

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

September 13, 2021

The meeting was called to order Monday, September 13, 2021 at 12:02 p.m.

The members of the Board present were Mr. Steven C. Dillinger-President, Ms. Christine Altman-Vice President and Mr. Mark Heirbrandt-Member. Also present was the Hamilton County Surveyor, Kenton C. Ward and members of his staff: Mr. Andy Conover, Mr. Gary Duncan, Mr. Sam Clark, 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 23, 2021:

The minutes of August 23, 2021 were presented to the Board for approval.

Altman made the motion to approve the minutes of August 23, 2021, seconded by Heirbrandt and approved unanimously.

Open Quotes - Canal Place Drain - Strongbow Gate Arm:

Howard stated the first quote is from Agricon, Inc. with all required forms present and a quote of \$106,750.00. This appears to be all the quotes. Do any persons know of any others; none appearing I recommend the quote be referred to the Surveyor's Office for review and recommendation on September 27, 2021.

Heirbrandt made the motion to refer the quote to the Surveyor's Office for review and recommendation on September 27, 2021, seconded by Altman and approved unanimously.

Elwood Wilson Drain, Gascho-County Farm Arm - Hydraulic Study:

Mr. Brian Powers was present for this item.

Powers stated the location of this study is where S.R. 37 and S.R. 32 come together on the east side of Noblesville. The drain runs north to south crosses S.R. 32 and Cherry Street. The first issue we looked into was flood water overtopping S.R. 32 and then south of Cherry Street there are some erosion issues that we looked into. South of Cherry Street very sharp bank cutting has occurred in this location. There's a 24" storm pipe that's been exposed as the result of the erosion. The high velocity coming through here has created this issue and has the potential to continue creating erosion issues here. We're recommending for the erosion on South Cherry Street mesh filter units, which are basically large marine grade sacks full of rip rap that would be placed along the bank to stabilize it. There's about 200 feet of channel that would need to be stabilized on both sides. Our opinion of probable cost for that solution is around \$211,000.00. At S.R. 32 the issue is two small culverts that cross the road that don't have enough capacity and we recommend putting in one large single box culvert to pass the flow that would be large enough to take the Q-100. The size of that box culvert would be 20'x5' culvert box. It would be about 106 feet long. The opinion of probable cost for that structure would be about \$1,198,000.00. Since this is a State Road, we recommend incorporating that with the road widening project of S.R. 32 that's kind of in the works and get that structure replaced as a part of that project.

Altman asked does your probable cost include the eventual width of the road for S.R. 32?

Powers stated we didn't include the redoing of the road anticipating that was going to be a part of that project. Basically, just replacing the structure.

Altman stated so I presume it's going to cost more for your covering traversing more lanes.

The Surveyor stated right, that's what the 106 feet is for.

Howard stated that assumes a culvert that would be adequate to convey to be under the proposed width of the street.

Altman stated no, that's not what I'm hearing.

Powers stated I'm sorry, yes, we're anticipating the structure length to accommodate the increased lanes.

Altman stated so this number you could give to INDOT and they won't say "it's not adequate". This is adequate to do their proposed changes.

The Surveyor stated right.

Altman stated I saw your pictures of the mesh filter unit system. I'm not sure how you do that steepness with how they blob out.

Powers stated part of what would be required would be to excavate part of the slope to make it a 2:1 slope. They can be laid up to a 1:1 slope, but it would be most advised to use a 2:1 slope to place the units on.

Altman asked are we going to have complaints about how it looks? It's not terribly attractive.

Heirbrandt stated it is different.

The Surveyor stated it's a new thing that's coming onto the market and it looks interesting.

Howard stated in some of our earlier projects and I'm thinking primarily 116th Street over White River there was what was called a gabion wall. Essentially it was rip rap in baskets and basically chain-link fence holding it in place. While that is not esthetically pleasing it appears it might be better than this.

Altman stated we probably wouldn't have to do as much excavation because they're vertical. You'd almost have to backfill that I would think.

Dillinger asked what's the Surveyor think?

The Surveyor stated I believe the baskets were one of the alternatives.

Powers stated I think that might have been what we looked at for Cool Creek bank erosion. We did look at the baskets, they are more expensive, they're certainly an option, but it's probably a cost of at least 30% more.

Dillinger asked is that your recommendation?

The Surveyor stated I would go with what Brian is recommending. The other could be the baskets, we've used them quite a bit and we're familiar with them. It would be nice to test these.

Altman stated maybe in not such a visual part of town. That's my point, we're in the middle of downtown Noblesville and quite honestly it looks like a very temporary fix to me.

Heirbrandt made the motion to approve the Surveyor's recommendation.

Altman asked of the mesh filter?

The Surveyor stated one of the alternatives.

Heirbrandt stated yes, with one of the alternatives. I agree with Altman in regards of this being a visible place. I don't know that I really want to see this. I don't think it's very attractive, so I'd encourage you to lean away from that in a place where people are going to visually see it.

Dillinger asked is there a second to the motion?

Altman stated I don't know if we want to be constricted because you don't have gabion baskets in here, do you?

Powers stated not in this report. We have reinforcement mat and also concrete block mat.

Heirbrandt stated I left it to the Surveyor's recommendation.

The Surveyor stated we'll look at the gabion alternative.

Altman seconded Heirbrandt's motion to approve the Surveyor's recommendation to look into gabion baskets and approved unanimously.

Altman stated you might check with Noblesville Engineering or their planning department. I can't imagine they would think this would be okay in the middle of town.

Hearing Request:

The Surveyor asked the Board to set the Sly Run Drain, Beals and Cox Arm, East Street Extension for hearing on October 25, 2021.

Heirbrandt made the motion to set the item presented for hearing on October 25, 2021, 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 25, 2021

Re: Anna Kendall Drain, Goodrich Brothers Arm: US 31 Reconstruction

Attached are as-builts and other information for the US 31 Reconstruction of the Goodrich Brothers Drain. 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 November 9, 2015. The report was approved by the Board at the hearing held January 25, 2016. (See Drainage Board Minutes Book 16, Pages 424-426)

The changes are as follows: the existing structure 501 was replaced with a new inlet 7951. The tile was replaced between new structure 7951 and new structure 7703A. This added 72' of 12" HDPE. The proposed 1741 feet of 15" RCP was downsized to 1732 feet of 12" RCP. The length of the drain due to the changes described above is now **1,804 feet**. It should be noted that this project vacated or removed 652 feet of existing drain.

The work for this drain was done within existing drain easement or road right of way for US 31. The report mentioned above outlines the drain easement. This 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"

"To: Hamilton County Drainage Board

August 25, 2021

Re: Williams Creek: Centennial South Arm - Sommerville Rd & Ditch Rd Roundabout

Attached are as-built, certificate of completion & compliance, and other information for the Sommerville Rd & Ditch Rd Roundabout. 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 November 3, 2017. The report was approved by the Board at the hearing held January 22, 2018. (See Drainage Board Minutes Book 18, Pages 16-18)

The changes are as follows: the 12" RCP was shortened from 179 feet to 170 feet. The length of the drain due to the changes described above is now **170 feet**. The road improvements removed 132 of existing 12" RCP installed with Centennial South.

The work for this project was done within existing drainage easement and road right of way. The project was paid for by Estridge Development Management, LLC. This work was done based upon an agreement with the City of Westfield, therefore no sureties were obtained.

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.

Capital Asset Notifications:

The Surveyor presented the following Capital Asset Notifications to the Board for approval: Cool Creek Drain, Anna Kendall Arm; Cool Creek, Anna Kendall Drain, Goodrich Brothers Arm, US 31 Reconstruction; William Krause Drain; Lynnwood Hills Drain; Thorpe Creek Drain, Barrington Estates Section 1 Arm; Thorpe Creek Drain, Barrington Estates Sturgill Relocation; Williams Creek Drain, Centennial South Arm.

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

George Symonds Drain Two Stage Ditch - Set Bid Date:

The Surveyor asked the Board to set a date to receive bids on the George Symonds Drain Two Stage Ditch for September 27, 2021.

Heirbrandt made the motion to receive bids on September 27, 2021 on the George Symonds Drain Two Stage Ditch.

The Surveyor stated this is the two-stage ditch east of Sheridan. This is one of the last two portions of that overall plan for the Sheridan drainage fix.

Altman seconded the motion to receive bids on September 27, 2021 on the George Symonds Drain Two Stage Ditch and approved unanimously.

The Surveyor stated the reason I'm putting the cart before the horse is because the bids are coming in all over. The price that we have estimated I doubt if it's what we're going to get. I wanted a definite price where we can hold the price with that bid for 90 days, get it through hearing and then get the job done this winter.

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Lynnwood Hills Drain - Conner Prairie Insurance Claim:

The Surveyor stated we had a lady break her leg at a Symphony on the Prairie event. It was a hole that had developed alongside a structure and she managed to find that hole and broke her leg in it.

Altman stated it was 36 inches deep. It wasn't good.

The Surveyor stated the hole went all the way down to the joint in that tile. Steve (Baitz) got it fixed that week and it's taken care of.

Howard asked has our adjuster been notified? Where are we? I think what you're saying is she had a claim against Conner Prairie. Has she filed a claim against us?

The Surveyor stated I thought she had.

Altman stated she already has an attorney, "the claimants attorney can be reached at". It's a subrogation claim I'm sure.

Howard stated we need to let Davis, our adjuster, know about the claim.

The Surveyor stated I shotgun listed everybody I could think of that could have a fingerprint on it.

Howard asked did you send it to Kim Rauch?

The Surveyor stated I believe she gave it to me.

Howard stated I'll look at it.

Big Cicero Creek Joint Drainage Board:

The Surveyor presented the minutes of the Big Cicero Creek Joint Drainage Board for July 28, 2021 to the Board for their information. It looks like we're going to get our shelving project.

Ream Creek Drain Reconstruction, Orchard Park Arm - Award Contract:

Duncan presented his report to the Board for approval.

"September 10, 2021

Hamilton County Drainage Board

RE: Ream Creek Drain Reconstruction - Orchard Park Arm Bid Award Recommendation

Dear Board Members:

At the meeting of the Drainage Board on August 23, 2021 one bid was received for the Ream Creek Drain Reconstruction - Orchard Park Arm project.

The bid received was from Morphey Construction, Inc. in the amount of \$808,000.00. The Engineer's Estimate, including a 15% contingency, was \$886,415.40.

The Hamilton County Surveyors Office reviewed the Morphey Construction bid submittal and found it to be complete.

The Surveyor recommends that the contract be awarded to Morphey Construction, Inc. in the amount of \$808,000.00.

Sincerely,

Gary R. Duncan, Jr., PE
Staff Engineer"

Heirbrandt made the motion to approve the bid award contract in the amount of \$808,415.40 to Morphey Construction, Inc., seconded by Altman and approved unanimously.

Variance Request - Williams Creek Drain, Fill in the Floodplain:

Clark presented his report to the Board for approval.

"September 8, 2021,

TO: Hamilton County Drainage Board

RE: Williams Creek Drain, Variance for Jackson's Grant Section 8, DV-2021-00007

Attached is a request by Doug Wagner for the approval of a variance from the following ordinances and standards in connection with the Jackson's Grant Section 8 project.

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

Summary:

As part of a new development project in the City of Carmel, the petitioner proposes to regrade portions of Jackson's Grant Section 8 for the purpose of a bridge which results in new fill within the flood plain. To offset the fill, the project will excavate compensatory flood plain storage area near the Williams Creek drain. The construction will require placing 1,116 cubic yards of fill within the flood plain and removing 3,457 cubic yards from the flood plain. The cut/fill ratio meets the standard 3:1 ratio required for consideration of the variance with a proposed ratio of 3.2:1. No dirt fill nor excavation will occur within the limits of a private lot. All fill and excavation will be within a common area.

This proposal received preliminary concurrence by the Drainage Board to proceed with engineering on July 21, 2021.

The engineering review has been conducted by Christopher Burke Engineering. See attached approval letter dated August 19, 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 flood plain compensatory area with dedicated easement for areas outside of the 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 Christopher Burke Engineering, 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, 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"

Hamilton County Drainage Board
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Heirbrandt made the motion to approve the variance request presented, seconded by Altman and approved unanimously.

Overman-Harvey, Village Farms Arm, Adios Pass Reconstruction - Final Report:

Cline presented his report to the Board for approval.

"August 27, 2021

To: Hamilton County Drainage Board

Re: Overman-Harvey Arm to Cool Creek
Village Farms, Adios Pass Reconstruction
Final Inspection Report

FINAL REPORT

This is the inspector's final report on the Overman-Harvey Arm to Cool Creek Village Farms, Adios Pass Reconstruction, located in Section 14, Township 18 North, Range 3 East, in Washington Township in Hamilton County, Indiana.

The Hamilton County Drainage Board discussed flooding at the intersection of Adios Pass and Amkey Way at its November 12, 2019 meeting. The flooding was thought to be caused by changes in the water level or the overflow level of the pond along Oak Ridge Road. Having Clark Dietz to investigate the problem was discussed. (Hamilton County Board Minute Book 19, Pages 57-58)

At the March 9, 2020 meeting a Professional Service Agreement with Clark Dietz was approved in the amount of \$23,100 to study the pond, dam and overflow. (Hamilton County Drainage Board Minute Book 19, Pages 166-168)

At the August 10, 2020 meeting the Surveyor informed the Drainage Board what Clark Dietz had determined. The pond and overflow were okay. The problem was the inlets at the intersection of Amkey Way and Adios Pass were not large enough to accept the volume of water that entered the intersection. A second Professional Services Agreement for Design and Construction Services with Clark Dietz was approved in the amount not to exceed \$32,600. (Hamilton County Drainage Board Minute Book 19 Page 287.

The Surveyor's Report dated August 7, 2020 for this reconstruction was given to the Board at the August 10, 2020 meeting for setting the reconstruction hearing. The estimated reconstruction cost with contingencies was \$145,300. Which cost was to be paid through the drain's maintenance fund per IC 36-9-27-45.5 (Hamilton County Drainage Board Minute Book 19, Page 291). The hearing for this reconstruction was held on September 28, 2020 and was approved by the Board on that date (Hamilton County Drainage Board Minutes Book 19, pages 334-335).

At the October 12, 2020 meeting the Board set a bid date for the project of November 23, 2020 (Hamilton County Drainage Board Minute Book 19, Page 355).

At the November 23, 2020 meeting the only bid received was opened and referred to the Surveyors Office for review. (Hamilton County Drainage Board Minute Book 19, Pages 393-394)

At the December 14, 2020 meeting the Board approved the bid by Morphey Construction in the amount of \$158,500. (Hamilton County Drainage Board Minute Book 19, (Pages 438-439)

There was one change order issued on this project. Change Order #1 was for the building in place of 2 structures that were not able to be prefabbed, additional milling and paving and additional curbing to meet Westfield's standards. Change Order #1 in the amount of \$4,740.78 was approved at the May 24, 2021 meeting. (Hamilton County Drainage Board Minute Book 20, Pages 44-45)

Partial Pay Requests for this project submitted and paid as allowed in IC 36-9-27-81 are as follows:

Pay Request #1	Paid	3/23/21	\$ 88,740.00
Pay Request #2	Paid	6/15/21	\$ 50,014.55
Pay Request #3 Release Retainage	Paid	7/13/21	<u>\$ 24,486.12</u>
Total Construction Costs - Morphey Construction			\$163,240.67

The Final Costs for the Reconstruction are as follows:

Engineer's Construction Estimate -----	\$112,700.00
Morphey Construction Reconstruction Costs -----	<u>\$163,240.67</u>
Difference -----	\$ 50,540.67

Total Cost for the Overman Harvey Arm to Cool Creek Reconstruction Project:

Overman Harvey Review by Clark Dietz -----	\$ 23,100.00
Plans, Construction Staking and Asbuilts by Clark Dietz -----	\$ 32,600.00
Total Costs Clark Dietz -----	\$ 55,700.00

Total Costs for Engineering -----	\$ 55,700.00
Total Reconstruction Costs -----	\$163,240.67
Total Project Cost to Cool Creek Fund -----	\$218,940.67

Form E-1 stating that all expenses for labor & materials has been paid as required by IC 36-9-27-82(b) has been received.

The project involved removing and replacing existing Structures 112, 113 & 114 of the Overman - Harvey Regulated Drain at the intersection of Adios Pass & Amkey Way and Structures 108 & 109, which are located on Adios Pass approximately 250 feet south of the intersection of Adios Pass & Amkey Way. Six new structures were also added as a part of the project to improve drainage in the intersection. One new structure was added at Structures 108, 109, 112, & 114. Two new structures were added at Structure 113.

The differences between existing structure numbers, structure number assigned on the plans for this work and pipe lengths used to install those structures are as follows:

Existing Structure 108 was removed and replaced with a new structure identified as Structure 101 on the plans developed by Clark-Dietz. An additional structure, Structure 102 was added. 7 feet of 12-inch RCP was used to make the connection between the two structures.

Existing Structure 109 was removed and replaced with a new structure identified as Structure 103 on the plans developed by Clark-Dietz. An additional structure, Structure 104 was added. 6 feet of 12-inch RCP was used to make the connection between the two structures.

Existing Structure 112 was removed and replaced with a new cast in place structure identified as Structure 106 on the plans developed by Clark-Dietz. An additional structure, Structure 105 was added. 20 feet of 12-inch RCP was used to make the connection between the two structures.

Existing Structure 113 was removed and replaced with a new structure identified as Structure 110 on the plans developed by Clark-Dietz. Two additional structures, Structures 109 and 111 was added. 22 feet of 12-inch RCP was used to make the connection between Structures 109 and 110 and 14 feet of 12-inch RCP was used to make the connection between 110 and 111.

Existing Structure 114 was removed and replaced with a new cast in place structure identified as Structure 108 on the plans developed by Clark-Dietz. An additional structure, Structure 107 was added. 10 feet of 12-inch RCP was used to make the connection between the two structures.

In total five existing structures were replaced; six new structures were added and 79 feet of 12-inch RCP were added to the Overman-Harvey Regulated Drain with the Village Farms Drainage Improvements Project.

As of the date of this report, I hereby attest to and agree that the reconstruction was completed according to the specified plans. All inspections have been completed. Construction staking was performed by and asbuilts were prepared by Clark Dietz. Asbuilt plans have been submitted and approved.

All costs paid from the Cool Creek Maintenance Fund.

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

Respectfully

Luther M. Cline
 Inspector
 Hamilton County Surveyor's Office"

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

52.5 Hearing - J. W. Wagner Drain - Zigler Relocation:

There were neither landowners present nor objections on file.

Conover presented his report to the Board for approval.

"September 7, 2021

TO: Hamilton County Drainage Board

RE: 10245 Cardinal Court - J.W. Wagner Relocation

Attached is a petition filed by Kurt Zigler, 10245 Cardinal Court, Noblesville, IN 46062, along with a non-enforcement & plans for the relocation of J.W. Wagner Regulated Drain on his property located in Secluded Acres Subdivision, Parcel #10-07-17-00-03-006.000. This parcel is Lot 15 of Section 2 of the Secluded Acres Subdivision. I have reviewed the submittals and petition and have found each to be in proper form.

The relocated drain shall consist of 130 feet of 18-inch dual wall HDPE pipe as shown on the plan. The plan depicts a new structure to be located at station 38+80 of the J.W. Wagner Regulated Drain. The existing 120 feet of 15" tile will be replaced with 130 feet of 18-inch HDPE, up to a new structure which will be located at station 40+00 of the J.W. Wagner Regulated Drain.

This line will consist of the following length:

130 feet - 18" HDPE

The reconstruction will add 10 feet to the total length of the existing J.W. Wagner Drain. The drain is being replaced to the east of the existing location between Stations 38+80 and 40+00 within the existing easement.

Kurt Zigler has provided a surety in the form of a personal guarantee in the amount of \$11,914.00 which represents 120% of the engineers estimate of \$9,531.00. The acceptance of the surety in the form of a personal guarantee was approved by the Hamilton County Drainage Board on November 23, 2020 (see Hamilton County Drainage Board Minute Book 19, page 424).

The cost of the relocation is to be paid by Kurt Zigler. Because the project is to be paid by the petitioner and is within the boundaries of the petitioner's property, the project falls under the requirement as set out in IC 36-9-27-52.5. Therefore, a noticed hearing is not required for the petition.

I recommend the Board approve the proposed relocated drain as described above.

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/adc"

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

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

IN THE MATTER OF THE
RECONSTRUCTION OF THE
J. W. Wagner Drain - Zigler Relocation

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the **J. W. Wagner Drain, Zigler Relocation** came before the Hamilton County Drainage Board for hearing **on September 13, 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 **J. W. Wagner Drain, Zigler Relocation** 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 "

William Krause Drain, Town of Sheridan - Final Report:

Conover presented his final report to the Board for approval.

"August 9, 2021

TO: Hamilton County Drainage Board

RE: William Krause Drain - Town of Sheridan - Final Report

This is the inspector's final report on the William Krause Drain, Town of Sheridan Stormwater Improvements, located in Section 32 of Township 20 North Range 3 East in Adams Township, Hamilton County, Indiana.

The Surveyor's Report for the William Krause Drain, Town of Sheridan Stormwater Improvements dated May 5, 2017 was presented to the Drainage Board and approved on June 26, 2017 (Hamilton County Drainage Board Minutes Book 17, Pages 380 - 384). The reconstruction cost estimate was \$260,803.00. The construction cost of this project was paid for directly by the Town of Sheridan by a grant from the Office of Community and Rural Affairs (OCRA).

As part of this project the Drainage Board loaned the Town of Sheridan \$120,000.00 for the local match for the OCRA Grant. The funds were to be paid back over a seven (7) year period with 2% interest. The Letter of Commitment and Memorandum of Understanding was approved by the Board at the October 10, 2016 meeting (see Hamilton County Drainage Minute Book 17, pages 145 & 146). The Town of Sheridan was able to pay back the loan early. On June 6, 2018 the final payment was made which included \$3,055.70 of interest. The interest was transferred to the William Krause Drain fund on June 26, 2018.

The engineering design and plans were prepared by Banning Engineering dated April 27, 2017, Project # 11194SH. The regulated drain portion of the project is shown on page C300 of the Banning Engineering plans. The construction staking and as-built (record) drawings were prepared by Banning Engineering. The final revision of the as-built drawings were reviewed by the office on June 7, 2021 and indicated that the work was complete and acceptable. The as-built drawings are attached.

William Krause Drain, Town of Sheridan Stormwater Improvements consisted 177 feet of 42" RCP, 16 feet of 36" RCP, 30 feet of 24" RCP, 510 feet of 36" HDPE, 31feet of 24" HDPE, 18 feet of 15" HDPE, 41 feet of 12" HDPE, 9 manholes and 3 24" x 24" box inlets.

This project installed 823 feet of new pipe as part of the drain relocation and the new arm along Bailey Street.

The William Krause Drain, Town of Sheridan Stormwater Improvements relocated 163 feet of existing drain tile from Station 30+50 to Station 28+87 and 57 feet of existing 24-inch drain between Sta 24+79 to Sta 25+36. The project removed 17 feet of 24-inch

drain between the existing Str. 500 and Str. 116 (Sta 23+31 to Sta. 23+38). The project added 586 feet of new drain to the total length of the William Krause Drain.

As of August 3, 2021, I hereby attest to and agree that the reconstruction was installed according to the specified plans and change orders and have approved such work under IC 36-9-27-82(a). All inspections have been completed. Final inspection was on August 20, 2018.

I recommend the Board approve the reconstruction as complete and acceptable.

Respectfully,

Andrew Conover
Inspector"

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

Non-enforcements:

Conover presented a non-enforcement request for the Johnson & Gardner Drain filed by Brian and Rebecca Harvey for parcel #08-05-31-03-01-004.000 for a septic perimeter drain. The Surveyor's Office recommends approval.

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

Conover presented a non-enforcement request for the Stony Creek Drainage Area, Harvey Gwinn Arm filed by Duke Energy for parcel #12-08-20-00-00-008.002 for a transmission line pole. The Surveyor's Office recommends approval.

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

Conover presented a non-enforcement request for the Vermillion Drain, Enclave at Vermillion Arm filed by Brad Duffy 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 presented, seconded by Altman and approved unanimously.

Clark presented a non-enforcement request for the Cool Creek Drain, Springmill Ponds Arm filed by Jeffrey and Lisa Boyl for parcel #17-09-23-01-05-017.000 for a fence with gates. 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, Maple Village Arm filed by Mary Edgeworth for parcel #08-09-03-00-23-051.000 for a fence with gates. 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 Morrow-Follett Drain, R. J. Follett Arm filed by Jeff and Wendy Adams for parcel #16-09-25-08-02-024.000 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 Williams Creek Drain, Westmont Arm filed by Hope Christine Traill for parcel #17-09-21-00-21-009.000 for a pergola over existing patio with support system. 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 Williams Creek Drain, Windemere Arm filed by Jeffrey McDermott for parcel #17-13-09-00-09-016.000 for a swimming pool and surrounding pool deck. The Surveyor's Office recommends approval.

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

Spills:

William Krause Drain - Arvin stated this was a ten-gallon hydraulic fluid spill in the Town of Sheridan at the EMC Precision Machining Facility. The hydraulic fluid entered a Sheridan storm sewer structure. The contractor was 3PRO Environmental who vacuumed the structure and another structure downstream.

Vestal/Kirkendall Drainage Area, Fred Hines Arm - Arvin stated this was a pond treatment spill. Our office received a call from IDEM who received a call from a homeowner at 146th and Hazel Dell Road about a blue discoloration in the Fred Hines Drain. Ponds RX did some treatment in the Slater Run Subdivision at 169th Street and Hazel Dell Road. There was no fish kill and the City of Noblesville did not do a violation. Gary (Duncan) let the owner of Ponds RX know to let our office know of any treatment.

The Surveyor stated we get these calls all the time. People see the blue and call. Most treatment facilities know to call us to warn us.

Surety Release:

Cash stated that at this afternoon's Commissioners meeting the Board would be releasing the following sureties: Site Improvements Performance Bond No. 62747353 in the amount of \$6,000.00 for Thorpe Creek Drain, Barrington Estates Arm, Stergill Reconstruction; Irrevocable Letter of Credit No. 1219ENC1 in the amount of \$30,972.46 for Enclave at Vermillion Section 1, erosion control; Irrevocable Letter of Credit No. 1227WVRM2A in the amount of \$17,763.22 for Woods at Vermillion Section 2A, Erosion Control; Irrevocable Letter of Credit No. 1289ENC2 in the amount of \$36,123.48 for Enclave at Vermillion Section 2, Erosion Control; Irrevocable Letter of Credit No. 1314WVRM3 in the amount of \$40,980.48 for Woods at Vermillion Section 3, Erosion Control; Irrevocable Letter of Credit No. 1323RFF3 in the amount of \$28,303.00 for Ridge at Flat Fork Section 3, Erosion Control; Irrevocable Letter of Credit No. 1342ENC3 for Enclave at Vermillion Section 3, Erosion Control; Irrevocable Letter of Credit No. 1404ENC5 in the amount of \$179,348.40 for Enclave at Vermillion Section 5, storm sewers.

Variance Request - White River Fill in the Floodplain (Milestone):

Altman asked Cash, where are we with Milestone?

Cash stated we got them the easement document that they were looking for. I believe they forwarded the conditions and covenants. Have you had a chance to review those?

Howard stated I'm not sure we got them. We talked about it and she was going to get them to us, but I have not seen them. I'll check.

Heirbrandt stated I read that in our meeting minutes from last time and I was kind of confused that it wasn't back on our agenda for this meeting.

Cash stated we anticipated it would be, but the response hasn't been there.

Altman asked when Burke represents another entity who reviews plans for us? They're normally our reviewing entity.

The Surveyor asked this was on White River?

Howard stated yes, this was the White River thing. The attorney's initial response was we didn't have jurisdiction. I've not seen anything. I've had a red flag up for it, but I'll go check again between meetings just in case.

The Surveyor stated this is within the county, but it's not within the city. When that happens, the city bounces it to us.

Altman asked did she indicate that the Army Corps and IDEM had sole jurisdiction?

Heirbrandt stated that's what it said in the meeting minutes.

Howard stated that's what she said.

Heirbrandt stated that she had been in consultation with them.

The Surveyor stated but what we're talking about is our County Ordinance, not the Corps and IDEM. They can do what they want to do, and we'll mirror what they ask, but we also ask for some other items such as the easement and the bond.

Altman stated and the ability to go in there and correct.

The Surveyor stated correct.

Howard asked what firm was she with?

Sullivan stated Frost, Brown & Todd. I haven't seen anything come in for it either.

Heirbrandt stated you may want to red flag that.

Altman stated we may just say, what I'd prefer to do is, say do whatever you want with the Corps and then sign off on our easement and just be done with it. Otherwise, we're burning time and if they say we don't have jurisdiction they can blow us off on that and then we'll decide what we have to do.

The Surveyor stated what really raised my ire and Steve's (Cash) is that they rewrote our report for us and wanted us to present their report and my response and Steve's was no, it's our report.

Construction Updates:

Intracoastal at Geist Drain - Duncan stated this project is still on hold for utility relocations, mainly Duke. We're still waiting for them to move their transformer. I know there's some issue with them wanting us to sign a work plan. I met last week with Howard and Sullivan, we talked through that. One of the things they've always told us is that relocation needs to occur when the weather is not too hot or too cold and we're getting into that timeframe. We're still trying to get them out of the way.

Howard stated I tried to call Mark LaBarr (Duke Energy) without any luck. I left him a message, I said "we aren't going to sign an INDOT agreement. We'll give you an agreement, but we're not signing an INDOT agreement because we're not INDOT and we're not going to abide by the same things that INDOT does".

The Surveyor asked, with that said, where are we?

Howard stated he was going to get with his people.

The Surveyor stated and we're still here twiddling our thumbs. We've got a job to do.

Howard stated that's why we have this ordinance coming on board. They have 120 days, if not we go in and do it and \$2,500.00 a day fine. That's all I know to do.

The Surveyor stated yes, we're getting too many of these.

Mallery Granger Drain Reconstruction - Duncan stated Liston is trying to set a time to walk the drain with our contractor to finish with the final inspection.

Canal Place Drain, Strongbow Gate Arm - Duncan stated we just got quotes on that today, so we'll come back with a recommendation at our next meeting and we are also actively doing utility coordination for this project.

Ellis Barker Drain Reconstruction - Cline stated we received an email on the 8th from Westfield that the East Street Expansion Project will be fully opened by the 28th of this month. We contacted Morphe Construction and they're going to put up prewarning signs on the 20th to close the intersection of 196th Street and Grassy Branch Road on the 4th of October and they hope to have it done in two to three days depending on weather have requested to have it closed for five days.

Clara Knotts Drain, Park Broadway Arm - Cline stated AT&T and the gas company our out of the way. We've been told that Carmel Water has a contractor and is trying to schedule to move their lines.

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.

Drainage Board Attorney (Pending Items):

Utility/Drainage Ordinance - Howard stated at your last Commissioners meeting we introduced Ordinance No. 8-23-21B concerning the issue of utility easements and utility lines within our easements. On Friday, Sullivan sent you a revised ordinance. There were some things that could have been more clear, etc. That ordinance will be before you as amended. I want to thank Gary (Duncan), first of all clarifying our rights, clarifies what a reasonable time is for them to get their utilities out of the way, provides for fines up to \$2,500.00 per day and more importantly it puts a provision in that if we are going to be cohabiting an easement, whether they call it a drainage easement, a DUE, whatever they call it, that in the plat review process they have to identify where they're going to be and we review that to see if there's a conflict because the idea is to be proactive on this stuff and rather than getting in a fight like we got in at 191st Street is to try to proactively move forward and not have as many of these conflict problems as we have now and giving the Surveyor the right to sign off on them; if they're boring, we need elevations, we need to know where their facilities are going to be if they're cohabiting an easement with us.

Altman stated I didn't see where our fines were.

Howard stated it's because they were added this morning. There will be a per diem up to \$2,500.00 per day after the 120-day opportunity to relocate and injunctive relief.

Altman stated the more I looked at this and thought about it the question is on existing plats that already have drainage and...

Howard asked DUE's?

Altman stated yes. Do we have a valid argument that once they consented to become regulated at the time of regulation everyone else became inferior due to code?

Howard stated the definition of regulated easement or drainage easement in the Drainage Code talks about open tiles and pipes and regulated is put in the tier of definitions. It could have been written more confusing, but I'm not sure. I think we have a strong position and most of the utilities have honored at some level our position. I think one thing we may want to think about is that we have the ability to regulate and make assessments of people in the watershed. I'm not sure that necessarily means that we as opposed to a municipality and as we get more and more urbanized this is the issue, need to fight the fights within the platted easement along with the city. Do we really want to maintain those, or do we want the municipality, who is closer to the people, do we want them in those fights? I believe if we control the discharge from that subdivision, we can assess those people for the cost of the downstream, but do we want to fight the fight in the urban easements? We kind of talked about this the other day and on a go forward basis is that...

Altman stated my personal opinion is, we do the big stuff and all that platted stuff in the subdivisions we don't touch except for capacity in the ponds and retention because half the stuff we get into are the subdivisions with backyard drains; and everybody plants trees and then we have all this problem.

Howard stated and you've got fences and you've got this and that. Right now, we've undertaken all of that, but I'm not sure what we have undertaken is it a substantially bigger amount than we really need to assess those properties.

Altman stated that's something for you guys to think about.

Howard stated I think, philosophically, within a couple of years there's going to be a few people that are in this room now that aren't here anymore and maybe we want to relieve our successors of some of these issues. I think it would have to be on a go forward basis.

Altman stated there are provisions in the code where we can hand over regulation to municipalities, but I think it also goes along with their ability to assess to correct. I don't know if we can separate the two.

The Surveyor stated it also goes along with their desire to actually do the maintenance.

Altman stated at least they're calling them when the neighborhood floods.

Howard stated I don't know why we want to jump in front of that train every time it comes through town.

The Surveyor stated I've noticed that even those subdivisions where it's all theirs we get the calls because they are the ones sending them to us to maintain their system.

Howard stated this would have to be in the plats, but they approve; they're responsible for the street and the sidewalks and putting how many beautiful trees they want to put up.

Altman stated so naturally we'd get in conflict with the tree ordinances.

Howard stated there may be a time they will find the enemy and it is them, not us. It seems like we get to be the bad guy.

The Surveyor stated I think there is one jurisdiction whose Street Department has come to a realization.

Howard asked they came to the realization they don't want those street trees?

The Surveyor stated yes.

Howard stated you may want to think about it.

Altman stated to me its confusing sitting as a Board because one municipality takes over everything. Which one is it that says "we've got it all" that we just approved?

The Surveyor stated Westfield because everything built in Westfield unless it's outside of their limits is theirs.

Altman stated I'd like to be consistent through the county at some point.

Howard asked even the macro? Even though the existing...

The Surveyor stated we still take care of the regulated drain.

Howard stated the term "regulated" appears three places in the Statute and then it disappears for a few places and then it appears again. It's really poorly written.

Altman stated from a drafting standpoint, developers are starting to overlay everything as regulated.

Howard stated if that's the way it is in the plat, that's fine and then we don't have this "well are you sure you've got the authority to control this DUE?" That's the issue.

Altman stated I don't want to check every single plat, that's the problem.

Howard stated pay me now or pay me later, you can check plats a lot cheaper than you can fix problems.

Altman stated I made a couple of tweaks or comments. I didn't want to concede that issue, so I put in that they'll acknowledge.

Sullivan stated I'll look at it after this meeting.

Altman stated the other question I had on that is you have "we're going to put a lean on the utility".

Howard stated I took that out. I said nobody's going to buy that at Sheriff's Sale. I went through it a couple to three times. Good draftsmanship.

Altman asked do we want to consider putting them on notice that any permitting requested by the utility will pend until its resolved? Can we do that? The best way to get people's attention is to say I'm not going to be nice to you in the future and maybe have it as standing issue, that only utilities in good standing with the county will be able to receive permits. Once you don't pay what you're suppose to pay you fall out of good standing.

Howard stated so if you have an outstanding fine or assessment for relocation, we're not going to sign off on any of your permits.

Altman stated I'm not sure if we can do that or not, but I've seen other entities do that. They have to be in good standing for future permitting.

Sullivan stated I'll look into it.

Howard asked any other things you want us to look into before we amend the ordinance for two weeks from today?

Altman stated I caught the things that you fixed, some of them, but that did occur to me that if we can't do anything to enforce with liens or anything else we do have other powers as a governmental unit and we shouldn't have to permit people who are bad people.

Howard stated I'll put it in there. There's no Statute that says we can't.

52.5 Hearing - J. W. Wagner Drain, Zigler Relocation (Non-enforcement):

Conover presented a non-enforcement for the Zigler Relocation on the J. W. Wagner Drain for approval.

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

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

Steven C. Dillinger - President

Lynette Mosbaugh
Executive Secretary