**MINUTES**

**WARRICK COUNTY DRAINAGE BOARD**

**&**

**DEPARTMENT OF STORM WATER**

**February 24, 2020**

Regular Session

Old Historic Courthouse

107 W. Locust St. Suite 303

Boonville, In 47601

812-897-6170

The Warrick County Drainage Board and Department of Storm Water met in regular session with Bob Johnson, President; Dan Saylor, Vice President; Terry Phillippe, Secretary, Morrie Doll, Attorney, Jason Baxter, Deputy Surveyor; Steve Sherwood, Director of Storm Water; and Jennifer Curry, Recording Secretary.

Present in the audience was Henry Watkins, Bobby Howard, Seth Zirkle, Grover Fisher, Joshua Clayborn, Todd Glass, Glen Krueger, Joe Grassman.

**PLEDGE OF ALLEGIANCE:**

President Johnson opened the meeting of February 24, 2020 with the Pledge of Allegiance.

**APPROVAL OF MINUTES**

President Bob Johnson: First, we have the approval of minutes for February 10, 2020.

Commissioner Terry Phillippe: I make a motion to approve the minutes

Commissioner Dan Saylor: Second.

President Bob Johnson: All in favor 3-0

**HENRY WATKINS-WATKINS MANAGEMENT GROUP- 421 W WATER STREET, NEWBURGH, IN 47630---continued from 2/10/2020 meeting**

President Bob Johnson: First up we have Henry Watkins, Watkins Management Group concerning the traditional low water crossing in lieu of a structure bridging a drain.

Henry Watkins: Good Afternoon.

President Bob Johnson: So, what have you come with for us today.

Henry Watkins: To make it much easier and just go for the initial low water crossing that doesn’t involved any structure.

President Bob Johnson: Can you please state your name for our record, I got ahead of myself.

Henry Watkins: Henry Lee Watkins.

President Bob Johnson: Okay, Jason do you have anything more here to add?

Jason Baxter: Do you have a drawing or anything how you are wanting to do it?

Henry Watkins: Well, it kind of depends on what the most several vertical curve the equipment can handle, but it just going to go right across flat bottom of the stream itself and on both sides.

Jason Baxter: Sure, the only thing I would like to see is just a drawing of what you are wanting to put in, and I don’t have any problem with having a low water crossing. Steve, do you have anything?

Steve Sherwood: No, as you recommended just get a drawing to submit to us for your review, you are going to be interested in knowing how it comes through the embankments, how much rock or whatever treatment he proposes to be put in for his crossing so it doesn’t exceed the natural flow line of the ditch, or cause any obstruction is only what I think your concern is?

Jason Baxter: Yes, Sir. I’m good with it, I would like to see a drawing.

Morrie Doll: Would the Army CORP of Engineer’s approval?

Steve Sherwood: I don’t think we need a CORP permit on that, but that would defer to Council.

Jason Baxter: I don’t believe we do.

Morrie Doll: I don’t know, it wouldn’t hurt to ask.

Jason Baxter: I can find out..

Morrie Doll: We just don’t want another fine or enforcement action from the CORP of Engineers.

Jason Baxter: Yeah, so you good with that?

Henry Watkins: Yeah, I say we would need a non-specific CORP permit, but the CORP wouldn’t have anything to do with it.

Morrie Doll: They may not.

Henry Watkins: Thank you very much.

**CLAIMS:**

President Bob Johnson: Next up we have claims, which is in total of $115.44.

Commissioner Dan Saylor: Motion to pay the claims.

Commissioner Terry Phillippe: Second.

President Bob Johnson: All in favor. 3-0

**OTHER BUSINESS**

President Bob Johnson: Any other Drainage Board business? Steve?

**STORM WATER DEPARTMENT**

Steve Sherwood: I have a few things to cover before we get into I believe Morrie has some individuals in the audience to address some issues with the Town of Chandler. Getting back with an earlier issue if you recall, Wine Tree Villas Apartment, we suspected that there was a sanitary sewer, not a sanitary sewer, a storm water sewer manhole underneath this patio, I believe you have all been sent the photograph that shows exactly where we thought it was, they raised this to this level which is exactly two feet that had to be raised to get it flushed with concrete patio. With that….

Commissioner Dan Saylor: Steve, has that been raised with the accordance with what you would design or require?

Steve Sherwood: Yes, they should’ve concreted it over the weekend I was told, so I have looked inside the manhole and it has a standard raise casting for the 24-inch, it is about 6-foot 7-inches deep now from rim to invert and if you recall, this is the section of pipe that precedes it, about 30-feet or so, that we are going to get in there and fix now that we have access to it. Again, all of this was in a public utility easement, the landowner or HOA president was not happy that he had to raise this, but I told him the County wasn’t going to raise it #1 because it is too much of a liability and #2 it is in a protected utility easement that never should’ve been covered in the first place, he is probably going to seek damages to whoever built the condominium, if they chose to do that, as you recall the damage storm sewer line has a sanitary sewer running underneath of it, we are not able to locate who would possibly constructed the sanitary sewer some 20-some years ago. I believe he has fulfilled his obligation, I just wanted to tell the Board with the proceeding to repairing the damage storm sewer line in the easement. One other question I had for Morrie, I think he is going to report to the Board we talked about the ability for the Storm Water Department to collect fees, what we would have to do to make that happen and Morrie may have a report for you at this time.

Morrie Doll: You recall that we had an incident with Chris Combs on a construction project that he needed to post $7,500 to insure some corrections, some drainage issues until the weather permitted for him to finish this particular home. When we got into that, we found that the County Auditor would not allow us to accept a letter of credit or other similar security for that project because Storm Water doesn’t have an approved ordinance authorizing it to accept that. In that particular case, its suggestion of the Auditor we agreed to use the trust account for our practice to hold those funds, you’ve seen copies of those checks, but we ought to address this, my proposal if you will approve the concept is I am going to fashion an amendment to section 33 of the county ordinance is dealing with Storm Water finances to authorize us to be able to accept and hold either letters of credit or cash deposits to insure that the corrected steps repairs maintenance etc. on storm water drains are financially fulfilled. All those funds will be held by the Auditor then, once we pass that ordinance so I will bring you something, which I intend to fashion along the lines of a subdivision ordinance that we use in the APC setting now for streets, sidewalks, and things of that nature. So, if that sounds agreeable to you, I can get that to you maybe the first meeting of March for your consideration, it will actually need to be passed by the Board of Commissioners as part of the ordinance and I can get that to Todd.

President Bob Johnson: I think that’s a great idea I think that is something that is long overdue.

Steve Sherwood: The ordinance is set up for fees, we just never had a way to collect them.

President Bob Johnson: Are you guys okay with that?

Commissioner Dan Saylor: Absolutely

Steve Sherwood: I wanted to report to the Board also that Joe has put out the truck bid for Storm Water, those bids will come in and be presented at the March 23rd meeting, and then I believe Morrie has a document he wanted to talk with you about in response to John Wilson’s prior appearance before the Board.

Morrie Doll: I have given you a copy of my proposed answer to Mr. Wilson, you recall he appeared and asked if we would provide him the documentation to support the contention that we do not have the authority to exempt or wave property owner’s so the requirements for the Storm Water fees. What you have is a copy of exactly what I intend to send him, which is a letter of explanation that goes section by section of the Indiana code that defines the authority for Storm Water, then goes section by section of the County Ordinance that shows the authorities under our ordinances to the assessment of the storm water fee against property owners, what the exemptions are, the fact there is no statutory authority to exempt individual property owners in the State Stature, and what my opinion is as to why we cannot exempt property owner by property owner for the requirement to pay Storm Water fees. I am going to send that packet to John, I am confident it is going to confuse him, but I also know it needs to be through and accurate what I said to him so that is why I am sending him, those are just copies for your records, Steve has a copy as well.

Steve Sherwood: Thank you Morrie, with that I turn it over to Morrie for the next item of business.

Morrie Doll: And it is Welcome Chandler.

Seth Zirkle: Good Afternoon members of the Board, my name is Seth Zirkle from Jackson Kelly Law Firm in Evansville, joined here with my colleague Joshua Clayborn also from Jackson Kelly, represents the Town of Chandler Indiana, and I have provided members of the Board, Morrie, as well as the clerk a couple of exhibits for consideration in our discussion today, by way of background since the Board members are aware, we have in the past an ongoing discussion, at least going back to 2017, regarding some, I don’t want to call it confusion, but uncertainty as the responsibility of the County vs. the Town of Chandler regarding the maintenance and upkeep of the rights of way around the boarder of the town of Chandler. This issue came up again recently back in the fall of 2019, Todd Glass and I had some emails and conversations from Todd as well as Grover Fisher director of Environmental Services there of the city, town, and we thought it would be a good opportunity for the town and the county to come together and try to bring some resolution as to how to handle these liminal spaces around the town of Chandler, the upkeep of the rights of way and ditches. By way of background, the first item that I bring to your attention is this map, all of them are color coded, but there’s a map you have been provided that effectively delineates out the rights of way that surround the town of Chandler, it is the item that has arrows drawn with highlighted numbers, and those are ordinances, working with the town’s clerk we have been able to determine that the Town of Chandler has either by annexation ordinance or by enabling legislation of the cooperation of the county agreed to incorporate into the town’s cooperate limits nearly all these rights of way have historically have been an issue, with as far as the maintenance and upkeep of these ditches and culverts that have butted the improved right of way. The only areas that there is some question or actually along the Easterly boundary on Old Plank Road, you can see there essentially it’s just North there of where Gardner comes to Old Plank there is a small section that is highlighted there in pink, designated as list #5 and there is also an area to the North in blue designated as list #4. Those areas it is not initially clear if the town has formally annexed those into their corporate boundaries, but for sake of discussion all other area’s surrounding the town have either been annexed or the town has agreed to maintain those rights of way. The second list is a little bit thicker, and this is the item that is with the black clip, the exhibit on top looks the same but it omits the designation of the ordinances that have annexed in the road way, in effect we have compiled a list of ten sets of property owners that for purposes of taxation and residence, are considered to be residents of the county and not of Chandler, even though their front yard or side yard ditch fronts the right of way that the town maintains, and of course the ongoing issue historically has been that now to stain the fact that the county position, the Town of Chandler all to maintain these ditches and culverts above the right of way, the county has received storm water fee, which you know most cases for single family residential dwelling is $54, and that is collected as you all know on the county tax bill. Historically to date, those sums have not been remitted to the town and going back to 2016-2017 the point of contention was that the town was going to be responsible for the maintenance and upkeep of these storm water facilities that have bought the rights of way that the town maintains, we ought to, the town ought to be receiving that storm water fee. Now, to date we have not been able to bring resolution up for discussion, so that is first and foremost the intention of us being here today, is to try and work collaboratively to find a way for which the town to acknowledge the fact that it is our responsibility, the town’s responsibility to maintain these culverts and ditches along the rights of way, but it is our responsibility to maintain these rights of way, that we have historically within to work with you all in identifying these property owners who have ditches or culverts in the Town of Chandler, per annexation ordinances and practices by statue, none the less are county residents. We have identified what we believe to be 75 property owners at issue, and to come up with a way collaboratively to take that storm water fee that otherwise would be remitted the county’s and to bring that over to the town. The second item, is again in the collaborative nature to work together to say if we have a county resident constituent who is concerned with the maintenance and upkeep of a right of way, what is the Town of Chandler willing and able to do? The driving force for our presence today was a complaint that was raised by a county resident, gentleman that farms North there of McCool Road, the gentleman indicated that there was vegetation striking his farm influence, and he wanted the town to in effect clear this vegetation. You know, part of this discussion is to work with you all to let you know what the town does as far as maintenance and upkeep of rights of way, and what we are unable to do. For instance, we have a town resident who does not keep the vegetation trimmed at least 15-feet above the approved grade of right of way, that resident is subject to penalty and fine, the town would typically give notice of violation to that resident, give them a reasonable amount of time to cure, and if that resident fails to cure then the town under its ordinance has the ability to go out and effectively trim it and oppose the fine/fee for that back on the town resident, it goes through two billing cycles and do the same process a sewer. Obviously, for those the parts of right of way that are on the county side of the road in the town is unable to go out and exercise the remedy of self help because they are county residents, but again, like I said historically there has been some ambiguity and part of this discussion is to work with you all to get some clarity to that ambiguity.

Joshua Clayborn: I guess just to offer a little bit of history too, traditionally way back when whenever a town or city would annex and take it to the center line of the road, that presents some issues for upkeep on both the road and the ditches and other type of storm water stuff on the side of the road. So, the State Legislature came along some time ago and said if the town is going to annex and needs to take both the road as well as the other type of storm water facilities that came along with it, I think Chandler and I think this is from a big picture and I don’t want to over simplify it too much, but Chandler position is we’re happy to maintain these facilities to handle all these storm water complaints and vegetation complaints ect., but it seems to stand a reason that if we are going to maintaining those along some sort of property that the storm water fee should follow that, that the fee should follow whoever the responsibility. So, if the county wants to continue to receive the fee, then the county ought to maintain those areas and vise versa, but those areas by statue and by annexation are frankly within town limits and again it seems to make more sense that they follow the town. The obvious problem with that being, these are properties that were apart of it is within town limits, and part of it is not and the home and I think in virtually every case if not every case, is going to be in the county, so I think traditionally the thought is the storm water fee should go wherever the home is. In reality the home is not really where those storm water expenses are, right? They are on the ditches and often not that is going to be fronting the road which is in the towns limits. For a practical matter I think Seth has this, I believe Morrie does too, and maybe you all, the fact of the matter this is not a lot of money, right? I mean, some of this is more principle than anything, but I do think as we continue to grow and as the county as a whole continues to grow, this is a good policy to work out and have a good understanding of how to approach these kinds of issues.

Seth Zirkle: The town’s storm water ordinance is very much similar to the county’s I am sure you are aware, you know, it is just based upon that broad labeling legislation in the Indiana code 8-1.5-5 and much like the County, it defines the ability, the enabling ability for the town to have essentially storm water regime for improvements within the town’s limits, which as Josh mentioned here we are kind of a no-man’s land right, because under common law if John Smith owns 101 Main Street he owns the center line of Main Street, right? However, here because of the statutory requirements of annexation which either since 96’ or 06’, Morrie you may be able to know it, either between 1996 or 2006 statue state sections require that any annexation where a boundary line is essentially an approved right of way, includes just the center line but the entire width of the right of way which is 5, 10, 15-feet of either side of the road. So here, you have John Smith owns the center line in fee, he is a county resident, right so he remits no property taxes and the town of chandler receives no property taxes, but under the states namely statue for the storm water regime, the town we maintain the towns responsible for it’s maintenance and so that is where the ambiguity line is and so that is the purpose that we are here today.

Morrie Doll: May I ask a question?

President Bob Johnson: Sure.

Morrie Doll: Can you tell me why Chandler chose to split jurisdictional territory over parcels of property? I don’t think I have ever seen that ever done anywhere else.

Joshua Clayborn: Where, in what case are you referring to?

Morrie Doll: Well, you take, you annexed part of the parcel for purposes of jurisdiction..

Joshua Clayborn: Which parcel are you referring to?

Morrie Doll: Any of these, any of the 75 that we are talking about the part that fronts the county road or the town road you annexed..

Joshua Clayborn: So, that is what I was trying to say…

Morrie Doll: But you did annex the house and the barns and the buildings…

Joshua Clayborn: Well, some of that is state law, I mean to your point you could’ve taken the house too is your question right?

Morrie Doll: Yeah, why didn’t you take the whole parcel?

Joshua Clayborn: Well, I hate to pass the buck, but I wasn’t representing the town at that time. I think going forward that is our approach, that makes sense. I think some people have thought traditionally, its not just Chandler I think you will see this throughout the state it’s the particular road is a sensible boundary, right, so let’s annex it up to the road, well state law says we have to get the right of way as well, so okay lets do that.

Morrie Doll: Doesn’t this create issues, not just in Storm Water for example, but take law enforcement if you have a crime that occurs in the house on the parcel property where the frontage of it has been annexed into the Town of Chandler, but the house itself is still in the county who has criminal jurisdiction of the investigation of the crime is that the Sheriffs Department if it occurred in the house, I think it probably is, as opposed to your Police Department in Chandler which would have the first however many feet across of the property. I don’t know who has fire protection in Chandler whether that is township or the town, so my point is, by doing it this way don’t we have multiple issues of confliction?

Seth Zirkle: We do, but there is nothing that we can do at this point to resolve that, right? Our point here is not to provide a broad, you know, bill for relief but rather to, with the respect from storm water fees address these discrete 75 properties that have been identified as being county residents for purposes of them being domicile, but none the less subject to the Town of Chandler storm water regime. I can not speak to whether or not Mr. Smith is going to be subject to fire protection of the county or the township or whether or not it would be the County Sherriff. To Josh’s point, yes, I mean these, for instance McCool Road in 1990 because of paving that the county entertained, there was an apparent quick proco such as the county agreed to pave the roads at McCool and Inderrieden Road and the town, because it was benefited by it decided to take on its maintenance after 1990. So, in that instance the concern you know is such that mix is a result in an ordinance that was passed prior to the storm water regime having them be active. To get to your point Morrie, we recently within the last year or two years we have engaged in annexation on Mallard Circle which isn’t how it adhere, as well as some part in the North East and because of these variations we made sure to not take the whole parcel. We understand it is an issue, it’s not going to be an issue going forward, this is really correcting, I hate to use the word mistake, but past mistakes or at least past practices.

Morrie Doll: Well, let me ask this of you, I have reread every state statue concerning Storm Water, and then I have read over all of our county ordinances dealing with Storm Water, and I am sure you have read the statues as well as the ordinance. Do you see any helpful language in either the State stature or the county ordinance that somehow or another leads to a remedy that you seek? This is $4,055 is what I think it is, do you see a legal path for a remedy for this discrepancy?

Seth Zirkle: Well, I would pause that the town’s enabling legislation based on 8-1.5 that the State Statue that authorizes and gives and powers the town under the state enabling legislation to essentially have a storm water regime assumption in Indiana, and as improvements within immiscible limits I would pauset that the town has the ability to irregulate that.

Morrie Doll: To levy a storm water fee on that strip of land?

Seth Zirkle: Yeah, and so I think what we are looking to hang our hat on, on authority there as far as…

Joshua Clayborn: Just to simplify it, the county would send the storm water fees to the town…

Morrie Doll: I don’t think we can do that, and I don’t think the State Board of Accounts will allow us to do that…

Steve Sherwood: The other questions if I may too, if you are just wanting the right of way amount of the parcel then the storm water fee, for the entire parcel, because you only maintain the frontage, what happens if there is a storm water problem on the rest of the parcel? If there has to be some drainage improvements made on the rest of the parcel that is in the county but not in the town’s right of way jurisdiction…but you are taking all the fee.

Joshua Clayborn: Right, and the flip side is true now, I would say in the vast majority of storm water issues are going to be on that where those ditches are..

Steve Sherwood: If I may, where the county and the town differ, Bobby and I have talked to Grover about this before, we do not use storm water fee money for the most part at all in dealing with the right of way improvements, meaning ditches and culverts, mostly that is done by the Highway Department, that is the way we treat that differently. I know the town uses a Storm Water fee as a subsidy or a means of fund the improvements in the road right of way, specifically to drainage.

Morrie Doll: Coincidentally, the section we are talking about, the code that you have a copy of in front of you today, in the letter to Mr. Wilson that I wrote it is the 4th page in that packet, what we are talking about is Indiana Code 8-1.5-5-5 which establishes the so called “Special Taxing District” and it is Subsection A, in what Chandler falls under obviously, is subparagraph A-2 which the ordinance adopting the prevision of chapter should create special taxing that includes the following for all other territory within the corporate boundaries of that (?) that would be Chandler, but we fall under subparagraph 3 which is for the county, all the territory in the county that is not located in this participality, and then you have a timing eliminate, at one point in time all of these lots were in the country prior to their annexation, so at the time, our ordinance came into effect we had jurisdiction per the state statue and ordinance, that brought all that storm water money into us. Now, you have the same parcel of property, but it has conflicting jurisdiction claims, so many feet 40-60-feet whatever it is adjacent to the public road, Chandler now according to jurisdiction has it due to the annexation, but the rest of the property in which in many cases all the improvements, houses, barns, garages, etc. is within our responsible territory. I don’t see anything that allows us to enter departmentally transfer funds, from Storm Water to another storm water agency. So, I don’t think that is a process where we can sit down and say lets come to and understanding on the amount out of the $4,055 add issue with these 55 parcels we are collecting, well we are assessing, I am not going to represent, we are collecting, we are assessing. What part of it should we keep for drainage that might effect some rear portions of each of these parcels of properties and what portion ought to go to Chandler for the front portion of these parcels of property. I don’t know how we do that, I don’t see anything in statue that allows us to do that, I don’t see anything in our ordinance that allows us to do that and I am absolutely positive the State Board of Accounts will absolutely go crazy if we do that.

Joshua Clayborn: Well, with all due respect on that point, I mean, this isn’t letter of law, but I have had some initial State Board of Accounts and I don’t think they are adverse to that as you are, but again that doesn’t come down from on high, but I don’t want to push that or take that too far if it was a nonstarted with you all, but that is a possibility from my initial conversation

Morrie Doll: It seems to me that the most straight forward way to correct it, but it’s probably the most difficult way to correct it, is you fix your annexation. Just as you did with this latest annexation for Chandler, you come back and you fix this annexation.

Commissioner Dan Saylor: That’s what I was going to say.

Joshua Clayborn: So, we have a Commissioner on record supporting annexation, I’m just kidding.

Commissioner Dan Saylor: No, you need to fix your problem.

Joshua Clayborn: No, I know right, but you know annexing is a big deal on a controversial level.

Morrie Doll: Oh it is, I know it is, but it fixes not only the storm water problem that we are debating here today, but it also fixes your law enforcement problem, fire fighting problem, I don’t know what your ambulance system is I guess that’s not an issue, but it would fix all so many problems if you could fix this annexation issue. Now, that we fixed the perfect solution I understand that is probably not obtainable, but…

Seth Zirkle: Well, I think that for all the reasons why you are hesitant to try and work towards the solution with this 75 property owner’s fee is, is diverted to this town. I mean, my sin is that the same enabling legislation that allows the county to collect that fee for those property owners will allow the town to collect that fee for the frontage.

Morrie Doll: Well, I don’t disagree with that.

Seth Zirkle: So, then it gets to the issue to get to work with these county residents because again, the town collects it’s fee on the water bill as opposed to the tax statement. It may very well be the case that after further discussion on our end the town makes the decision that based upon the existing legal legislation we would be in the position to collect it as to address the responsibility to maintain the facilities that have bought the right of way.

Morrie Doll: The problem we have is that ours is a flat fee based upon residential property provided a set 500-feet of pervious use of the surface at the residential property, so we just have a flat fee. If you said to us, why don’t you just collect your fee on your portion on the territory on each of these 75 parcels, simple enough, the problem is it is going to be the same flat fee, because we just have one fee of $54 I think per parcel…$56?

Steve Sherwood: $54 for the year.

Morrie Doll: And so, what is going to happen is the parcel owners are not going to see a decrease in the county share of the storm water property. Now, the other solution to the problem you may say is just to exempt all 75 lots from the territory within the county’s jurisdiction and the problem with that with the section statue that I just read which said all other territory is within the county storm water drain. So, I don’t think we have the option of being able to say but we don’t want these 75 lots. If you have annexed them, problem solved. I don’t think we can waive them, or partially wave them, and while I agree with you that the town can certainly asses a storm water drain fee on that territory across the frontage of each of these lots you are going to subject the property owners to double fees, and I don’t think they are going to like that either. I don’t know what your fee is, the Town of Chandler.

Grover Fisher: It’s $5 a month.

Morrie Doll: So, $60 yours is higher than ours. So, again to recap I don’t see anything in the statue that allows us to wave those 75 lots, we have everything left in the county whether we wanted it or not, after you carve out Chandler, Newburgh, Boonville by state stature everything left of the county is within our responsibilities. We do not have the voluntary right to wave it, I sure wish you would have annexed the whole parcel, but I don’t see a solution to this some other way, and if I missed something that you have crafted that you think or you can produce maybe some kind of an opinion letter from the State Board of Accounts that says, and they don’t like hypotheticals, if they say hey if you strike some type of cooperative agreement between the Warrick County Storm Water District, we would not take exception to a transfer of sub-agree upon amount of funds to deal with maintenance, then maybe the Board would have something it could consider, and then we are going to be interested in knowing how much of the $4,055 do you want. I mean, does any of that enlighten? Is that, I don’t know if Todd has a different opinion on that on behalf of the Commissioners?

Todd Glass: Nothing other than what has been stated, I don’t see why a local agreement couldn’t be crafted.

Morrie Doll: We just have never seen it before and the statue doesn’t anticipate it.

Todd Glass: No, it doesn’t anticipate it, but I think that statue would allow something like this in the event that the town did not want to assess it’s own fee which was the other kind of option.

Morrie Doll: Yeah, then you get into a problem because our fees are different than your fees? Look at him shake his head.

Joshua Clayborn: Well, I mean maybe a political problem if that is what you mean.

Morrie Doll: Well, either a political problem or a legal problem is a new process issue of some sort? I don’t know if you are going to get sued over $4 a year, but you are going to have 75 people…if some agreement is reached you are going to have 75 people who are going to be paying $56 to $60 then you are going to get some portion of the $56…$54..in which in that point of time I don’t know, everything is wrong about this, nothing is easy and it sounds stupid because it’s $4,000, smart people would be able to figure out a solution to this problem, but our hands are tied in some sense by the statue of the existing arrangements. If you have some, I have done most of the talking about that, if you have some suggestion I have not brought up I would be happy to hear it, otherwise I think what we want to do is that I want to encourage the Board to see if somebody can provide a letter from State Board of Accounts to state they would not take acception and audit to that, and then how much money is Chandler is wanting out of the $4,055.

Seth Zirkle: Well, we will work towards producing that number, and getting that letter from State Board of Accounts, as far as the maintenance and right of way to the extent that today the Board members, Commissioner’s do receive complaints from abutting owners, you know, just on the record the towns position is that, the town will maintain those rights of ways and ditches to the extent that there is erosion or accretion or silting that would impact the improved right of way, but as far as vegetation is concerned and overgrowth and things like that it is the town’s position both for town residents and for those along the rights of way that that is an obligation of the butting owner to maintain, so to the extent that you know, county residents are calling to complain about overgrowth and what not over the rights of way, the town undertakes a good faith and effort to keep vegetation trimmed at least 15-feet above the improved road way, 13-feet above the butting sidewalk, but at the end of the day the butting owner owns the center line it is that owners responsibility to maintain.

Morrie Doll: I don’t think that’s different than storm water district for Warrick County’s position. We don’t trim trees, but Storm Water does in a regulated drain, I’m sorry, Drainage Board does in a regulated drain if it impairs the drain and it is a Legal Drain, that is where we get into cutting vegetation back sometimes.

Seth Zirkle: I think that for both Grover, Rob (?), that could not be here I think for the County Commissioner’s that seems to be the most common issue, that I have overgrowth in this ditch in the front of my house come and trim it, then someone calls Grover, calls Rob, and says this is McCool Road, this is the ongoing issue, the trees are too close on McCool Road, well you know your butting owner needs to trim those trees its on his/hers fee interest we don’t have an obligation to do something we will not.

Steve Sherwood: I’m sure Bobby would respond that if all the right of ways is controlled by whatever entity, if it is controlled by the Highway Department, we would trim trees in the right of way.

Morrie Doll: But not Storm Water, but the Highway Department, and that is a different set of funds, correct?

Steve Sherwood: Correct.

Seth Zirkle: Alright, so we will work on identifying the amount of funds and controversy that would be necessary and we will work with State Board of Accounts in request with that letter.

Commissioner Dan Saylor: Just for the record, I want to correct Josh Clayborn’s statement that you quoted that I support…

Joshua Clayborn: It was a joke, it was a total joke…

Commissioner Dan Saylor: It was on record though, I don’t support the annex, I do support however you guys fix your issue.

Joshua Clayborn: Well, yeah just so you know that is how annexation was handled really, that was just the normal practice we just took it to the road and then the ditch ahead.

President Bob Johnson: Steve, anything else?

Steve Sherwood: I will just ask Joe if he has anything to bring before the Board, if not I will conclude my business.

President Bob Johnson: Anything else?

**MOTION TO ADJOURN**

Commissioner Terry Phillippe: I make a motion to adjourn.

Morrie Doll: *(speaking to Dan Saylor*) I think you made it clear that you do not support it.

Commissioner Dan Saylor: For the record, I do not support annexation as Mr. Clayborn stated, I support Chandler fixing their issue. That being said I make a motion to adjourn.

President Bob Johnson: We already had one, do you want to second it?

Commissioner Dan Saylor: I will second it, I did not hear the first one.

President Bob Johnson: All in favor. 3-0