because this is Hamilton County and effects the White River it also affects us as well.

Shepherd stated basically like he was saying it's fixing past errors. Get the conveyance back to what it needs to be, get all the mitigation taken care of. With all of that and all these requirements the agencies have put on some of those for the recommendations that are in the staff report we wanted to offer up will this count for that because they've already set up so many checks and balances. We have provided that attached description of will these count for meeting the recommendations of the staff report.

Altman asked what's the net mitigation from our ordinance standpoint?

Shepherd stated 3.6 or 4.; I forget what it was.

Altman asked but it meets or exceeds our requirement?

Shepherd stated yes.

Altman asked how close is this mitigation area to the Public Safety Training Facility for Westfield? It's got to be in that area.

Cash stated the Public Safety Training Facility is just west of the area.

Howard asked and it's out of the affected area?

Cash stated yes, it is.

Altman asked this is owned by Milestone, this mitigation area? Its not an easement, it's actually dirt owned by Milestone?

Shepherd stated yes.

Altman stated if they've met our requirements, I don't know what we would have to complain against.

Heirbrandt made the motion to approve the Variance Request presented, seconded by Altman and approved unanimously.

Cash asked the Board, do you need clarification as to what parts of the staff report or the items...

Altman asked are you recommending or not recommending approval?

The Surveyor stated we're recommending approval, but they had a staff report that they wanted to have approved instead of our staff report.

Altman asked and the material difference between the two is...the material differences, that's what we need to know.

The Surveyor stated the material difference is that our staff report related to our ordinance, their staff report relates to the State's enforcement.

Howard asked who is "they"?

The Surveyor stated "they" would be Burke Engineering and Milestone Contractors.

Howard stated so Burke is here representing Milestone.

The Surveyor stated correct.

Heirbrandt asked Cash to clarify?

Cash stated our staff recommendations, typically, the Board's policy is that the area affected by the floodplain project be protected by easement. Milestone has recommended as requested that the declaration of restricted covenants for the conservation of the mitigation property they have suggested that that recorded document will also include the County Commissioners, that this suffice.

Altman stated our policy is our policy and our policy requires the dedicated easement and maintenance, correct?

Cash stated correct.

Altman stated that was my motion. What we approved was this fill with our regulations and our policies and next time clarify when it comes before us what the issue is because I had no idea what the issue was until this came up.

Howard stated last time I heard this it was substantially more complex than this and turns out it looked like it was real simple, but I'm not so sure. Are we in any way ratifying whether this complies with IDEM's or the Army Corps standards or are we just saying that it complies with our 3:1?

Cash stated both. Our standards comply with IDEM's standards.

Heirbrandt asked what is the difference between our policy and this policy? That's what I really want to understand.

Cash stated you should have received in your packet a list dated August 20th. That list was Milestone's proposal as far as alternatives to our standard policy. The first one, recommendation A, that we have a dedicated easement, they believe that the equivalent protection be afforded by the recording of the comprehensive professional declaration of restrictive covenants.

Altman asked what do those covenants say? Do they meet what our easement is? Do they flow to us versus someone else? Those are material differences.

Doehrmann, attorney with Frost, Brown, Todd representing Milestone stated we appreciate the help we've gotten from Cash and the Surveyor on this project. As Cash indicated this is a multijurisdictional long-time matter that started with a cease and desist order from the Army Corps of Engineers. Where we are right now is a fairly simple situation. We requested the variance, we've been in communication with Cash, staff prepared a report, which you have in front of you, which sets out the summary of the project and then the recommendations with respect to the additional requirements that Hamilton County intended to propose with respect to that variance. In response to that Milestone Contractors

provided the second list you have in front of you, I think you received it on the 20th of August, which was Friday.

Altman stated the Friday before a Monday meeting, which if I would have had my druthers this would not be on this agenda.

Doehrmann stated we certainly appreciate that. I understand it's hard to get a lot of information and have to synthesize all of that. The issues are fairly simple as I understand them. The first was that Hamilton County had recommended as a condition of approval that various conditions be met. There was a requirement for dedicated easement, there was a requirement for a surety and the requirement that we provide an engineer's estimate. Our response to that is what you have in front of you dated August 20th. We think that there are equivalent protections under the declaration of restrictive covenants with the Army Corps of Engineers.

Altman stated understood, so if they're identical or covered then adding our requirements on would be duplicitous, but it would not cause you concern.

Doehrmann stated right.

Altman stated so that's why my motion will always be to follow our standard procedures and our procedure is we have an overlaid easement that flows to us so if there is a problem, we can correct it. That's why we concocted such a thing at your client's cost because the mitigation has to stay at the rate that we've approved and if it doesn't then it's the owners, in title, onus, to correct it.

Doehrmann stated certainly.

Altman stated that's where I'm seeing why we have to mince words here will overlay with our standards. What is the issue of doing that?

Doehrmann stated we'd be happy to provide a copy of the draft declaration.

Altman stated we're not looking at the draft. These are our requirements. You're draft goes to whom?

Doehrmann stated the draft is with the Army Corps of Engineers.

Altman stated so if there's a problem it's Army Corps of Engineers item and us?

Doehrmann stated what we would propose is that under the declaration of restrictive covenants that Hamilton County would also have access and the ability to enforce, but you'll obviously have to look at the draft restrictive covenant in order to determine, to add your language to it.

Howard stated I think that was a motion to reconsider, was it not; on your part; to reconsider the prior approval until we see the written covenants?

Altman stated yes. We're burning your time by looking at this. We're burning staff time. I don't understand how having an overlaid easement that meets our criteria is that big of issue because you've already burdened the land. That way we're comfortable without having to go through your document and burn professional time to get this done. My question to you is, what is the issue with that from a legal perspective?

Doehrmann stated our concern was in having, making certain that we didn't have any inconsistencies between the various easements and the various documents. The Army Corps, IDEM will certainly be encompassed in the declaration of restrictive covenants. We didn't see the need necessarily for a separate easement if there was a way to incorporate Hamilton County's requirements in the in-perpetuity declaration of covenants that we're already giving to the Army Corps of Engineers. We were just trying to make it simpler for you, but if there's a separate easement we'd love to take a look at it, we'd love to see it.

Howard stated I don't have any problem taking time reading it and looking at it and comparing it to our standards, but I don't have it.

Altman made the motion to reconsider the prior approval to rescind, seconded by Heirbrandt and approved unanimously.

Altman made the motion to allow this variance, using our standard language to be recorded, seconded by Heirbrandt.

Dillinger asked do you want to do that, or do you want to table this and let him look at it?

Altman stated they pushed it on our agenda, which is rather irritating not having all the documents.

Dillinger stated that's what I'm saying. Maybe we would be better off tabling this until the next meeting.

Altman stated my antenna has gone up that tells me there's a reason why our overlay is not acceptable.

Heirbrandt stated I don't understand why our overlay is not acceptable.

Doehrmann asked by overlay do you mean the separate easement?

Altman stated correct.

Doehrmann stated I don't know that it's not acceptable, we thought this was an easier and more complete strategy to...

Altman asked then why would it come before a meeting when it's not complete? That's my question. Is it just for discussion?

Doehrmann stated yes. I don't know why; I don't know how matters get to you at the timing they do. We asked to be on the agenda, there was a staff report from Hamilton County, which we had concerns with that were coming before; I think they've already been submitted. I think this group has already given conditional approval for the project.

Heirbrandt asked the Surveyor is this typical standard? I don't remember something like this typically coming before us. Usually we always use our guidance on everything.

The Surveyor stated and that's what we're doing today.

Dillinger made the motion to table.

Altman stated I have a motion.

Dillinger stated I know you do, but I'm making a tabling motion which overrides that if I could get a second.

Howard stated what you're getting ready to table is the motion to reconsider.

Dillinger stated right.

Altman stated no, we already voted on the motion to reconsider. Right now, there is no approval. My motion was to approve the variance with our standard requirements to be recorded.

Dillinger stated and I think we should wait until the next meeting and let these people clear this up.

Heirbrandt stated yes, lets go ahead and have legal look at this, but I want our standard as part of this.

Howard asked when will we have a copy of this document?

Heirbrandt stated I don't want it to be confusing.

Altman stated that's where it's going to be when we start weaving together documents.

Dillinger stated that's the reason we can't figure that out in this meeting, and it needs to be tabled. Let them work it out and bring it back to us.

Heirbrandt stated I understand your frustration on it. I don't know how it got to this point without it being adopted.

Howard stated I was struggling going through my packet here to see if I had missed the document.

Heirbrandt stated it was emailed on Friday and then we got the paper today.

Doehrmann stated the restrictive covenants have already been provided though, hasn't it?

Cash stated in an email previously.

Doehrmann asked do you know if that's gone to the group or to your council?

Cash stated I don't know.

Howard asked when did it get sent?

Doehrmann stated I'd be happy to send it. I'll send it as soon as I get back to my office. I would like to have a better understanding of what the expectation is for us to provide before the next meeting.

Altman stated we have standard language that overlays on all mitigation. More or less an overriding easement that the landowner must maintain the condition and if they do not and we give them so much notice then we will go in and correct the situation ourselves with an assessment against the landowner. That is our absolute assurance that the condition is done and we're not flooding other people.

Doehrmann stated right.

Cash stated that's Staff Report Item No. 3 that you guys didn't want to do.

Doehrmann stated we'll provide the draft of the Army Corps document.

Altman asked how many pages is that?

Doehrmann stated I think it's nine pages. Is that more extensive than your document?

Altman stated I do this stuff for a living too and I know once you start adding pages and complexity things are missed and it's an interpretation issue. That's why I will stand by my separate easement that goes to us that's very short and sweet.

Heirbrandt seconded Dillinger's motion to table this item. I want to be very clear that I want our language in this.

Howard stated and the draft not the Friday before the meeting. We've got three weeks now.

The motion had been made and seconded to table this item and approved unanimously.

Non-enforcements:

Clark presented a non-enforcement request for the Cool Creek Drain, Oak Park Arm filed by Brent and Jordan Knutson for parcel #09-10-07-00-05-025.000 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 Little Eagle Creek Drain, West Rail at the Station Arm filed by Jeffrey Kuehling for parcel #08-09-10-00-20-011.000 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 Morrow-Follett Drain filed by Christopher and Abby Murphy for parcel #16-09-25-08-02-025.000 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 Ponds Arm filed by Michael and Victoria Mayer for parcel #17-09-23-01-07-008.000 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 Meredith and Michael Wood for parcel #08-09-10-00-19-013.000 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, Woods at Vermillion Arm filed by Randolph and Moja Harmon for parcel #13-10-08-00-23-001.000 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, Heritage at Vermillion Arm filed by Akhilesh Kalaru for parcel #13-16-08-00-18-001.000 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.

Violations:

Liston presented his report to the Board for their information.

**"NOTICE OF VIOLATION
VIO-2021-0009
7020 0090 0001 6437 4241**

August 17, 2021

Christopher Hunt
Community Management Services, Inc.
941 E. 86th Street, Suite 225
Indianapolis, IN 46240

RE: Vermillion Drain - Tree Plantings

My office has been made aware of several trees planted within the Ridge at Flat Fork and Village of Flat Fork dry detention facilities. It is not known exactly whom has planted the trees in these areas but evidence and location points to homeowners along these areas.

The planted trees are in violation of IC 36-9-27-33 and need to be removed from the dry detention facilities.

Upon receipt of this letter the Homeowners Association has Ten (10) days in which to correct the violation according to the standards set forth by this office and the Hamilton County Drainage Board.

Please contact Mr. Jerry L. Liston 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's Office

KCW/jll

CC: Republic Development"

Altman asked I know we don't like to mess around with trees in easements, but what's the harm if they would bear the cost of removal? How does it mess up our dry detention?

Liston stated as those trees mature and if we have to get into those areas then it causes restrictions.

Altman stated its kind of like a fence. I'm looking at interference.

The Surveyor stated also the debris, the limbs fall off and leaves and clog the outlet.

Surety Acceptance:

Liston stated that at this afternoon's Commissioners meeting the Board would be accepting the following surety: Performance Bond No. 0240584 in the amount of \$93,084.60 for Iron Pointe Section 1, Hawthorne Hills Storm Sewer Improvements.

Construction Updates:

Intracoastal at Geist Drain - Liston stated at the last meeting we were trying to identify the phone provider for this area. We have done that and thought it was AT&T, which they told us it wasn't. We learned that it was Century Link, but Century Link has been sold to Lumen. I had conversation with the engineer at Lumen last week and although they have facilities in this area, we can cut this line, there is no one connected to it.

Howard stated it would be nice to have that in writing.

Liston stated I do. Also, our contractor will coordinate with them and the engineer will come out and cut it for us. There were four utilities that we believe were in the way. Comcast can splice their facility to get them out of the way. CenterPoint Energy, which is gas we don't anticipate any conflicts there and we still have Duke Energy that needs to move their transformer out of our way. We need to send them something to facilitate getting that done. I'll leave that up to the Board as to how you would like us to address that. That is a scheduled outage of about 70 to 75 homes. They've told us in past conversations they couldn't do it when it was cold, and they couldn't when it was extremely hot. It's a single feed transformer, it's not looped.

Altman asked how long does this process take?

Liston stated I don't know that they've told us.

Duncan stated I can't think from the work plan if it identifies it.

Hamilton County Drainage Board
August 23, 2021

Altman stated to me that's what's material on the temperature issues.

Howard stated it sounds like this should be an October project. Have they given you any insight when would be the least bad time?

Liston stated no, they just told us they couldn't do it when it was cold and when it was extremely hot.

Howard stated why don't we ask them the magic words, "when do you plan on doing it?" and then we work around them.

Mallery Granger Drain Reconstruction - Liston stated I left a message with the contractor last week to schedule a final walk through on that project.

Canal Place Drain, Strongbow Gate Arm - Liston stated we're getting three quotes on this from our maintenance contractors. We sent out utility notifications on July 29, 2021. I've spoken with HSE, CenterPoint Energy, Citizens Water and the City of Fishers and there are no conflicts with their utilities, I have that in writing. NineStar Connect, I've met with on site. There appears to be a conflict there. That company just purchased a vacuum truck and they need training so they're going to pothole that utility for us and give us a depth. I have not heard from Comcast which we believe has a conflict. I've spoken with Verizon but have not heard back from them. The HOA had a scheduled landscaping update at this entrance in the project area and that project is on hold until our project is finished. I'm working with their HOA and their representative, which is Armour Property Management.

Ellis Barker Drain Reconstruction - Cline stated this project is still on hold waiting for Westfield to finish their East Street project. Hopefully by the middle to end of September they will be done and then we can finish Ellis Barker.

Clara Knotts Drain, Park Broadway Arm - Cline stated AT&T and CenterPoint Energy have moved their lines. The only thing we may still have a problem with is Carmel Water. They haven't moved any of their lines yet. I've contacted Carmel Water on this but haven't received a response yet.

Overman-Harvey Drain, Village Farms, Adios Pass Reconstruction (Pending Final Report) - Cline stated the final report is under review in the office and will hopefully be before the Board at their next meeting.

Drainage Board Attorney (Pending Items):

Utility/Drainage Ordinance - Howard stated Connor (Sullivan) and Gary (Duncan) have done a good job of moving forward with what can happen in easements. That is in ordinance form and would suggest you recommend it be introduced at Commissioners meeting today.

Heirbrandt made the motion to recommend the Ordinance for Utility/Drainage Easements be introduced at today's Commissioners meeting, seconded by Altman and approved unanimously.

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

Steven C. Dillinger - President

Lynette Mosbaugh
Executive Secretary