The meeting was called to order Tuesday November 12, 2019 at 12:03 p.m.

The members of the Board present were Ms. Christine Altman-President, Steven C. Dillinger-Member; and Steven A. Holt-Alternate 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, Mr. Reuben Arvin and Mr. Luther Cline.

Approve Minutes of October 28, 2019:

The minutes of October 28, 2019 were presented to the Board for approval.

Holt made the motion to approve the minutes of October 28, 2019, seconded by Altman and approved. Dillinger abstained.

F. M. Musselman Drain, Burnau Arm – Latty Objection Letter:

Mr. Don Goodwin, Mr. Eric Bonderman, Mr. Mike Latty and Mr. David Martin were present for this item.

The Surveyor stated the office received a letter from Michael Latty and his wife Cynthia on the W. S. Burnau Arm of the F. M. Musselman Drain. This goes into some of the discussions we’ve had in the past regarding the possible reconstruction on this drain. With that being said, as the Board remembers at the last meeting, we opened up the bids for the proposed reduction in the project. The bid came in at $387,735.92. Adding a 15% contingency to that it would be $445,896.31 for the construction. We have easement and engineering costs of $99,130.00 for a total project cost of $545,026.31 of which the Highway Department would be paying $111,247.34 leaving an assessment to go across the drainage shed of $433,778.97.

Altman stated I believe at the last meeting we were going to look at what water actually went into that area.

The Surveyor stated and we did that. The reduced area to the south would be a total of 156.07 acres which would be 32 parcels. The original was 370.48 acres and it was 50 parcels. There’s a pretty good reduction there. If we assess the construction costs only to the area to the south that would be $2,144.23 per acre.

Altman asked those are the people that benefit, correct?

The Surveyor stated correct. That does not take into account any soft costs which would be the engineering and the easements.

Altman stated I thought that we had already pulled that in. I thought that was the 99.

The Surveyor stated that was the $99,130.00, but what I just gave is just the construction costs, $2,144.23.

Altman asked so where are we with public hearings on this?

The Surveyor stated the public hearing has been held, but it was tabled. At this point in time we could have another hearing. What I would suggest is sending out letters to those people telling them what the cost would be and then having another hearing or another meeting on that hearing for perhaps the next meeting.

Altman stated I think with all the changes in the plan I really think we ought to re-notice it.

Dillinger stated we probably should.

Dillinger made the motion to re-notice a hearing for the F. M. Musselman Drain, Burnau Arm, seconded by Holt and approved unanimously.

Altman stated let’s just treat it with a full notice we would give on a regular hearing even though it’s a continuance.

The Surveyor asked a 30-day notice?

Altman stated yes. We’ll re-notice this item for the continuation of the meeting. Do you want to include the entire watershed or just those benefitted? I don’t think we are able, statutorily, to assess if they’re not benefitted.

The Surveyor stated I would go ahead and include them showing them 0 cost.

Altman stated with an explanation in the notice that they’re not being assessed.

The Surveyor asked on the soft costs, do you want the soft costs to go just to those to the south or for everyone in the shed? If you assess it throughout the shed that would be $267.58 additional per acre.
Altman asked what’s the distinction between construction and soft costs as to the entire watershed if there’s no benefit other than we gave them a benefit because they’re not getting a construction assessment?

The Surveyor stated there’s still the benefit of having the plans whenever somebody comes in, a developer, and them building it, unless you want to push that cost off to that future developer.

Altman asked can we fund it that way?

Holt stated it looks like you’re going to use some maintenance dollars and those would be everybody’s maintenance dollars so that’s another reason to notice them.

Altman asked did your numbers indicate use of maintenance?

The Surveyor stated no, those don’t include use of maintenance.

Holt asked but you would, wouldn’t you?

The Surveyor stated was my next question to the Board. At one time we talked about using $100,000.00 of maintenance funds towards that project. Do you still want to do that?

Altman stated if we notice everyone, we could consider that at the next meeting.

Dillinger stated that could be an option.

Altman stated I don’t know if we show 0 cost because in effect it has to be disclosed somehow how that would be allocated.

Holt stated we did it that way in Tipton, but we’re at the Court of Appeals.

Altman stated I just think we send out notice that outlines what the costs are, the hard costs, the soft costs, what the shed is, the waters that go in it and just explain it so then we’re not at the Court of Appeals.

Holt stated right, it wouldn’t be right to put the 0 in, what we now know it would be easier to treat everybody the same and then announce to them when they get here that you’re thinking of excluding them other than the soft costs and you’ll be a hero.

The Surveyor asked is that the amended motion?

Altman stated yes.

Dillinger seconded Altman’s motion to send out notice that outlines what the costs are, the hard costs, the soft costs, what the shed is and the waters that go in it and approved unanimously.

The Surveyor stated that will be a January meeting now.

Goodwin asked would the Board have time for a question?

Altman stated we’re going to have the hearing in January.

Goodwin stated I just wanted clarification on what the Surveyor said if I can and that is you’re looking at assessing the properties north of 191st because that’s where the beneficial ones and not; I’m sorry, the properties south of 191st Street not the properties north. Is that my correct understanding?

Altman stated that’s what we’re considering at the next public hearing or the continuation of the public hearing.

**Storm Water Management Task Force:**

The Surveyor stated this is the Storm Water Management Task Force from the legislative services agency. This is a combination of accumulation of the Task Force recommendation and also the minutes from those meetings that the Task Force has.

Altman asked did you talk to anyone who sat through these? Did you sit through them?

The Surveyor stated yes, they said it was very painful.

Altman stated I’m just curious as to what cities and towns think they’re entitled to under the Drainage Code in terms of assessment and constructing things, etc.

The Surveyor stated they have no clue what they’re talking about.

Altman stated I looked at this and there are mayors in here talking about the Drainage Code that’s exclusive to the County unless we hand over jurisdiction.
The Surveyor stated yes. This is going to be interesting because this is so wide brushed on the strokes that it’s hard to say what their definitive details are going to be. It’s going to merit continual watching through the legislative process as to where they’re going to go with this.

Altman asked do we have a lobbyist? Does your organization have a lobbyist that watches all this and reports back?

The Surveyor stated we have a group that does that.

**E. E. Bennett Drain – Deer Creek Point Investments Deferred Assessment:**

Altman stated it looks like we were successful.

The Surveyor stated yes, we didn’t even have a chance to send a letter. Everything worked out.

**Village Farms Upper Dam:**

Altman asked do we have a lobbyist? Does your organization have a lobbyist that watches all this and reports back?

The Surveyor stated we have a group that does that.

Altman asked to the dam or to the study?

The Surveyor stated to the dam.

Altman stated okay, so the physical structure itself.

The Surveyor stated it looks like they may have raised the level of the water, the normal pool, and may have filled in the emergency overflow, which is causing flooding on Adios Pass now. I’d like to have Clark Dietz do a study of that problem.

Altman asked refresh our recollection. Was this regulated or not regulated?

The Surveyor stated it is not regulated, but if we want to do anything, we need to find out what the HOA has done or may not have done.

Altman stated my point is what jurisdiction do we really have if it’s not regulated.

The Surveyor stated if we want to find out what the problems are on Adios Pass and the surcharging of the storm system, we have to know what the problem stems from.

Altman stated I understand the concept, I’m talking jurisdiction. We find out so what do we do? Is it an obstruction of a watercourse?

The Surveyor stated that would maybe be a possibility. I think we would have to tell them what our findings are and ask them to correct it, but we really don’t have any jurisdiction.

Altman stated I know you’re trying to solve a problem, but I don’t want to have Dietz getting thrown off as trespassers because technically they’re trespassing if we don’t have any jurisdiction to go look.

The Surveyor stated but it is within a drainage easement.

Altman asked so we still have jurisdiction even if it’s not regulated?

The Surveyor stated it’s a drainage easement given to the public and to the government agencies.

Altman asked do those covenants clearly say that?

The Surveyor stated I will bring you the covenants next time.

Altman stated just make sure before we set people off there that we don’t get sideways. We can always get permission from the HOA if they control those if it’s not in there.

Holt asked is the government agency drainage or Westfield?

The Surveyor stated at that time it was the county.

Holt stated I know, but now.

The Surveyor stated Westfield would be the annexation authority.

Holt stated so the street drains are Westfield street drains?

The Surveyor stated yes.

Holt stated so again to Altman’s question, what’s our dog in the hunt?

The Surveyor stated we have the storm sewer facilities within that subdivision.
Holt asked the Drainage Board does?
The Surveyor stated yes.

Altman asked and that didn’t change with annexation?
The Surveyor stated no.

Altman stated okay, I’m being careful here because no good deed goes unpunished and I don’t want to be on the wrong end of that. You’re going to check the covenants?
The Surveyor stated yes.

Altman stated we’ll decide when you check those.

**Lake Stonebridge Dam Update:**
Baitz stated the Surveyor has asked me to give a brief update on the Lake Stonebridge Dam repairs. This dates back to January of 2006. There were places in the dam where water was coming through and that’s why we were asked to look at it. We had Lake Master come in and drive sheet pilings down to cut off that water. The lake is part of an old gravel pit and there is sand and gravel underlay. The pilings were driven down 15 to 16 feet into the ground. In November of 2012 the other portions of the concrete started failing. We have recently gone down and knocked out some of the concrete and redid that. The water running under the concrete washed the pea gravel out and created huge voids underneath the concrete. We busted all the concrete out and compacted fill and put sealer around and redid the cap. Also, the wall was extended up into the bank farther and along the boat ramp farther. We have also installed a tile along the area to come around and outlet into the pipes. There is still some clean up work to do along the sidewalk area and reseeding.

**Hearing Requests:**
The Surveyor asked the Board to set a hearing for the William Lehr Drain, Joseph & Brooks Arm, Campus Center Relocation for December 19, 2019.

Dillinger made the motion to approve the request for hearing presented, seconded by Holt and approved unanimously.

**Final Reports:**
The Surveyor presented the following final report to the Board for approval.

"To: Hamilton County Drainage Board

Re: Sly Run Drain: Mill Grove Sec. 1 Offsite Arm – Retreat at Mill Grove Sec. 2 Reconstruction

Attached are as-built, certificate of completion & compliance, and other information for Retreat at Mill Grove Section 2 Reconstruction. An inspection of the drainage facilities for this section has been made and the facilities were found to be complete and acceptable.

During construction, changes were made to the drain, which will alter the plans submitted with my report for this drain-dated July 31, 2019. The report was approved by the Board at the hearing held September 23, 2019. (See Drainage Board Minutes Book 19, Pages 3-4)

The changes are as follows: The 21” RCP was shortened from 70 feet to 57 feet. The length of the drain due to the changes described above is now 57 feet.

The work was done within existing drainage easements. The following sureties were guaranteed by Great American Insurance Co. and released by the Board on its October 28, 2019 meeting.

Bond-LC No: PB11328100044
Amount: $215,120.04
For: Storm Sewers & SSD
Issue Date: June 24, 2014

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

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor"

Dillinger made the motion to approve the final report presented, seconded by Holt and approved unanimously.
Capital Asset Notifications:
The Surveyor presented a capital asset notification to the Board for the Sly Run Drain, Mill Grove Section 1 Offsite Arm for approval.

Dillinger made the motion to approve the capital asset notification presented, seconded by Holt and approved unanimously.

Washington Township Drain – Drainage Easement:
The Surveyor presented a drainage easement to the Board on the Washington Township Drain. This is an easement on an offsite property that will be developed in the future south of a new drainage facility that’s being installed. The easement is part of the PUD (Planned Unit Development) for 1.353 acres in size. This would be for the Board’s approval at today’s meeting and also for the Commissioners meeting later.

Dillinger made the motion to accept the drainage easement on the Washington Township Drain, seconded by Holt and approved unanimously.

Altman stated these are some small lots. Where’s it located?

The Surveyor stated this is in Westfield north of S.R. 32 and west of Casey Road.

Bellewood Drain, Glen Oaks Arm – Know Petition:
The Surveyor stated we have received a petition back on the Bellewood Drain Reconstruction. This would be part of the Glen Oaks Subdivision by Mr. Know and his neighbors. This does meet the criteria. I’m asking for the Board’s acceptance of the petition and forwarding it to the office for design.

Dillinger made the motion to accept the petition on the Bellewood Drain, Glen Oaks Arm, seconded by Holt and approved unanimously.

Variance Request - Gristmill Crossing Section 1 (Fill in the Floodplain):
Mr. Jesse Pohlman and Mr. Travis Gither were present for this item.

Clark stated as part of the aforementioned planned unit development which includes residential and commercial development projects in the City of Westfield, William Trace Property Development is proposing to regrade portions of the Washington Township Drain within the Crossing at Gristmill Section 1 which would result in new fill within the floodplain. To offset the fill the project will excavate compensatory floodplain storage area near the drain. The construction will require placing 15,344 cubic yards of fill within the floodplain and removing 46,154 cubic yards. The cut/fill ratio meets the standard 3:1 ratio required for consideration adding up to approximately 3.1:1.

Altman asked do we have any depiction of this area?

Clark stated yes.

Altman asked this is the easement granted area?

Clark stated yes. This is a portion of the property to the south right above the proposed detention pond. In addition to that the office recommends approval of the non-enforcement to organize the easements to the north that are oriented as a common area.

Altman stated the non-enforcement will come with the variance wouldn’t it?

Clark stated yes.

Altman asked where’s the fill going in?

Clark stated the fill is primarily occurring to the north.

Altman asked those are lots they’re going to fill in? Does anyone have concern about fill on a pad?

The Surveyor stated as long as the fill is done correctly it should be fine.

Altman stated I don’t want this Board to be in the middle of a problem if they haven’t put the fill in correctly. I’m wondering whether we should require disclosures with the sale of lots in there.

The Surveyor stated that may be a good idea.

Altman stated you’re right, if it’s done correctly it shouldn’t be an issue, but we’re not going to control the type of fill material, the compaction or anything else.

Holt asked do we have inspection responsibilities?

The Surveyor stated we would be inspecting the mitigation area and also the ditch itself to make sure that it remains flowing.

Altman asked so we’re just looking at the mitigation?

Hamilton County Drainage Board
November 12, 2013
The Surveyor stated yes. The drainage facilities are Westfield’s drainage facilities. The Washington Township Drain already goes through that area and that’s how we got involved.

Holt asked should there also be a hold harmless?

Altman stated yes. I’m just wondering if we’re not going to inspect it, we should require them to have positive inspection from people at Westfield and have disclosure. I’d hate to have people buying Lot 174 and 175 build a multi hundred-thousand-dollar house and have it start shifting on them and then come back and say, “why didn’t you take care of us?”. You might want to pass that along; should we have the minutes reflect that we’ll consider it provided that since there are building plans there will be full disclosure to each buyer and that they are required to have positive inspections from the City of Westfield in that process.

The Surveyor asked would you like to table this item and let us get the proper paperwork for the next meeting?

Altman stated they’re going to have to do a variance request. This is a preliminary isn’t it? They haven’t come in for permission before have they?

Clark stated they were granted preliminary approval.

The Surveyor stated this is your last bite of the apple.

Altman stated I’m uncomfortable with this.

Dillinger stated let him come back with it rewritten. If we’re going to do it, we might as well do it right.

Altman asked why don’t you suggest that to the developer and make sure they get it to you? It’s their responsibility to that and have it reviewed by the County Attorney.

Pohlman stated I wanted to make sure I’m clear because part of what we’re working through is we’ve had some logistical delays going through the process and we’re eager to get moving on this section specifically to start the construction of that entrance off of Ditch Road. We do have the bond in place for the Surveyor’s Office for doing that work and it relates to the performance of it. I want to make sure I’m clear what the concern is for the back side that goes through, obviously we’ll be doing mass grading with the city, we’ll be doing LOMR at the State level. What specifically does the Board want so we can address practically so that’s not a concern?

Altman stated so you’re going to have a performance bond.

Pohlman stated we do have that in place already.

Altman asked when did you plan to release your performance bond?

Pohlman stated presumably after the work is completed to the County’s satisfaction and its inspected.

Altman stated the problem is you probably won’t have those lots sold and developed. We could try to do the performance bond where it makes sure it vests to the benefit of the buyers of the lots because they’re the people that will come back and try to claim that we’ve approved all of this. We’re not looking at what you do on your lots, that’s the problem. Your fill is not our business. Our business is your mitigation area and by allowing this knowing fill is going on there I’m sure if a buyer buys one of those lots and the fill isn’t the right composition or isn’t compacted properly they’ll be coming back to whoever they can for compensation and I do not want it to be this Board. None of us want’s it to be this Board.

Pohlman stated so that falls under the City’s side because that fill is having that filled to their satisfaction before the performance bond is released.

Altman asked I don’t know who’s doing a performance bond to make sure that your pads are constructed appropriately.

Gaither asked would it be satisfactory if we had a Geotech Bore bored to show that the fill was placed properly?

Altman stated my point is that it doesn’t come back to us, but we want to make sure that is. We don’t have jurisdiction where you put the dirt or what kind of dirt it is, but when we see problems or potential problems, we will do what we can to make sure that doesn’t happen. By granting you this ability to fill indirectly it comes back on us. I don’t know whether the Geotech report, that’s an engineering answer and I don’t have the answer to that.

The Surveyor stated that would help. I do like the idea of having it on the record or the title at some point in time.

Altman asked the disclosure?
The Surveyor stated yes.

Dillinger asked do you all have a problem with what my motion was to have him go back and delay this to the next meeting and revamp it and you can meet with the Surveyor and talk about your concerns?

Pohlman stated giving the date we’re sensitive to that. I want to make sure; if we can address it now that would be great so we can move forward particularly the entrance side of this to start that construction of the entrance and technically part of that legal drain work. We’re on hold until the Board’s approval. Also, subsequently what does the t’s and i’s so to speak look like to address your concerns specifically because I’m not entirely clear.

Altman stated the concerns are anybody that buys one of the lots with fill is warned about that upfront or disclosed and that someone inspects the process and assures the entity with jurisdiction that it has been done correctly as to what you put in there and whatever you’ve compacted so they’re happy with the results. So maybe the disclosure on the deed would do it or before you get to the deed because we all know; are you going to be selling these lots yourselves?

Pohlman stated we’ll be developing the lots and selling them to the builder. The builder would then sell them to the homeowner. Have you had a similar disclosure for another project in the past of this scenario? Is there a form that the County issues?

Altman stated no, because it’s really not what we do other than to point out I don’t want someone to be unhappy having spent hundreds of thousands of dollars.

The Surveyor asked what about after the secondary plat is recorded a follow up document specifying the fact that there’s fill on these specific lots and refer that back to the plat that way it would be picked up by the title people.

Altman stated right, I’m just looking at it practically what’s going on.

Holt stated I think that would be a good thing to do. What you’re suggesting certainly makes sense.

Altman stated I would like a positive commitment also from the developer that they will require any buyer of this lot to give that information to the final purchaser of the lot prior to construction.

Holt stated then you have the second homeowner.

Altman stated but then it’s in the plat. You can’t follow it any further than that I don’t think.

The Surveyor stated put it on the face of the plat.

Altman stated yes.

Pohlman stated we could probably come up with a document that is a disclosure that at one point gets recorded and will show up in all future acquisitions. Its going to be work with the City on the Geotech and having the fill to their satisfaction. We can agree to work with the disclosure form and that’s something we can work through so that it’s to the County’s satisfaction and maybe the performance gets released for that work and you have the document and know what it looks like and we can record that with each lot after the secondary plat is recorded.

Altman stated that’s fine. I don’t know what else we’re going to do other than try to come up with some type of disclosure for these instances. It wouldn’t be bad to come up with some standard language.

The Surveyor stated I can have Mike (Howard) work on that.

Altman stated what these gentlemen are asking is we give approval to the variance today. Is the Board comfortable with that with the commitments made?

Holt stated I think so.

Dillinger stated I’m alright.

Altman stated and the developer is committing to disclosure and information on the plat and Geotech to the City of Westfield.

Pohlman stated yes and I would say if it’s on the plat that’s what makes sense for the attorney or if it’s done on a separate recorded document specific to that lot.

Altman stated at least on the first sale it needs to go to the ultimate buyer who will occupy also. We’ll let the chain go after that.

Dillinger made the motion to approve the variance with the commitment by the developer to disclose information on fill being placed on the lots on the secondary plat and also Geotech to the City of Westfield after the fill is placed, seconded by Holt and approved unanimously.

Hamilton County Drainage Board
November 12, 2019
William Krause Drain Reconstruction Phase 2 - Change Order No. 8:
Conover presented Change Order No. 8 to the Board for approval.

"To: Hamilton County Drainage Board

October 30, 2019

Re: William Krause Drain Phase II Reconstruction Project
Change Order #8

Change Order #8 is for the final grading/soil finishing of the Fox Property by Law Lone Star Farms. This final grading/soil finishing was required to seed the field.

Change Order #8

Law Lone Star Farms final grading/soil finishing 17 acres x 2 @ 41.18/acre $ 1,400.12
Cost for additional work on Fox Property - Change Order #8 $ 1,400.12

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
Change Order #8 Total $ 1,400.12

Engineer’s Estimate $1,011,017.60
Total Reconstruction Cost $ 683,688.08
Easements & Associated Costs $ 367,450.00
Total Reconstruction Cost $ 1,051,588.08

Difference (-$440,120.48)

Submitted By:

Andrew D. Conover
Inspector"

Dillinger made the motion to approve Change Order No. 8 for the William Krause Drain Reconstruction Phase 2, seconded by Holt and approved unanimously.

William Krause Drain Reconstruction Phase 3 - Change Order No. 3:
Conover presented Change Order No. 3 to the Board for approval.

"To: Hamilton County Drainage Board

November 1, 2019

Re: William Krause Phase 3
Change Order #2

Change Order #2 is for 8 feet additional 36” reinforced concrete pipe (RCP) that was required on the project due to adjustments made in the field.

Change Order #1

36” RCP w/standard backfill @ 8 LF @ $200.00 $ 1,600.00

Cost by Millennium Contractors of Change Order # 2 $ 1,600.00

Contractor’s Bid $735,885.00
Change Order #1 Total $ 4,380.00
Change Order #2 Total $ 1,600.00

Millennium Contractors - Total Reconstruction Cost $741,865.00

Engineer’s Estimate $865,902.40
Millennium Contractors - Total Reconstruction Cost $741,865.00

Difference $124,037.40

Submitted By:

Andrew D. Conover
Inspector"

Dillinger made the motion to approve Change Order No. 2 for the William Krause Drain Reconstruction Phase 3, seconded by Holt and approved unanimously.
Non-enforcements:
Mr. Leslie Messmer, Mr. Kevin Messmer and Ms. Susan Chaney were present for this item.

Clark presented a non-enforcement request for the Little Eagle Creek Drain, West Rail at the Station Arm filed by Susan Chaney for parcel #08-09-10-00-17-029.000 for a fence. Chaney had initially requested a full encroachment with the fence touching the property lines. The office determined that we would allow for the fence to be 5-feet off of the existing underdrain. It is also worth mentioning that her neighbor’s fence fully encroaches and touches their property line without a non-enforcement. It was the determination of the office to issue her neighbor a violation for the encroachment. We would allow the 5-feet off the drain so as to conform with what we were going to allow her to do.

Chaney stated I’ve been going around and around with Beazer and the Homeowners Association and even Hamilton County trying to get to the right people to discuss the fence. I was assured when I purchased the lot that I would be able to fence in the whole lot basically. The Homeowners Association gave me a verbal yes and when I asked for it in writing they couldn’t come up with it in writing and directed me to Hamilton County. Hamilton County couldn’t get me to the right place until finally I spoke with Jerry Liston over the phone a couple of times and he told me at that point he had already dealt with my neighbor. At that point Liston told me the same thing, that if I had removable panels for the area where the fence would cross this encroachment or drainpipe that it would be fine and I could go to the full extent of the back of my lot. With that in mind I did my paperwork and submitted it and here I am today. I spoke with my neighbor’s last night and they sent me, and I can give you a copy of the email that Liston sent them in saying that he has approved a full encroachment into the rear yard with removable panels.

Clark stated I was unaware of that. I was unaware that the neighbor had gotten approval.

Liston stated this was at the time we were in the process when I was reviewing that area, Clark was coming on board I was reviewing for Greg Hoyes. I did have that conversation. Clark was probably unaware of it and this is the first I’m hearing of it too since the original conversation with Chaney.

Altman asked what do the other fences in the neighborhood look like?

Chaney stated there are a portion of the fences that are wood, but what I am choosing to put in is aluminum five-foot fence that’s lighter weight and easier to take down. I had discussions with the fence company regarding that and they assured me that the panels are easy to unscrew and take out. I’m willing to put in a gate, anything that can be a work around so that I can get the extra square footage to the yard for the pets that I’ve inherited since my mom passed away and for the value of the home and the lot too to be able to use the entire lot.

Altman stated for the Surveyor’s Office, what other fences are in there that we’ve given approval to, anyone? Do we have a standard or anything else we’ve looked at in that neighborhood?

Clark stated I couldn’t find anything resembling a precedent.

The Surveyor asked so there are no other fences in the neighborhood?

Clark stated I believe there are, but it’s inconsistent.

Altman asked who all asked for permission, anybody?

Clark stated not that I could find. It’s West Rail Section 1 and I could not find any fence non-enforcements?

Holt asked do the other fences go to the property line?

Clark stated this particular one, her neighbor’s does.

Holt stated I’m talking about the universal neighborhood. Did everybody fence to their property line?

Clark stated I believe so.

Holt stated ideally if and when you sell your property it will make for a cleaner closing because you’ve got documentation that backs up what you did with your fence.

The Surveyor stated at this point I would recommend the removable panels and full encroachment and then we’ll go after the other people.

Altman asked to get the same consistent application?

The Surveyor stated yes.

Holt made the motion to approve a full fence encroachment with removable panels for Susan Chaney, seconded by Dillinger and approved unanimously.
Clark presented a non-enforcement request for the Williams Creek Drain, Ponds West Arm filed by Kevin and Leslie Messmer for parcel #17-09-22-02-023.000 for a fence. The property owners had previously received approval at the previous Drainage Board meeting where we were allowing; there’s a fifteen foot easement on the rear and then a fifteen foot easement on the side of the property and we were going to allow a full encroachment into the rear yard and a partial encroachment on the side which would be 7.5 feet off of the property line. The main issue they have is the fact that if they were to do 7.5 feet it would result in them having to remove a tree. For their second submittal we recommended six feet which would miss the tree itself, but not the roots.

Messmer (Kevin) stated it also encroaches on the future growth of that tree as well.

Messmer (Leslie) stated what I’m showing here is if the tree grows at all and it’s a significantly large tree to have removed. We only have two large trees in our backyard. If we can only come in three feet from the property line; we talked to the fence company also and we’re willing to put in removal panels. We’re tying into our neighbor’s fence. When I responded to Clark after our second application if we could even come in just three feet, we’re more than willing to come in and leave that culvert outside of our fence and also install removable panels. That would help us maintain the landscape and the tree that is there as well.

Altman stated so your tree you’re concerned about is in the forefront of the picture.

Messmer (Leslie) stated right. At six feet I would still have to remove the tree.

Altman asked your property is where in relationship to this picture?

Messmer (Leslie) stated this would be facing my neighbors behind me. The fence in the picture is the fence that belongs to my neighbor that is actually on our property line. It was installed prior to us purchasing our home this summer.

Altman asked has this been surveyed?

Messmer (Leslie) stated yes.

Altman asked is this when you discovered you were working off of GIS or when was this surveyed?

Messmer (Leslie) stated this survey was conducted on October 6, 2019.

Altman asked what does the Surveyor want to do?

The Surveyor asked Messmer, so your proposal is to put the fence where?

Messmer (Leslie) stated we proposed coming in two to three feet from the property line within our property so that the drainage cover or culvert is on the exterior portion of our fence.

The Surveyor stated so instead of the six feet... Messmer (Leslie) stated come in three feet. That would still leave that drainage cover on the exterior portion of our fence.

Altman stated with removable panels so if we have to get to it, we can get to it.

Messmer (Leslie) stated right, with a removable panel and then tie into the fence which was already approved to go to the property behind our home to tie into the existing fence of our neighbor.

The Surveyor asked what kind of tree is that?

Messmer (Kevin) stated River Birch.

Messmer (Leslie) stated five feet still encroaches on the root system where it comes up so then the fence is up over the roots and everything else. It just does not esthetically look; you don’t have an even fence line panel going down.

Holt asked what’s the fowl if they put the fence on the property line?

Messmer (Leslie) stated or even come in two feet from the property line.

The Surveyor stated they’re going over the top of that structure.

Holt asked it’s on the line?

Altman stated pretty much so, it looks like it.

Messmer (Leslie) stated right, that’s why we’re happy to come in and leave that structure outside of the fence and install a removable fence panel.

Altman stated so we’re not crossing the pipe.
Messmer (Leslie) stated it would not cross the pipe, the pipe would still be on the exterior portion of the fence as well.

Messmer (Kevin) stated in all honesty the utility is probably going to be more limiting than the encroachment on the easement. Once we got the $11 or the markers for any utilities that are going through there that’s probably going to be more of a limiting factor than the property line itself. If your allowance would allow us to go to that limiting factor of the existing utilities, we could find a compromise, allow the utilities to exist, allow the tree to exist and allow the fence to be erected.

Dillinger made the motion to approve the non-enforcement request at 3 feet with removable panels, seconded by Holt and approved unanimously.

Conover presented a non-enforcement request for the Waltz, Warman, Booth and Dickover Drain filed by Beck’s Superior Hybrids for parcel #03-02-14-00-00-020.000 for a dedicated perimeter drain. The Surveyor’s Office recommends approval.

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

Conover presented a non-enforcement request for the Waltz, Warman, Booth and Dickover Drain filed by Beck’s Superior Hybrids for parcel #03-02-14-00-00-001.000 for a dedicated perimeter drain. The Surveyor’s Office recommends approval.

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

Conover presented a non-enforcement request for the Waltz, Warman, Booth and Dickover Drain filed by Beck’s Superior Hybrids for parcel #03-02-15-00-00-005.000 for a dedicated perimeter drain. The Surveyor’s Office recommends approval.

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

Conover presented a non-enforcement request for the Duck Creek Drain, Charles Caylor Arm filed by Katelynn and Ryan Query for parcel #07-03-16-00-00-009.000 for a septic field. The Surveyor’s Office recommends approval.

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

Clark presented a non-enforcement request for the Bellewood Drain, Glen Oaks Arm filed by David Hilbert for parcel #17-09-30-00-06-050.000 for a fence. The Surveyor’s Office recommends approval.

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Maple Village Arm filed by Charles Thomas Allen for parcel #08-09-03-16-00-029.000 for a fence with removable panels. The Surveyor’s Office recommends approval.

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

Clark presented a non-enforcement request for the Little Eagle Creek Drain, Washington Township Arm filed by GT Properties Development, LLC for Meadows at Gristmill Section 1. The Surveyor’s Office recommends approval.

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

Liston presented a non-enforcement request for the Vermillion Drain, Ridge at Flat Fork Arm filed by Weekley Homes, LLC for parcel #13-16-05-00-06-002.000 for a driveway. The Surveyor’s Office recommends approval.

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

**Violation Update:**
Wheeler & Wheeler Drain, Arbor Grove Arm - Liston stated at the last meeting the Board was informed of the violation letters that had been sent. We have heard from the HOA (Homeowners Association) who owns the property and they have asked for an additional 30 days to identify those who are dumping the grass clippings and cuttings into the drain. The Surveyor was agreeable to that.

Dillinger made the motion to extend an additional 30 days, seconded by Holt and approved unanimously.

F. M. Musselman Drain - Liston stated I have also had discussions with the property owners and have not received anything in writing but they are asking for another 30 to 60 days to remove the dirt.

Hamilton County Drainage Board
November 12, 2019
Surety Acceptance:
Liston stated that at this afternoon’s Commissioners meeting the Board would be accepting the following sureties: Subdivision Performance Bond No. 60131829 in the amount of $58,751.40 for Hamlet at Jackson’s Grant Section 2, storm sewers; Site Improvements Performance Bond No. INC61222 in the amount of $261,255.31 for Meadows at Gristmill Crossing Subdivision, earthwork and erosion control (Washington Township Drain).

Surety Release:
Liston stated that at this afternoon’s Commissioners meeting the Board would be releasing the following surety: Performance Bond No. 2559524 in the amount of $27,430.40 for Hoosier Storage, Relocation of a Portion of the Westfield Business Park Drain.

Construction Updates:
Drainage Drain, Reconstruction of a Portion of Section 1 - The Surveyor stated the contractor started clearing yesterday on the Anchorage and was stopped by a property owner that we have to go across for the project.

Altman asked were we working in existing easement?
The Surveyor stated you are working in existing easement. In fact, the project was designed in existing easement so we wouldn’t have to purchase easement. The group of neighborhood homeowners have gotten together and have requested us to redesign, basically, the system. As the Board may recall the system was designed within the easement and also knowing that there would be inlets in the system that was outside of the actual low spots, which are outside the easement. We told the people numerous times that the project will necessitate the regading of some of their yards and the possibility of putting in subsurface drain in order to gain more benefit and get rid of some water in various locations within their yards. They now want us to redesign it according to the emails that we received from Mr. Heirbrandt and from the property owners themselves so that all the low spots are caught or locations of the inlets. This would necessitate the redesign of the system outside of easement and easements would have to be acquired.

Altman asked this has been bid, correct?
The Surveyor stated this has been bid, the contractor doing the work was stopped yesterday by the homeowner; a homeowner.

Altman stated I think that homeowner may have an issue.
The Surveyor stated at this point in time we just want to know, what should we do? Should we go on with the project or should we halt and have the homeowners back here to discuss it. What would the Board like us to do?

Holt asked does Mr. Heirbrandt support the neighbors?
The Surveyor stated he didn’t say one way or the other in the emails or the text messages I received. Gary, did you get any inclination?

Duncan stated no, he did not say either way whether he agreed with moving forward with the project or considering a redesign of it. Really, for me he said thank you for acknowledging your concerns.

Altman asked Duncan, how many times did you meet with the homeowners? I’m confused because Commissioner Heirbrandt pretty well jumped on this one.

Duncan stated I know we’ve met them one for certain when we had the formal public information meeting. I’ve had several meetings at the site with one or two of the property owners. Liston has met with them. Heirbrandt has talked with them several times over the course of the last year about the project.

Altman stated I just don’t see that we’ve hidden the design from anyone unless I’m not hearing it properly. What was the name of the homeowner?

Duncan stated the property owner that stopped the project was Andre Guillaume, Lot 67.

The Surveyor asked he’s the one with the zip line?

Duncan stated correct.

Holt asked did any of the property owners offer easements?

Duncan stated only one property owner offered easement and it was Mrs. Moheb at the very western edge of the project due to the fact that the easement there was not specifically a regulated drain easement. We did move forward with the project to install a stub on her property through the easement. It’s still a drainage easement, it was not specifically a regulated drain easement. Really there wasn’t a discussion about that, whether they would grant an easement or not because our focus has been to just keep it in the easement that we have.

Altman asked the project again is the one that Fishers is contributing to?
Duncan stated yes.

Altman stated this thing has been discussed. In fact, I’m looking at minutes of this, and Mr. Iden, Steve Iden, in testimony says “the other thing is the earlier comment about sharing the cost only after this construction is completed. Whatever costs we need to bear we’ll then have to bear recontouring our properties as well as additional subsurface drain to get this drained. From our perspective there will be additional costs beyond the scope of the project just for us to satisfy the appearance of the drainage of our properties. That will certainly be several thousand dollars beyond the scope of the project.” That was the point he wanted to make. In open meeting they knew there would be contouring and subsurface drains.

Duncan stated correct.

Altman stated I’m sorry, we’ve got a contract that I think we bent over backwards to address their concerns and even take the cost load off of them to the extent we could. Now we have a homeowner almost vigilante.

The Surveyor stated I think they have banded together, and I have the sense that they’re all now wanting it stopped.

Altman stated if they want it stopped, my opinion is stop for good. We’ll see if the contractor will release the contract. I don’t have any appetite to redesign.

Dillinger stated I would rather wait until Commissioner Heirbrandt comes back and address this. He’s the one that’s been directly involved with it.

Altman stated I understand, but what do we do with the contractor that’s been pulled off of the job?

Holt stated on a day like today he’s not going to work anyway.

Altman stated we’re looking at weeks. They’re not all days like today and we’re running out of season to get the thing built. This is not going over well with me.

Duncan stated I’m not sure what Howard’s opinion would be, but the material for the project has already been purchased. In the end, if we did pull from the project, we may still have to buy the material for it because it’s already been ordered by the contractor.

Altman stated I doubt there’s nothing unique about the material other than just messing with it and storing it.

Dillinger asked Altman, what do you want to do? Do you want to go ahead with it?

Altman stated that would be my inclination, but I understand if you want to wait.

Dillinger stated its just that Heirbrandt has been the one most heavily involved in this. It would be nice to have his input before we...

Altman stated and I don’t disagree, but I don’t know. The whole thing is disconcerting.

Holt stated as an alternate that knows nothing about it, I concur with Dillinger it seems like Heirbrandt ought to be calling the shot.

Altman stated that’s fine. We’ll take it under advisement. I think the homeowner that stopped construction bears the risk. I would point that out.

The Surveyor asked we will tell the contractor to hold off for two weeks?

Altman stated no, just say it’s been stopped by the homeowner, we’re not going to override that until we have a Board of people that discussed it.

Budget & Permit Update:
The Surveyor presented the budget and permit update to the Board for their information.

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

Christine Altman – President

Lynette Mosbaugh
Executive Secretary

Hamilton County Drainage Board
November 12, 2019