MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD
October 14, 2019

The meeting was called to order Monday October 14, 2019 at 12:12 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 was the Hamilton County Surveyor, Kenton C. Ward and members of his staff: Mr. Steve Baitz, Mr. Sam Clark, Mr. Andy Conover, Mr. Jerry Liston, Mr. Gary Duncan.

Private Drain Reconstruction – Bonding:
Altman stated previous discussion was had concerning a request about waiving bonding on a private reconstruction, which we have determined would not be waived. However, we’re coming up with some alternates to be presented at the next meeting.

Approve Minutes of September 23, 2019:
The minutes of September 23, 2019 were presented to the Board for approval.

Dillinger made the motion to approve the minutes of September 23, 2019, seconded by Heirbrandt and approved unanimously.

William Krause Drain – Cooperative Agreement (INDOT):
The Surveyor stated Duncan brought this to my attention. Evidently this is the new agreement whenever you’re working in State Highway right of way. Duncan read it and said I needed to read it and when I read it, I said, “oh no”.

Altman stated as I read it, it looked like they wanted to give only “x” dollars, that would be it forever even on maintenance, no reconstruction ever, ever again; in a synopsis.

The Surveyor stated that’s the way I read it.

Altman stated obviously that would be contrary to Indiana Law.

Heirbrandt asked Howard did you look at it?

Howard stated I glanced through it, I did not go into the detail because I did not know exactly what those numbers meant, but if it says that they will not be liable for maintenance I think that argument is with the gang of 150 after the first of the year not with us because our statutory duties are “shall”.

Altman stated the other issue is it sounds like they’re trying to require this before we go onto their right of way. However, I think our regulated drain far preceded their right of way because it was 18 what?

Duncan stated for the William Krause I think it was the early 1900’s (1920).

Altman stated it sounds like we would have a little conflict with what that road looked like before and after. State law has been in place since the early 1900’s and 18 something for drainage law. I think we have a couple of choices we can scratch out all the stuff we don’t like and sign it and give it to them and that might be the thing to keep it going.

Heirbrandt stated I think that’s what we should do.

Dillinger stated or at least show them we’re giving an alternative.

Heirbrandt stated that we reviewed it and that we want to get it done, but this is not acceptable.

Howard stated 1.5 is the big red flag. The other sections make us liable for cost overruns, etc., but for any and all future maintenance or reconstruction of the project and the H. H. Kendall Drain. Does the Kendall cross any of their other...

The Surveyor stated I think this is a boiler plate and they didn’t proofread before sending.

Dillinger stated lets just do that. Let’s go through, mark out the stuff...

Altman asked Duncan, can you do that while we’re here?

Dillinger stated we’ll make a motion to modify it and resubmit it to them and put it back in their lap.

Altman stated we’ll accept it as modified.
Professional Services – Benton Hinesley Drain, Wetland Delineation:
The Surveyor stated we had a little issue with a possible wetland, so we’ve asked Banning to delineate that wetland.

Heirbrandt made the motion to approve the Professional Services Agreement with Banning Engineering in the amount of $1,750.00 for Wetland Delineation on the Benton Hinesley Drain, seconded by Dillinger and approved unanimously.

Crawford Property Wetland Mitigation:
The Surveyor stated this is the cost for the wetland construction and monitoring from Williams Creek for that wetland being built on the George Symonds Ditch. I have not had a chance to send out any other notices at this time.

Altman asked is this actual construction planting?
The Surveyor stated yes.

Altman asked did we contact three vendors?
The Surveyor stated not yet.

Altman stated I don’t think we can act on it until we do that process. It’s not professional services, correct?

The Surveyor stated right, but I wanted to bring this to you since I already had it so you would see what kind of money we’re talking about.

Big Cicero Creek Joint Drainage Board – Minutes of 08/28/2019:
The Surveyor presented the minutes of the Big Cicero Creek Joint Drainage Board of August 28, 2019. I have been putting them off a little bit on the clearing of the creek. They want to clear cut one side 30 feet back so that they have a year around access along the entire length of the creek. Before they do that, I want them to personally look at it because it’s totally different than a farm ditch. I want them to see that.

Altman asked wouldn’t that be quite expensive, and it would pretty well neuter one side of the creek, correct?
The Surveyor stated Heirbrandt can tell you how I’ve been dancing on this one.

RFP List – WSP USA, Inc.:
The Surveyor stated we have a request from WSP USA, Inc. to be put on the Engineering Bidders list.

Heirbrandt made the motion to accept WSP USA, Inc. to be placed on the Engineering Bidders List, seconded by Dillinger and approved unanimously.

Anchorage Drain Reconstruction – Contract:
Altman asked is this our contract?

Duncan stated yes. If the Board recalls at the last meeting the Anchorage Drain Reconstruction project was approved and the contract was awarded to Agricon. This is the contract to be signed to fully execute the project.

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

Ellis Barker Drain Reconstruction – IDEM Permit:
Duncan stated we were issued the 401 Certification, Individual Water Quality Certification from IDEM for this project. That was the last outstanding item remaining before we could sign the contract for the reconstruction of that drain. I had intended to have a contract to be signed today. However, we are still working through, not necessarily the contract, but the pending change order that will need to be executed after we sign the contract. In order to obtain the permit from the State we had to redesign portions of the project. The project was intended to be all open ditch, but there were Waters Of The U.S. and I still disagree with the classifications, however, the State deemed portions of the project that would be impacted by the open ditch to require mitigation which if it had been needed to be mitigated would have cost almost as much as the project. I think the Surveyor and I had estimated about $800,000.00 for mitigation. We redesigned the project to convert the proposed open ditch back to a larger tile. I’m still working through those things with the contractor before I can bring the contract back to the Board.

Howard asked is this the deal where we’re dealing with unwritten policies rather than rules?
The Surveyor stated non-rule policies or how do I get around the Statute?

Howard asked that’s their side of it or our side of it?
The Surveyor stated that’s my connotation of what they’re doing.
Altman asked so what do you do when they’re stonewalling you without authority? Is that a good summation of what’s happening?

The Surveyor stated I feel so.

Howard stated on a project by project basis and I think this is the one where we have two to three developers raring to go, I mean working in place and reliance you’re kind of stuck, but I think this is one I think there was talk about maybe sending a letter to the top indicating that it’s kind of hard to plan. We’re supposed to be the party of minimal regulation of non-rule policies.

The Surveyor stated none of these people have ever been out on a job site and that’s the problem.

Howard stated and the supervisors aren’t supervising.

Altman stated so at this point...

The Surveyor stated you just take it and go because we’re too far deep into this project.

Howard stated I think we have to let this project go, but I think we have to look going forward especially with the season coming that next year we need to think seriously about an administration and I think putting those terms in a letter to the Governor I think he’d be appalled.

Altman stated that’s fine, we’ll get through. I don’t know if there’s any chance to recoup extra costs or not, but we might look at that also. The appropriate is to complain before you spend it, but it’s going to cost more to do that.

The Surveyor stated it would have cost us I think over $800,000.00 to do what they wanted.

Howard asked and the whole project was how much?

Duncan stated roughly a million dollars so this would be an additional $800,000.00.

Howard stated an 80% cost increase.

Duncan stated to mitigate what they were considering an impact to waters of the U.S.

Altman asked and that didn’t change with the rulemaking change in Washington on Waters of the U.S.?

Duncan stated no.

Altman asked is there any action the Board needs to take?

Duncan stated no, my intention is to bring the contract to the Board as soon as I can.

To further complicate the project is our contract included the construction of the detention facility on the Lindley Run development project. I drove by there Saturday and the developer’s contractor is digging that pond.

The Surveyor stated they couldn’t wait anymore.

Duncan stated so that will affect the cost of that change order to our contractor as well. I’m still working through those.

Altman stated just track everything.

F. M. Musselman Drain, Burnau Arm - Landowners Meeting:
Mr. Don Goodwin and Mr. Eric Bonderman were present for this item.

Duncan stated we met with the property owners last Thursday night. I thought it was a very constructive meeting. We presented our reduced scope project to the property owners and they provided their input. We had really good discussion and they asked lots of good questions. We talked through the next steps and I expect the Board will bring this off the table and maybe reopen the hearing at the last meeting of November. In order to do that there were some questions that came out of the meeting that we wanted to present to the Board because I think it will impact your decision when the public hearing is opened up again. Because we reduced the scope of the project, so we’re not reconstructing the entire project, do we still want to assess the entire watershed or are we just going to assess the people that directly benefit from the smaller scope of the project? Also, they had asked about supplementing the cost of the project for which they are responsible and in rough numbers the project is estimated to be $350,000.00 plus or minus, $75,000.00 would come from the Highway Department and that would leave $275,000.00 to be paid by the residents through assessment. Do we want to supplement that cost with some of the maintenance funds from the shed? The balance in the shed is $413,423.15 and the drain does take in $49,316.00 each year. This is something that the Surveyor and I had talked about, there is still land acquisition costs associated with the project as well as engineering, probably about $100,000.00 in those fees and how do we want to pay for that? Do we want to include that in the assessment or pay for that in some other way?
Howard stated so right now you could still pay the land acquisition plus $275,000.00 from the existing cash, but you can only use 75% of the maintenance fund.

The Surveyor stated to throw in a couple of wrenches on that, one is that is the F.M. Musselman balance, which this is a sub-shed of. The Musselman is a pretty good-sized drainage shed. The other thing is that Duncan met with Highway last week and there’s a good possibility we may be using some of this money to do the downstream portion of a bridge reconstruction at 196th Street.

Altman asked why don’t you just put together some options for us? The other thing I’m curious about on the watershed, you have direct benefit for the houses being flooded, but do we have good enough data to determine how far out this water is coming from?

Duncan stated yes, we can do that.

Altman stated it seems like it’s their water, everybody’s water ought to be paying for the fix. If we can determine whose water it is...

Duncan stated it would be the upper part of the watershed, yes.

Goodwin stated it looks to me like the drainage field, based on everything they’re saying is the highest point of the drain and that’s the high point of what you’re trying to talk about fixing. So, this will be throwing more water our way. Does that help?

Altman stated it’s more of a calculation that the Surveyor’s Office will put together for us as to where the water is coming from that’s creating the problem for these particular houses.

Goodwin stated it looks like the majority of the acreage in that thing is downstream before the water’s coming from for the issue is what I want to point out.

Dillinger asked do you agree with that Gary?

Duncan stated the thing for us to figure out would be right off the bat what from your property does not affect any of these homes.

Goodwin stated right and water from the property north of 191st Street wouldn’t affect those, which is the majority of the drainage shed.

Duncan stated it is the majority of the drainage shed, yes.

Goodwin stated which we’re being asked to pay for the upper part of it. What was the balance of the maintenance fund?

The Surveyor stated remember that number is the entire Musselman Drainage fund.

Goodwin stated that was going to be a concern too because you have all that other; that ditch needs to be maintained and all that.

The Surveyor stated there’s another 2,000 acres to maintain.

Altman stated go through your numbers, estimate what it’s going to be where it’s equitable.

**Thorpe Creek - Barrington Estates, Lot 37:**

The Surveyor stated as you recall a few months ago Liston went by Barrington and saw one of the trees that had been planted to denote the extent of the floodplain had been removed and that there was now a foundation there. We found that when Stoepelwerth did the LOMR (Letter of Map Revision) for the developers they not only did the LOMR, but after it was approved by FEMA (Federal Emergency Management Association) they went out and pinned it at each property line and where it made a turn and then on top of that Dick Richwine and the other developers planted the trees so we could visually see that’s the line. Stoepelwerth also recorded the document from where they had pinned it. Then they also did the site plan for the new home showing the house with the pins in the middle of the house.

Heirbrandt stated it sounds like Stoepelwerth screwed up.

Howard asked Stoepelwerth was the “they” that you were talking about?

The Surveyor stated yes. Going back and forth with Dick Richwine and the other folks Dick (Richwine) had Stoepelwerth go out and do some shots. I have a feeling that you don’t let the fox back in the hen house after he already screwed up the place so Dick hired another engineer/surveyor to go out and do the shots and they found that the shots around the foundation towards Thorpe Creek are outside of the floodplain. Talking it over with Dick my recommendation is to allow this house to go on provided that they do a LOMR for this house only. Until that LOMR is approved this house has to have flood insurance and if the LOMR is not approved they will have to have flood insurance forever. That way it gets the thing moving.

Heirbrandt asked did you talk to Mr. Richwine about that recommendation too?

Hamilton County Drainage Board
October 14, 2019
The Surveyor stated I’ve talked to Dick (Richwine). He would be here today, but he’s out of town.

Altman asked is Richwine okay with that?

The Surveyor stated yes, he is.

Heirbrandt made the motion to approve the recommendation for the LOMR and flood insurance for Lot 37 of Barrington Estates, seconded by Dillinger and approved unanimously.

The Surveyor stated the revised LOMR would be for that lot only (Lot 37). This shall never happen again.

Set Bid Date – 2020 Maintenance Contracts:
Altman stated we have bid dates for the Rural, Urban maintenance for next year and Jetting, Televising and related services.

Howard asked are all these expected to be under $150,000.00?
The Surveyor stated that’s in the contract. We’ve changed the contract.

Baitz stated the work orders, correct.

Howard asked each work order or the total award?
Altman stated this is maintenance as needed.

Baitz stated the total award for the year is per work order that we cannot exceed that amount. We spend more than that annually on the aggregate of all those.

Howard stated let’s go ahead, but we need to talk.

Heirbrandt made the motion to set the bid date for the 2020 maintenance contracts for November 25, 2019, seconded by Dillinger and approved unanimously.

Variance Request – Big Cicero Creek:
Altman recused herself from this item.

Conover stated Jim Steckley got a 101-acre parcel that he’s splitting into eight separate lots. He has requested a variance on this because there’s an existing lake on the parcel. These are large lots and he’s requesting a variance from having to do detention/retention for this parcel. It’s a 7-acre lake on the parcel. He’s providing a drain for each lot and perimeter drain. The Surveyor’s Office recommends approval.

Heirbrandt asked are there any other comments?

The Surveyor stated no, this has also been approved by the Big Cicero Creek Drainage Board at their last meeting.

Dillinger asked where is this located?
The Surveyor stated it’s the old Overdorf fishing lake on 266th Street east of Arcadia.

Dillinger made the motion to approve the variance request, seconded by Heirbrandt and approved.

Mud Creek/Sand Creek Drain, Cumberland Ridge Arm Reconstruction – Final Report:
Conover presented his final report to the Board for approval.

“To: Hamilton County Drainage Board

October 10, 2019

RE: Mud Creek/Sand Creek Cumberland Ridge Arm Reconstruction – Final report

This is the inspector’s final report on the Mud Creek/Sand Creek Cumberland Ridge Arm Reconstruction.

The Surveyor’s Report for the Mud Creek/Sand Creek Cumberland Ridge Arm Reconstruction dated May 1, 2018 was presented to the Drainage Board and approved on June 25, 2018 (Hamilton County Drainage Board Minutes Book (book) 18, Pages 189-192). Three options were presented for the drain reconstruction open cut, directional boring and slip lining of the pipe. The Surveyor recommended the directional boring option. the total cost estimate for reconstructing the arm utilizing directional boring method was $35,000.00. Quotes were solicited for this project. Only one contractor, Baystar Directional Drilling, responded to the request for quotes. Their quote was only for the installation of the 12” pipe. The quote was for $25,092.00. The additional work of grading and covering the inlet of the old pipe would be done by the regulated drain maintenance contractor since the directional boring contractor was not equipped for that work.
The Mud Creek/Sand Creek Cumberland Ridge Arm Reconstruction as constructed consists of 197 feet of 12-inch DR17 pipe. The as-built plans have been completed by the Hamilton County Surveyor’s Office and are attached.

The final costs for the reconstruction are as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daystar Directional Drilling</td>
<td>$25,092.00</td>
</tr>
<tr>
<td>Elevation Excavation</td>
<td>$946.56</td>
</tr>
<tr>
<td>Reconstruction Total Cost</td>
<td>$26,038.56</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daystar Directional Drilling submitted 7-18-2019 Paid 8-27-2019</td>
<td>$26,038.56</td>
</tr>
<tr>
<td>Elevation Excavation submitted 8-16-2019 Paid 9-6-2019</td>
<td>$946.56</td>
</tr>
<tr>
<td>Reconstruction Total</td>
<td>$26,038.56</td>
</tr>
</tbody>
</table>

As-built (record) drawings were prepared by the Hamilton County Surveyor’s Office.

As of September 27, 2019, 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). The signed Expenses Paid form E-1 as required by IC 36-9-27-82(b) was received on 10-9-2019. All inspections have been completed. Final inspection for the work was on August 15, 2019.

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

Respectfully,

Andrew Conover
Inspector
Hamilton County Surveyor's Office

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

Altman stated talking about corrugated pipes, I ran into one of the major contractors that does the infusion where they build up the inside of the pipe and explained what happened to us on a couple where we couldn’t get bids. He said most of the companies don’t want to do with one offs, they would really like to see three or four and they don’t have to be within the same, like within so many miles of each other, it’s just when they mobilize they want to do quite a bit of work at once. What we might want to do is as this stuff comes up is talk to the cities and towns and check with Highway and maybe even the State to see if they have anything that needs to be lined and see if we can do a combined bid. He thought we would have a lot more luck with that. I wanted to pass that along it was kind of a weird situation, but it made sense. He said it doesn’t have to be that close together, it’s just they have to move equipment and stuff like that.

Private Drain Petition - Strater/Tienken:
Conover presented his report to the Board for their information.

To: Hamilton County Drainage Board

October 8, 2019

Subject: Strater - Obstruction of Private Drainage Petition

On September 18, 2019 Theodore & Carol Strater, 23815 Six Points Road, Sheridan, IN, filed a petition with the Hamilton County Surveyor’s Office pursuant to IC 36-9-27.4 - Removal of Obstructions in Mutual Drains and Natural Surface Watercourses. The petition was filed because of a blocked private drainage tile on the adjoining property owned by Joshua & Ashley Tienken, 23845 Six Points Road, Sheridan, IN.

On October 1, 2019 a letter from Theodore & Carol Strater, 23815 Six Points Road, Sheridan, IN was received in the Hamilton County Surveyor’s Office. This letter was requesting that the Removal of Obstructions in Mutual Drains and Natural Surface Watercourses Petition filed on September 18, 2019 be dismissed/withdrawn.

The October 1, 2019 letter stated that the Straters and the Tienkens had reached a resolution and the obstruction was repaired on September 28, 2019.

Submitted by:

Andrew D. Conover

Hamilton County Drainage Board
October 14, 2019
**Benton Hinesley Drain, Grass Waterway - Change Order No. 5:**

Conover presented Change Order No. 5 to the Board for approval.

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"To: Hamilton County Drainage Board

Re: Benton Hinesley - Grass Waterway Project

Change Order #5

Change Order #5 is for repair of holes along the existing tile. These small holes were encountered during the construction of the grass waterway. This change order also includes work done by Fluid Waste Services to remove tree roots in the existing tile. The tree roots were discovered during the construction of the grass waterway.

Change Order #5

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 hours Excavator @ $146.00</td>
<td>$1,168.00</td>
</tr>
<tr>
<td>8 hours Operator @ $34.00</td>
<td>$272.00</td>
</tr>
<tr>
<td>16 hours labor @ $28.00</td>
<td>$448.00</td>
</tr>
<tr>
<td>Cost by Van Horn Excavating of Change Order #5</td>
<td>$1,888.00</td>
</tr>
<tr>
<td>8.5 hours Jet/Vac Services @ $175.00</td>
<td>$1,487.50</td>
</tr>
<tr>
<td>18&quot; Root Cut tools/Blades $160.00</td>
<td>$160.00</td>
</tr>
<tr>
<td>Cost by Fluid Waste Services of Change Order #5</td>
<td>$1,647.50</td>
</tr>
</tbody>
</table>

Total Cost Change Order #5 ------------------------ $3,535.50

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
Change Order #4 Total ----------------------------- $2,441.70
Change Order #5 Total ----------------------------- $1,888.00

Van Horn Excavating - Total Reconstruction Cost    $151,526.32

Fluid Waste Services - Reconstruction Cost         $1,647.50

Engineer's Estimate -------------------------------- $165,062.95

Total Reconstruction Cost ------------------------- $153,173.82

Difference ---------------------------------------- $11,889.13

Submitted By:

Andrew D. Conover
Inspector"

Heirbrandt made the motion to approve Change Order No. 5 for the Benton Hinesley Drain, Grass Waterway Project, seconded by Dillinger and approved unanimously.

**William Krause Drain Reconstruction Phase 2 - Change Order No. 7:**

Conover presented Change Order No. 7 to the Board for approval.

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"To: Hamilton County Drainage Board

Re: William Krause Drain Phase II Reconstruction Project

Change Order #7

Change Order #7 is for the mowing and disking of the Fox Property by Elevation Excavation and for tile repairs and rip-rap installation done by John Ward Construction.

Change Order #7

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elevation Excavation Work Order # WO-2019-00344</td>
<td>$9,717.50</td>
</tr>
<tr>
<td>John Ward Construction Work Order # WO-2019-00345</td>
<td>$1,881.35</td>
</tr>
<tr>
<td>Cost for additional work on Fox Property - Change Order #7</td>
<td>$11,598.85</td>
</tr>
</tbody>
</table>

Contractor's Bid ---------------------------------- $659,819.20

Change Order #1 Total ----------------------------- ($17,838.88)
Change Order #2 Total ----------------------------- $725.00
Change Order #3 Total ----------------------------- $559.36
Change Order #4 Total ----------------------------- $9,516.00
Change Order #5 Total ----------------------------- ($7,166.57)
Change Order #6 Total ----------------------------- $25,075.00

Rust Construction - Total Reconstruction Cost       $670,689.11

Change Order #7 Total ----------------------------- $11,598.85

Engineer's Estimate -------------------------------- $1,011,017.60

Total Reconstruction Cost ------------------------- $682,287.96

Hamilton County Drainage Board

October 14, 2019
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Heirbr

Office recommends approval.

Brion and Jennifer Levine

Clark p

Mr. Bill Butz w

Non

Reconstruction Phase 3, seconded by Heirbrandt and approved unanimously.

Dillinger made the motion to approve Change Order No. 1 for the William Krause Drain

Inspector

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Millennium Contractors

Engineer's E

Millennium Contractors

Change Order #1 Total

Contractor's Bid

Cost by

internal couplers 8 @ $100.00 $2,000.00

4" HDPE dual wall 80 LF @ $18.00 $1,440.00

4" internal couplers 8 @ $40.00 $320.00

8" HDPE dual wall 20 LF @ $25.00 $500.00

8" internal couplers 2 @ $60.00 $120.00

4,380.00

$735,885.00

$4,380.00

$740,265.00

$865,902.00

$740,265.00

$125,637.40

Submitted By:

Andrew D. Conover

Inspector

Conover stated this puts us well above the engineer’s estimate, but also shown is a

reimbursed from INDOT on some crossings and then we have some deleted portions from other

phases of this project. This is all under the USDA Project.

Altman asked so we have funding to handle this change order?

Conover stated yes.

Heirbrandt asked you’ve reviewed this and make a recommendation for this change order?

Conover stated the office recommends approval.

Heirbrandt made the motion to approve Change Order No. 7 on the William Krause Drain

Reconstruction Phase 2, seconded by Dillinger and approved unanimously.

William Krause Drain Reconstruction Phase 3 – Change Order No. 1:

Conover presented Change Order No. 1 to the Board for approval.

"To: Hamilton County Drainage Board

Re: William Krause Phase 3

Change Order #1"

Change Order #1 is for additional 36"HDPE pipe that was required and or repairs to

existing subsurface drains encountered during construction.

Change Order #1

36" HDPE w/standard backfill 20 LF @ $100.00 $2,000.00

4" HDPE dual wall 80 LF @ $18.00 $1,440.00

4" internal couplers 8 @ $40.00 $320.00

8" HDPE dual wall 20 LF @ $25.00 $500.00

8" internal couplers 2 @ $60.00 $120.00

$735,885.00

$4,380.00

$740,265.00

$865,902.00

$740,265.00

$125,637.40

Submitted By:

Andrew D. Conover

Inspector

Dillinger made the motion to approve Change Order No. 1 for the William Krause Drain

Reconstruction Phase 3, seconded by Heirbrandt and approved unanimously.

Non-enforcements:

Mr. Bill Butz was present for this item.

Clark presented a non-enforcement request for the Albert Shaw Drain, Ashmoor Arm filed by

Brion and Jennifer Levine for parcel #17-09-30-00-09-050.000 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 Albert Shaw Drain, Ashmoor Arm filed by Bryce and Elizabeth Lynn for parcel #17-09-30-00-09-044.000 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, Centennial Arm filed by Sally Ruth Leath Revocable Trust for parcel #08-09-15-00-09-031.000 for a fence with removable gate. 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 Vestal/Kirkendall Drain filed by Daniel and Katherine Sonnenburg for parcel #08-10-08-00-10-007.000 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 Long Branch Drain, J. W. Brendel Arm filed by Eric and Kristin Stephens for parcel #17-09-32-00-05-014.000 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, Springmill Crossing Arm filed by Austin and Kimberly Hollabaugh for parcel #17-09-23-01-01-021.000 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 Village of West Clay Drain filed by James and Jennifer Warr for parcel #17-09-28-00-04-014.000 for a fence with removable panels. The Surveyor’s Office recommends approval.

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

Liston presented a non-enforcement request for the Mud Creek/Sand Creek Drain, Nancy Kimberlain Arm filed by the City of Fishers for parcel #19-11-34-00-00-013.002 for an Art Wall. The Surveyor’s Office recommends approval subject to the office receiving the IDNR Letter of Approval.

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

Liston presented a non-enforcement request for the Paulsel, Vance & Paulsel Drain, Lochaven Arm filed by Ted and Wendy Wagner for parcel #10-10-14-00-02-019.000 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.

Liston presented a non-enforcement request for the Springs of Cambridge Drain filed by David and Laura Schwartz for parcel #13-15-11-00-13-007.000 for a fence with removable panels. The Surveyor’s Office recommends approval.

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

**Masthead Drain – McPhail Encroachment (Fireplace/Chimney Flue):**

Liston presented his report to the Board.

“September 30, 2019

TO: Hamilton County Drainage Board

RE: Masthead Drain – McPhail Lot 299 (11715 Landings Drive)

In October of 2018 the Office received a Non-enforcement request through the property owner’s attorney asking to allow the existing encroachment of an existing fireplace chimney/flue on Lot 299 in Masthead Sec. 10.

I made a site visit on October 17, 2018 and the regulated drain facilities across Lot 299 in Masthead Sec. 10 were found to be altered and changed with several encroachments placed in the platted 20’ D.E on the McPhail property.
The original storm design by Cripe Engineering for the Shorewood Corporation in Sec. 10 showed storm and open drain across lots 299, 300 and 301. According to testimony of the owner of Lot 299, Mr. Doug McPhail, his builder, Gunsmith Custom Homes, extended the storm pipe and filled in the open drain between lots 299 and 301 to Geist Reservoir in 1986. The McPhail’s paid for the work.

I have searched drain files and records and found no approvals for the drainage alteration work or placement of the existing encroachments found in the easement during that site investigation. I also checked with the City of Noblesville Planning Department for any variance information since Masthead would have been under the Noblesville’s planning jurisdiction at the time the residence and work were completed 32 years ago. I was informed when Fishers annexed the Fall Creek and Masthead areas all records that Noblesville had in the annexed area were given to Fishers. I was directed towards the City of Fishers by Noblesville Planning staff and told “good luck” as those old un-scanned records are boxed and locked up in a room in Fishers and are not readily accessible. Which I found out to be true when I called Fishers.

The McPhail’s, in an effort to address the issue with the office, hired Fluid Waste Services to televise and sound the drain across the properties between Landings Drive and Geist Reservoir. When the drain was sounded the location of the drain was found to be further west on the McPhail property than previously thought from the initial investigation. The drain was found to be under the filled area and retaining wall on the McPhail property. Also hired by the McPhail’s was Wills Excavating. Wills Excavating was hired to bring any buried structures found with the televising and sounding up to grade or install new structures as needed.

The McPhail’s are wanting to downsize and have listed their property for sale. They have lost one potential buyer because of the encroachments in the easement. Existing encroachments are fireplace, pool equipment, pool deck, mature pine trees, irrigation system and according to information submitted by the McPhail’s approximately 90 triaxles loads of fill dirt.

In order to proceed with a plan to move forward the office has two questions for the Board.

1. Will the Board accept the pipe installation installed by the builder in 1986?
2. Will the Board consider a Non-Enforcement with the structures and fill within the easement?

Sincerely,

Jerry L. Liston
New Construction Inspector
Hamilton County Surveyor’s Office

Dillinger asked what happens if we say “no”?

Liston stated I don’t think he’ll sell his house, to be honest.

Heirbrandt asked Howard, what’s your recommendation?

Howard stated I’m trying to get the facts straight. You had a picture that had a wall and there were white flags.

Liston stated that was an irrigation system on the neighbor’s property that encroached into the easement also.

Howard stated the white flags are the neighbor’s encroachment.

Dillinger stated but the brick wall is where you’re talking about.

Howard asked where is this pipe that is the drain? Is it buried under that pine tree?

Liston stated its underneath that mess right there (retaining wall, fill dirt, trees).

Altman stated the pipe extension is not part or was never envisioned to be part of the regulated drain.

Liston stated it was open regulated drain before, they just did the work.

Howard asked they just hooked into the regulated drain and conveyed it down to the lake?

Dillinger stated irrespective of the rules and laws and everything, they just built it, right?

Liston stated McPhail says that he received permission. That was back when this was under Noblesville Zoning jurisdiction. I called Noblesville and asked to see some records. I was told that those records, when Fishers annexed that area, were boxed and sent to Fishers and they’re locked in a room somewhere down there and they’re inaccessible. I verified that with the City of Fishers.
Altman stated they're accessible, it would take some time.

Howard stated they're public record, they have to be accessible.

Liston stated they're locked in a room somewhere.

Altman stated they have a lot of options. We could flip that back on the homeowner to locate the approval or I think we could allow the variance with a provision that any work on that will be at the homeowners cost, kind of like we do with the variance in the floodway.

Dillinger stated and it would be at the new homeowner’s cost.

Altman stated well, whoever owns the property.

Howard asked where is the property line?

Liston stated the best we could tell it’s probably about two feet off the wall. We hoped the storm pipe was underneath that clump of grasses, but it was not. The storm pipe is underneath or behind that stone wall underneath those trees.

Altman asked where does it discharge? Where does the water come out?

Liston stated the discharge is in Geist.

Heirbrandt asked did the pipe look like it was in good shape?

Liston stated it was. We haven’t had any drainage complaints that I could find.

Howard stated I assume in that picture, the farther up you go in the picture you’re going toward the lake, right?

Liston stated yes.

Howard asked can you take that drainage pipe and put in a new pipe going right down along that wall? The thing is, they’re having trouble cleaning up the title, but if they get an inspection and the inspector says the drainage of your entire lot is buried under pine trees and six feet of wall, that’s going to make it a little difficult to sell the house too.

Altman stated it is what it is.

Howard stated it is what it is, but... Is there a drainage easement that goes on the property line to the left?

Liston stated yes. It appears to be 20 feet.

Howard asked so there’s a 20-foot easement on the neighbor’s property.

Liston stated all three homeowners there, they’re all different homeowners now, but when those were built, they were all three guilty because that used to be a little cove area and when they built on all three lots that’s when they filled it in.

Dillinger asked wouldn’t they have had to get permission from someone to do this?

Howard stated the property owner says they got permission from Noblesville.

The Surveyor stated this was the 1980’s and down in that area it was the wild west at that time.

Altman asked isn’t this Masthead?

The Surveyor stated yes.

Altman stated it should have been Shorewood. Shorewood should have been going crazy if they’re filling in a bay.

Liston stated the Surveyor and I had this discussion and their field person probably just blessed it.

Altman asked what water is coming into this pipe that goes into the lake?

Liston stated it’s basically the drainage off of the street, which is Landings Drive.

Altman stated so it’s got to maintain positive drainage, or they’ve got problems, correct?

Liston stated yes.

Altman stated I don’t think it’s the drainage shed’s responsibility to accept maintenance for what they did. That’s my biggest concern.
Listen stated the Surveyor and I had that discussion.

Heirbrandt asked the Surveyor, do you agree with that?

The Surveyor stated like Altman said, if that thing fails, because we don’t know how it was put together, we don’t know what it was bedded in, we don’t know anything about it other than its plastic and it’s clear. That’s today. What happens when it starts filling with tree roots, it’s going to be a bear to handle. If it ever collapses or if a joint ever gets out of place, how do we fix it? We’re going to take all that mess out and we’re going to go fix it. That’s going to be an expensive fix.

Dillinger stated so if we didn’t approve this his choice would be to somehow reduce the price of his house to protect the new homeowner’s potential cost if it goes bad, right?

The Surveyor stated yes.

Howard asked isn’t the logical solution to compel the property owner to reconstruct because you’ve got 20 feet of easement on the other guy’s property; reconstruct a new pipe to take the street water to the lake and if he wants to hook in his at the same time he has to do it with our approval? The only thing we’re worried about is the public water, which is the street and these guys did this to themselves, but they go ahead and put a pipe down in the grass. I think we care what it costs.

Altman stated I don’t why we do it now. Its functioning now. I think we could do the variance with approval with a condition that has to be attached to every deed of conveyance that says, “in the event of failure this is what you will do to correct it at your cost”. It’s still going to be a problem and then he can decide whether he wants to do it now to sell his property or whether he thinks he can market it because we did all this testing and it looks fine. I don’t want to cause unnecessary work, but I certainly don’t want the cost to be on the watershed.

The Surveyor stated I agree.

Howard stated we can’t totally kick it down the road. We’ve got to transfer risk at a minimum. Maybe they don’t construct it now, but the risk has to be transferred.

Altman stated the risk is on them, it’s a positive obligation that it be disclosed to every buyer, if not then whoever doesn’t do it is the one in the red.

Dillinger made the motion to approve the variance with the condition that in the event of failure the current property owner is responsible for the cost of the repair to be attached to every deed of conveyance, seconded by Heirbrandt and approved unanimously.

Howard asked we want their attorney to provide a draft and we’ll add it?

Altman stated correct. You need to show if it can be rerouted what you would like to see to get it fixed because it will be cost prohibitive, I would think to rip all that stuff up. It’s got to be an over trail kind of thing.

Howard stated he has to pay for the substitute in the event everything happens.

Dillinger stated suppose he goes to Fishers and they do dig out the permission that Noblesville gave them.

Altman stated it doesn’t matter, they never came to the Drainage Board. They went to the wrong people. That’s why, after I thought about, we could dig it up, it’s not going to do any good, it should have been us.

Howard stated the encroachment gives us the authority to compel subsequent actions.

Surety Acceptance:

Listen stated that at this afternoon’s Commissioners meeting the Board would be accepting the following surety: Site Improvement Performance Bond No. 41403303 in the amount of $92,000.00 for Campus Center, William Lehr Drain Improvements.

Construction Updates:

Anchorage Drain, Reconstruction of a Portion of Section 1 - Listen stated we have sent the property owners notices to let them know that this project would be starting October 28th or sooner.

Howard stated at least one of them is still confused about the funding of the project and they want to know what GDIF (General Drain Improvement Fund) is funding and I prepared a memo that says, “GDIF is NOT a permanent funding mechanism, it is an interim funding mechanism”. I made it about as clear as I could.
**John Ward Obituary:**
The Surveyor stated I don’t know if the Board saw this, but John Ward who was our contractor for years passed away last week. John had been the Drainage Board contractor since 1966 until he sold the business except for a couple of years in the 1980’s.

Altman stated the Hamilton County Drainage Board appreciated all the service that he provided to the residents of Hamilton County.

**FEMA Map Revision:**
The Surveyor stated as far as the FEMA Map Revision that’s going to be affective on October 18th the LOMR is not reflected in the flood maps, but they don’t reflect LOMR’s anymore in the flood maps. The flood map itself did not change since the last flood map. Val (Swift) looked at it and the blue line is the 762 elevation. It’s the LOMR for the 100-year.

Altman stated the revision we got with the courthouse addition.

Heirbrandt stated yes, but do we need to send them an email or any type of communication saying that; I thought we had to have some type of communication with them. That’s kind of how I understood it.

Altman asked can the Surveyor just send them a letter stating thank you for sending the new maps, we understand we don’t show LOMR’s, but we want you to be aware of this that we have x,y,z here.

The Surveyor stated I’ll do that.

**Budget & Permit Update:**
The Budget & Permit update was presented to the Board for their information.

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

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Christine Altman – President

Lynette Mosbaugh
Executive Secretary