MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD
September 9, 2019

The meeting was called to order Monday September 9, 2019 at 12:02 p.m.

The members of the Board present were Ms. Christine Altman-President, Mr. Mark Heirbrandt-Vice President and Steven C. Dillinger-Member. Also present were the Hamilton County Surveyor, Kenton C. Ward and members of his staff: Mr. Steve Baitz, Mr. Sam Clark, Mr. Steven Cash, Mr. Luther Cline, Mr. Andy Conover, Mr. Reuben Arvin and Mr. Jerry Liston.

Approve Minutes of August 26, 2019:
The minutes of August 26, 2019 were presented to the Board for approval.

Heirbrandt made the motion to approve the minutes of August 26, 2019, seconded by Dillinger and approved unanimously.

Cool Creek Park Bank Stabilization – Change Order No. 1:
Cline presented Change Order No. 1 to the Board for approval.

"August 26, 2019
To: Hamilton County Drainage Board
Re: Cool Creek - Cool Creek Park Bank Stabilization Change Order #1

Change Order #1 was required due to the wet and soft ground at the construction entrance used by the trucks to haul away the spoil from the bank sloughing off and to meet the new bank slope of the plan. Additional stone thickness and Geotech #2 underlayment fabric was required to make the construction entrance serviceable.

Total cost by Morphey Construction of Change Order #1 $ 1,692.00
Engineer’s Construction Estimate ------------------------------- $225,000.00
Contract Bid ----------------------------------------------- $150,656.00
Change Order #1 Total ---------------------------------------- $ 1,692.00
Total Reconstruction Cost ------------------------------------ $152,348.00

Submitted By:

Luther Cline
Inspector"

Altman asked we’re still below engineer’s estimate, correct?
Cline stated yes.

Heirbrandt made the motion to approve Change Order No. 1 for the Cool Creek Park Bank Stabilization project, seconded by Dillinger and approved unanimously.

Non-enforcements:
Clark presented a non-enforcement request for the Williams Creek Drain, Woodside at West Clay Arm filed by Cynthia Line for parcel #17-09-21-00-23-035.000 for a fence. The Surveyor's Office recommends approval.

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

Clark presented a non-enforcement request for the Williams Creek Drain, Jackson's Grant Arm filed by Stanley Fung & Mindy Ho for parcel #17-09-34-00-09-023.000 for a fence. The Surveyor’s Office recommends approval.

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

Clark presented a non-enforcement request for the Cool Creek Drain filed by Equicor Real Estate, LLC for parcel #08-10-07-00-06-037.000 for a multi-use trail. The Surveyor’s Office recommends approval.

Heirbrandt made the motion to approve the non-enforcement request presented, seconded by Dillinger and approved unanimously.
Conover presented a non-enforcement request for the Miller- Carson & Whisler-Brenner Drain filed by Max Brissell Brulz for parcel #06-02-01-07-020.000 for a garage. The Surveyor’s Office recommends approval.

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

**Thistlewaite Drain, California Street Arm - Change Order No. 1:**
Conover presented Change Order No. 1 to the Board for approval.

“To: Hamilton County Drainage Board
August 27, 2019

Re: Thistlewaite Drain California St Arm Project
Change Order #1

Change Order #1 is to delete the 48 lineal feet of curb that was in the original bid.

**Change Order #1**

Delete 48 lineal feet of curb @ $65.00 per foot ------------------------ $ 3,120.00
Cost by Millennium Construction of Change Order # 1 ---------------- $ 3,120.00
Contractor’s Bid ----------------------------------------------------- $192,568.90
Change Order #1 Total ----------------------------------------------- $192,568.90
Millennium Construction - Total Reconstruction Cost ------------------ $189,448.90
Approved Funding -------------------------------------------------- $192,568.90
Millennium Construction - Total Reconstruction Cost ------------------ $189,448.90
Difference ----------------------------------------------------------- $ 3,120.00

Submitted By:
Andrew D. Conover
Inspector

Heirbrandt made the motion to approve Change Order No. 1 for the Thistlewaite Drain, California Street Arm, seconded by Dillinger and approved unanimously.

**Benton Hinesley Drain, Grass Waterway - Change Order No. 3:**
Conover presented Change Order No. 3 to the Board for approval.

“To: Hamilton County Drainage Board
September 4, 2019

Re: Benton Hinesley - Grass Waterway Project
Change Order #3

Change Order #3 is for additional work at the transition at the grade change needed for in field change during the construction of the grass waterway.

**Change Order #3**

7.5 hours 1.5 yd excavator @ $146.00 ---------------------------------- $ 1,095.00
7.5 hours bulldozer @ $86.00 ------------------------------------------ $ 645.00
5 hours skid steer @ $76.00 ------------------------------------------- $ 228.00
18 hours Operator @ $34.00 ------------------------------------------ $ 612.00
Labor 4 hours @ $28.00 ---------------------------------------------- $ 112.00
Cost by Van Horn Excavating of Change Order # 3----------------------- $ 2,670.00
Contractor’s Bid ---------------------------------------------------- $132,990.34
Change Order #1 Total ----------------------------------------------- $ 3,239.62
Change Order #2 Total ----------------------------------------------- $ 8,296.66
Change Order #3 Total ----------------------------------------------- $ 2,670.00
Van Horn Excavating - Total Reconstruction Cost ---------------------- $147,196.62
Engineer’s Estimate ------------------------------------------------- $165,062.95
Van Horn Excavating - Total Reconstruction Cost----------------------- $147,196.62
Difference ----------------------------------------------------------- $ 17,866.33

Submitted By:
Andrew D. Conover
Inspector

Dillinger made the motion to approve Change Order No. 3 for the Benton Hinesley Drain, Grass Waterway project, seconded by Heirbrandt and approved unanimously.
The motion had been made and seconded to approve the following sureties: Performance Bond No. SNO4003341 in the amount of $28,800.00 for Manors of Lochaven Subdivision; Emily Vestal Drain Clearing; Performance Bond No. SNO4003341 in the amount of $28,800.00 for Manors of Lochaven Subdivision, Emily Vestal Drain Clearing (Rider changing oblige name from Hamilton County Surveyor to Hamilton County Board of Commissioners); Letter of Credit No. 1328VFF3 in the amount of $46,162.74 for the Village at Flat Fork Section 3, storm sewers.

Thorpe Creek Drain, John Underwood Arm Reconstruction – Change Order No. 2:

Liston presented Change Order No. 2 to the Board for approval.

"September 4, 2019

TO: Hamilton County Drainage Board

RE: Thorpe Creek Drain, John Underwood Arm Reconstruction

Change Order # 2

The following is an addition to the Thorpe Creek Drain, John Underwood Arm Reconstruction contract being done by Morphey Construction.

1. Supp UP 18” Repair 44’----------------------------------------------- $ 3,960.00
2. Put in 1 additional 15” Drain Outlet ---------------------------------- $ 1,200.00
3. Put in additional 18’ of 24” RCP ------------------------------------ $ 2,916.00

Total Cost of Change Order # 2 ------------------------------------------ $ 8,076.00

Engineer’s Estimate ------------------------------------------ $565,909.25

Contractor’s Bid ------------------------------------------- $438,000.00

Total Cost of Change Order # 1 ---------------------------------------- $ 7,800.00

Total Cost of Change Order # 2 ---------------------------------------- $ 8,076.00

Total Reconstruction Cost ------------------------------------------ $453,876.00

The Project is being paid out of the Thorpe Creek Drain Fund.

Submitted By

Jerry L. Liston
Inspector"

Heirbrandt made the motion to approve Change Order No. 2 for the Thorpe Creek Drain, John Underwood Arm Reconstruction, seconded by Dillinger.

Altman asked is this where we’re going to continue to have blow holes or did you reconstruct the parts that are failing?

Liston stated these were the old tiles that were; we’re reconstructing the open ditch and these were the tiles that prevented us from completing the spreading of the spoil that was there. The survey was done four or five years ago and by the time we brought it to construction we had some tiles break down that prevented us from doing what we needed to complete this project.

Howard asked are these private tiles you’re talking about?

Liston stated they were tiles that used to be county regulated drain tile and when the court ordered ditch was constructed in the 1960’s is when; there should not be any more holes in the scope of this project.

The motion had been made and seconded to approve Change Order No. 2 and approved unanimously.

The Surveyor stated on a historical note when that was done in 1969 that was the first time the Drainage Code was used to force the State Highway to put the proper size pipes in. They had not used the plans that Alan Weihe had designed for that open ditch and they put four barrels in. The barrels are still there.

Altman asked so they put barrels in instead of...
The Surveyor stated one pipe. It went to court and the court told the State Highway to put the proper size pipe in, which they moved it over to put that proper pipe in.

Altman stated so we still have barrels.

They Surveyor stated yes.

**Construction Updates:**

Thorpe Creek Drain, John Underwood Arm Reconstruction - Liston stated that Duncan and I met with Morphay Construction on Friday morning to try to close out this reconstruction. We made headway. We have some issues on the lower end of the drain with the spoils that were generated, excess spoils and we’re trying to work with the property owners to get those addressed.

Thistiewaite Drain, California Street Arm Extension - Conover stated we’re trying to close this reconstruction out and do a final inspection.

William Krause Drain Reconstruction Phase 3 - Conover stated the contractor is putting the pipe in the ground and are working about ten to twelve feet deep right now so they’re using trench boxes and work is going a little slow.

Benton Hinesley Drain, Grass Waterway - Conover stated this project is moving forward.

William Krause Phase 1 (Pending Asbuilts) - Conover stated we are finished with this project and should be getting a final report on this project.

William Krause Phase 2 (Pending Asbuilts) - Conover stated we are having the contractor come back and we’re having a meeting with the landowner in the area to find out what we need to do to get this one finished up.

Thorpe Creek Drainage Area, Martha Ford Arm Relocation (Pending Asbuilts) - Liston stated I have some asbuilts from VS Engineering that we’re reviewing.

Cool Creek Streambank (Pending Final Report) - Cline stated I’m working on the final report for the Cool Creek Streambank Restoration. With the change order that should be the final item needed for the final.

**Anchorage Drain Reconstruction:**

Heirbrandt made the motion to amend the agenda to talk about the Anchorage Drain, seconded by Dillinger and approved unanimously.

Heirbrandt stated since our last meeting we’ve been trying to work with the people at the Anchorage, but specifically nine homes. The Surveyor was not here last week so I met with Howard to talk to him about how we might be able to structure something to be able to help these folks. What I would like to propose; and I did go over this with the nine people that are affected and will benefit from this. I did talk to all nine of them. They agreed to this recommendation. This recommendation would be to propose an assessment of $1,000.00 per lot, per year, which is nine lots, for four years and then the balance would be paid back out of the maintenance fund as it comes in and is available. This is contingent on the $49,500.00 we get from Fishers. The project cost with contingency is right around $120,000.00. If you take the $49,500.00 grant that would come in from Fishers and is contingent on that it would leave a balance of somewhere around $70,500.00 minus the $36,000.00 from the assessment that would be collected from each one of those lot owners it would leave a balance of around $34,500.00, the balance coming from the maintenance fund.

Altman asked are you going to increase the maintenance?

Howard stated it would be repaid from the maintenance fund with GDIF (General Drain Improvement Fund) at the rate of whatever 75% is. Evidently a couple of years before this the maintenance fund was pulled down for a downstream adjustment or improvement.

The Surveyor stated it was another area in that subdivision.

Howard stated so the question would be what would be the; is there some connection to benefit the watershed and we know the maintenance could be stressed out over the years; it’s going to take a while to recapture $34,000.00 at $3,000.00 per year, but we’re trying to find a middle ground. We talked back and forth and that was Heirbrandt’s thought and recommendation and I think we need to run it by the Board and see what their thoughts are. I don’t know if that would be within the scope of what we have advertised or not or will we have to advertise that?

Heirbrandt stated we’ve already gotten one bid for...

Howard stated the big issue is to try to keep that bid because I think that bid is extremely competitive.

Heirbrandt stated that’s what my fear was, losing that bid.

Howard stated and it would be paid from GDIF and Fishers Grant and then the reimbursement would come from the special assessment against the nine lots plus the maintenance.
Heirbrandt stated and right after we met I went to see Duncan to ask him to make sure he got ahold of the contractor to make sure the bid would be held until after this meeting.

Altman asked if the homeowners are kicking in the $36,000.00 then that would be the match for the maintenance? The balance wouldn’t be subject to 75% would it? It’s just you repay the $36,000.00 over a period of time from the maintenance.

Howard asked the $34,000.00? Whatever is going to come from the watershed. It kind of would be limited by the maintenance because essentially I think this is a reconstruction of part of the drain so you probably would have the 75% limitation.

Altman stated my point is you’ve met the 75%. You’ve met the 25% with Fishers contribution and with the $4,000.00. It’s just however long it takes if we choose to do this to repay the $34,500.00 or whatever the number is.

Howard stated you’re right, if you count the front-end cash...

Altman stated that should be the match. How long will it take to pay that back with all the other loan on here?

Howard stated 8.5 years.

Altman asked would we have to charge interest on the $1,000.00 per year?

Howard stated you could in your discretion.

Altman asked or could you waive it?

Heirbrandt stated I suggested to waive it. That’s my recommendation.

Howard stated because the net is coming out of the watershed.

Altman asked and there’s a nexus to benefit to the watershed? That’s the real question.

Howard stated to some extent and it’s not as much as we like to see because we usually look at the upstream people saying they’re not benefitted and yes you are because your water flows downstream and floods your neighbors. In this situation it’s; as I talked to Heirbrandt I said there is substantial direct benefit to these people and to charge the entire watershed I don’t think passes the straight face test. I think when you figure that approximately two-thirds of the project is being funded by outside sources; whenever you do maintenance there’s a little here and a little there and a lot of times maintenance required benefits a few lots so I think it passes the straight face test, but that’s an arbitrary line if there’s two votes to change the line I guess we got to find out what you want. When is this set? Do you remember when the Anchorage is set again?

The Surveyor stated I don’t believe we set any time.

Howard asked would we have to re-advertise to fall within this scope?

The Surveyor stated if we’re going to raise maintenance assessments, we would have to re-advertise.

Heirbrandt stated we’re not raising them.

Howard stated we’re not raising maintenance assessments; we’re just borrowing from GDIF to be reimbursed from maintenance.

The Surveyor stated I would have to look at that again.

Altman stated the only direct assessment in this proposal is against the lot owners that we already advertised at how much against them, correct?

The Surveyor stated correct.

Altman stated so we’ve met the advertising and it’s just the association of funding up to 75% out of maintenance so I don’t think you need to re-advertise.

Howard stated you don’t have to advertise that. We advertised more than $4,000.00 per acre for the nine lots.

The Surveyor stated that’s what I was trying to think of, and I don’t recall what the assessments were. I know one of them was $9,000.00.

Howard stated that may have been the not to exceed notice.

Altman stated we are going to the ninth, the outlier that got included in the project, were they actually notified of this?

Heirbrandt stated yes.

The Surveyor stated we notified them for the last meeting at a rate of $29,000.00 I think.
Heirbrandt stated they were added onto it.
Altman stated I wanted to make sure. They’re the only ones I think that may have been left out of the official notice process.
Heirbrandt stated and they responded too with the other nine lots that they would approve of this.
Altman stated I just think we may have to raise maintenance assessment depending on what else needs to be done on that drain. Eight years is a long time to suck it dry.
Altman stated I thought I just think we may have to raise maintenance assessment depending on what else needs to be done on that drain. Eight years is a long time to suck it dry.
Howard asked how old is that drain?
The Surveyor stated the drain is mid-1990’s.
Altman stated was all of it designed by Lewis or just the upper part of it.
The Surveyor stated all of it.
Heirbrandt stated it’s something we can look at later, but I’m not ready to do that right now given what our discussion was with those people.
Howard stated we’re chasing dollars and time.
Heirbrandt stated I think we have a good bid too on that and to be able to get everybody to agree to that to get it done has been a challenge in itself.
The Surveyor stated I agree with Altman at some point in time I think we’re going to be chasing our tails trying to put band aids on maintenance in the future. If I remember right the average over the last ten years was $3,000.00.
Altman stated if you carve it out “x” dollars for anticipated maintenance how long does it take to catch this up? How much are we collecting a year on this entire drainage shed?
Heirbrandt stated $4,800.00 per year or something like that.
The Surveyor stated I think that’s about right and there’s 70 lots.
Liston stated it’s currently a little over $8,000.00 in the red right now.
Dillinger stated you could always reevaluate and move to increase the maintenance at a later date if you were showing negative.
Altman stated but it goes on the entire watershed, that’s the problem.
Heirbrandt stated yes it goes on the entire watershed, but I’d be fine with doing that later on if that’s what we need to do.
Altman asked is it possible to defer an assessment and to cancel it depending on how the ditch does or the drainage system does? Defer $2,000.00 per the nine homeowners or whatever and only assess it in the event we’re unable to pay it off within a certain amount of time?
Howard asked you would be suggesting a six-year maximum assessment of $1,000.00 per year because you said $2,000.00 per lot, right?
Altman stated yes.
Howard stated you would assess that over a six-year period with the ability to waive it in the event maintenance is coming in to cover it.
Altman stated yes.
Howard stated you’re not going to know totally, but you’ve got four years to look at the model and see what your maintenance costs are.
Altman stated it’s just a unique situation where it’s solely this area, they’ve built in a bowl. We’ve not seen this. I’m just very uncomfortable charging the whole watershed over and above the regular maintenance rate.
Howard asked is there any water that comes into this bowl from outside?
The Surveyor stated very little.
Howard stated it’s just the aggregate of the nine.
The Surveyor stated I’ll be very honest. I find it hard to go this far for a gated community for an assessed valuation of houses from $500,000.00 to $650,000.00. We’re not taking food out of their mouths to do this.
Heirbrandt stated I think throwing in that it’s a gated community means absolutely nothing to me. They’re citizens regardless and they’re having problems and we’re just trying to help them. That’s how I look at it.

The Surveyor stated I look at the ability to pay. I think we have a community here that has the ability to pay.

Altman stated I’m just looking at the base Statute and it’s clear on drainage that it’s a user pay. You take care of your own drainage at your own cost and that’s the real problem with this proposal is it’s been determined that these are the only people that are contributing to the water. It’s just statutory. I can’t do anything about it. Luckily Fishers came in with a grant to alleviate.

Dillinger asked what would be your alternate proposal?

Altman stated you don’t have one. The Statute is pretty darn clear. It’s a benefit basis.

Howard stated it’s not precision dollar for dollar. There are some general benefits sometimes to take care of one problem, but not the other. I do think this is unique because a substantial part of the benefit goes to the nine. It’s kind of up to the Board. I thought this would be the least onerous to people. Obviously if we have drainage issues in that watershed and it was a brand-new system it would probably be a little easier to swallow, but it’s not a new system, it’s a 30-year-old system. I guess it’s irreconcilable and I appreciated Heirbrandt; I kind of spent some time trying to find something that would be the least onerous to the parties. If you’re talking about a six year assessment then that takes your contribution from $36,000.00 to $54,000.00 and then you’re only about $15,000.00 away from your recoupment and then you use your proposal and if it doesn’t get sucked down with maintenance you can go ahead and defer it over kind of toward repayment.

Heirbrandt stated I would rather reevaluate it.

Altman stated but I don’t think you can. Once you set the assessment you set the assessment, or can we do a special assessment at that time? I’m just concerned that we paint ourselves in a corner.

Howard stated but your assessment would be there’s not enough money coming in from maintenance to cover the preexisting obligation therefore you have to make an additional maintenance assessment, but that’s kind of a chicken and egg conundrum.

Altman asked is it against the whole watershed? Can you laser down the road to say we tried to help you, but we can’t help you so now you’re going to have to pay nine lots and you’ve got to pay now? I would just as soon handle it all up front with the contingencies because we already know what’s going to happen here. To say it’s not going to happen is sticks our head in the sand because we have how many years of rolling the dice and nobody is that lucky.

Howard stated you’re looking at eight years.

Altman stated I’d just rather be upfront with everybody and say we’ll try it, but you’ve got to be on the hook for another $2,000.00 per lot.

Howard stated rather than make the addition.

Altman asked what’s the alternative? You do nothing. Do nothing is always an alternative. We always face that.

Heirbrandt asked Howard do you think we can do this?

Howard stated legal under the watershed, I think it passes the straight face test because you’re really pledging the initial collections and the maintenance assessments for the reconstruction. Whether or not it is the most fair that’s why some of us sit at this level and you sit at that level.

Dillinger stated I agree with Heirbrandt; I don’t think that being in a gated community should make any difference on whatever decision we make. Whatever we make should be universal with everyone else that we would make that decision whether they have money or don’t have money is kind of immaterial, I think. I’m not hearing an alternative.

Howard stated the Statute does say that the benefits of the project exceed the cost and we don’t apply that on a parcel by parcel basis obviously because some people are not directly benefitted or they always believe they aren’t directly benefitted if they show up at the meeting.

Dillinger stated that happens in every drainage shed. The people uphill say I don’t have a problem why should I have to pay?

Altman stated because it’s their water, this isn’t their water. That’s the problem.
Heirbrandt stated we may never get $49,500.00 to be able to fix this problem from Fishers. We may never get $36,000.00 from each one of those people to fix this. I don’t see how we can’t not do it and get something done now to help these folks. Nobody seems to have any answers here. It’s a tough situation, but the fact is we all want to help these people and this right now looks like the best alternative that we’ve gotten and to be able to get those people to agree to it too is; to be able to get all of that done is a major accomplishment in my view.

Howard stated whatever you do you’re kicking it down the road.

Heirbrandt stated there’s a lot of “ifs” that can always happen.

Dillinger stated the alternative is if they agreed to each pay more per year, right? Isn’t that the only alternative?

Howard stated or pay the same amount for more years.

Dillinger stated even that wouldn’t solve the problem if he runs out of money and can’t do any maintenance.

Altman stated playing the devil’s advocate, we do this stuff all the time whether people agree or not. Unfortunately, it sits on our head to fix drainage and if we have the will to fix drains, we can get it done. It doesn’t take agreement from the user’s standpoint if there’s a drainage problem.

The Surveyor stated the other thing is I gave you about 30 different options at the last meeting.

Heirbrandt stated I know, and you know what? We all reviewed the options and they weren’t interested; the nine lot owners. They also sent out an email to a lot of the residents that were there, and they didn’t want to get the backlash from an assessment.

Dillinger stated you’re saying you gave 30 options, but no one has given me the options and I’ve asked twice now “what are the options” and no one is telling me what the option is.

The Surveyor stated I can go the office and have them printed and have in your hand in another five minutes.

Altman stated its money, just divvy it up different ways, pay it out in different ways, it’s all the same.

Dillinger stated from what I’m hearing the only fair and equitable solution assuming that we would need more than just the normal maintenance fund excluding what has to be paid out for this would be to charge more for homeowners, right?

Altman stated yes.

Dillinger asked is that not the only solution?

Howard asked per which homeowner? The entire watershed or the nine?

Dillinger stated the nine that we’re talking about.

Altman stated I figured if we had the back up plan with another $18,000.00 that would be the reserve to cover to make sure drainage, if we have $3,000.00 per year, we can cover the $3,000.00 per year for normal maintenance. If we don’t have to, we give the people a $2,000.00 break.

Howard stated so your proposal would be to extend the $1,000.00 per year to six years with the ability to reduce the last two years in the event there’s money in the maintenance fund.

Dillinger asked how would that work Mark?

Heirbrandt stated I’d have a hard time doing it only because I gave them a specific deal and that’s what they agreed upon.

Dillinger stated but at this point we’re not agreeing on it and it requires both of us to agree on it.

Heirbrandt stated I get it, but I just can’t make that decision when they...

Dillinger asked are they represented at all here?

Heirbrandt stated no.

Howard stated but this wasn’t scheduled on the agenda.

Dillinger stated no, but he told them he was going to bring it up today.
Howard stated under any set of circumstances whatever it is you'd have to have it on the agenda ahead of time.

Dillinger asked is there a time element or problem if we postpone this to the next meeting?

Howard stated we'd have to see how long we can hold these bids. Duncan had indicated and I think the Surveyor would agree that this bid was extremely competitive.

Liston stated I believe Duncan called the contractor on Friday.

The Surveyor asked do you know what he said?

Liston stated no, I don't.

The Surveyor asked Baitz, do you know by chance?

Baitz stated I don't know what their conversation was or if he got ahold of him at all. I could step outside and find out if you'd like.

Dillinger stated yes, that would be a good idea.

Altman asked when was the bid scheduled to expire?

The Surveyor stated I think it was the eighth, which was yesterday.

Dillinger stated it seems to me the only alternate that is anywhere close to equitable or fair either increase their annual contribution of these nine people or extend it for a couple of years or take the chance and if the fund goes down to go after a new assessment. That’s seems to me like the three alternatives that make any sense to me.

Altman stated as long as we can reserve it this time the right to go after the assessment is the nine homeowners. That’s the real question to me.

The Surveyor asked was that using 75% of the annual assessment or the total annual assessment?

Heirbrandt stated 75% is what I believe.

Baitz stated the contractor had not heard anything from Duncan, but he will hold the bid another 30 days for the Board.

Dillinger made the motion to table this item and give Heirbrandt an opportunity to reconact those people with these three alternatives just to get their input or have them be here would be even better.

Heirbrandt asked I’d like you to give me the three alternatives with one being what was originally proposed today.

Howard stated two would be Altman's proposal of a six year $1,000.00 per year assessment with the ability to reduce and/or eliminate the assessment in the last two years depending on what comes into the maintenance fund.

Dillinger stated the third option is to take our chances and make an assessment if we need to.

Howard stated the third one is to charge them the $4,000.00 and hope you didn’t have any maintenance claims against it.

Altman stated I think it’s important when you go to them that they see what the annual maintenance costs have been on this.

Heirbrandt stated they don’t care.

Dillinger stated it would really behoove them to be at the meeting.

Heirbrandt stated I’ll make sure that they’re here.

Dillinger stated not that you can’t carry it, but I don’t know that you should be burdened with that.

The Surveyor asked the Board, do you want us to send a notice to each one of the nine?

Dillinger stated yes and maybe even if you can try to explain what the three alternatives are that’s being considered.

Altman asked wasn’t the Homeowners Association supposed to weigh in on this?

Heirbrandt stated they did, and the nine homeowners said they didn’t want the fight with them.

Altman asked what did the Homeowners Association say?
Heirbrandt stated they don’t want to have an assessment, obviously.

Altman asked so the Homeowners Association, the 70 people, said don’t assess me for your problem? Is that basically what they said?

Heirbrandt stated I’d have to get clarification from them, but they didn’t want them jumping all over their back because they all got an assessment.

Altman stated well basically that’s what’s happening.

Dillinger stated if we go along with this proposal, which I would like to do, and then we have to increase the assessment and then that Homeowners Association didn’t have a say so and they have to pay it. They need to have some input.

Heirbrandt stated I’ll ask them to be here.

Heirbrandt seconded Dillinger’s motion to table and approved unanimously.

Howard asked are we going to do this four weeks from today and do we have enough; we have to give a 30 day notice don’t we?

The Surveyor stated I think we’re okay, but I’ll double check.

Howard stated but we advertised the nine homeowners to pay it all, right?

The Surveyor stated right.

Howard stated so whatever we give them is less than so our notice is good, and we can meet the contractor’s deadline four weeks from today.

Dillinger stated I’d rather do it two weeks from today.

Heirbrandt stated I would too.

Altman stated I don’t want to hold out on the contractor.

The Surveyor stated the contractor has been very good to the Board.

Altman stated unbelievably good.

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

Variance Application Forms - Howard stated I noticed the non-enforcements have the correct language and this item can come off my list.

**Little Eagle Creek Drain - West Rail at the Station Section 2 Non-enforcement:**

Mr. Josh Cowan was present for this item.

Clark stated I would like to amend the agenda to include one last non-enforcement that a fence contractor would like to speak on. This was a non-enforcement that was applied for by the developers of West Rail at the Station Section 2. No house has been built there yet, but it’s for a proposed fence in the rear yard with a swale that moves diagonally along the rear property lines so there are varying levels of easement. The office recommended that the fence be built 20 feet off the rear property lines. Josh Cowan would like to speak to the Board.

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

Cowan stated I’m going to be the homeowner, so I’ll be building the fence myself. I took their proposal and I’m asking whether or not we can move it up an additional five feet cutting that down to 15 feet and then over in the other corner cutting it down to ten feet. This will follow that line or the swale there. I’m unsure of the whole reason of the easement other than outside the swale so my thought process was just as long as we followed that line of the swale.

Heirbrandt asked what’s the recommendation of the attorney and the Surveyor?

Altman asked can we maintain it with that encroachment?

Howard stated from a legal standpoint both are within the easement which is on your plat and which you are subject to as a matter of law when you bought the house. From a standpoint of what they do with that extra footage sometimes it’s just not the ditch, it’s getting equipment in and being able to do the work. I know what happens. People go in there and they look at the lot and they think they’re going to have this nice big backyard and the realtor tells them don’t worry about anything, that’s what realtors always tell you to get you to closing, but it is of record and it is binding.

The Surveyor asked is there any landscaping back there?

Cowan stated no and directly behind the lot is acres of common area so as far as access to that backyard...
Altman asked is this a pipe or just a swale?
Clark stated it’s a swale and then underdrain.
Howard asked both?
Clark stated yes.
Altman stated the Surveyor’s Office needs to decide whether they can maintain it with the additional encroachment.
The Surveyor stated I’ll take a look at it.
Altman stated we’re not going to decide today until they’ve looked at it. Right now, you’ve got what we’ve approved before and if you want additional dispensation it will be two weeks from today.

**Budget & Permit Update:**
The Surveyor presented the budget and permit update to the Board for their information. He asked if there were any questions.
There were no questions.

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

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Christine Altman – President

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Lynette Mosbaugh
Executive Secretary