**MINUTES**

**WARRICK COUNTY DRAINAGE BOARD**

**&**

**DEPARTMENT OF STORM WATER**

**MARCH 27, 2017**

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; Marlin Weisheit, Secretary; Phillip H. Baxter, Surveyor; Jason Baxter, Deputy Surveyor; Steve Sherwood, Director of Storm Water; Morrie Doll, Attorney; and Kim Lutton, Recording Secretary.

Present in the audience was Joe Grassman, Nick Cassala, Bobby Howard, Neil Chapman, Matt Wallace, Earl Wood, Mr. & Mrs. Putman, Robin Hershman and Melda Sermersheim.

**PLEDGE OF ALLEGIANCE:**

President Johnson opened the meeting of March 27, 2017 with the Pledge of Allegiance.

**APPROVAL OF MINUTES:**

President Johnson: First we have approval of minutes for the February 27, 2017.

Commissioner Weisheit: Make a motion approve the minutes.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0. Next we have the March 13, 2017 minutes.

Commissioner Weisheit: Make a motion to approve.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0.

**HINES DITCH:**

President Johnson: Next we have the Hines Ditch; deregulation of ditch, Jordan Aigner and Nick Cassala.

Nick Cassala: Good afternoon. I’m the president and general manager of Greenlife Development. Since it’s been a month since we were here, I was wondering if it would make some sense to quickly go through 4 or 5 bullets and summarize where we were and where we are. This won’t take too long. If you recall, we were here before the Board back on January 9th of this year to request that the regulated drain status associated with Hines Ditch be vacated. The reason we made that request; it was the result of satisfying the interest that was expressed by the Army Corps of Engineers and IDEM during their consideration of our proposed development activities there north of Victoria National Golf Club. In essence they saw the area in and around Hines Ditch that existed on our property and beyond as an ideal natural resource to put in a conservation action and preserve as a purely functioning riparian corridor. Anticipating that there would be some conditions on their approval of that, we came before you to ask this action because one of the things they would require, if you’re familiar with conservation easements that are imposed by those agencies, is they’re very concerned on the type of maintenance that occurs on a body of water like that or in a conservation area. So at the time we made our presentation we also mentioned that this ditch pre-dated the current use, the most recent use, of the property which was as a mining site. It was our contention at that time that the ditch no longer performed the function for which it was originally designed in construction which was controlling water on both sides of the ditch. On that day the Board voted to support the request and then also at that time instructed Mr. Doll to proceed with setting a date for the hearing which was done on February 27th. If you recall, during the hearing two neighbors were present and one spoke, that he would prefer to see that certain assurances be provided incase downstream water obstructions cause flooding conditions on his property. We obviously were sensitive to that before the meeting, likewise remain sensitive to that not only for his property but also on our property, particularly the development site. Mr. Doll recommended this as a possibility, that we could consider retaining the legal drain status but perhaps you all would consider putting on some maintenance limitations and requirement. At that point and time we realized we were in a little bit bigger discussion than we thought we were going to be and we all decided that recessing that action, pending some further exploration on our part and then coming back to you, would be the most prudent thing to do. I want to also point out that it’s been acknowledged on numerous occasions and it came up during the last hearing, that those who are familiar with the ditch, there’s been no maintenance performed on that ditch in at least 4-years. So here we are today and the question becomes, what’s our proposal at this point in time? We went back and discussed what was presented here with the Army Corps, since they are the agency that will hold the permit, and a couple things happened. First and foremost, they confirmed their continued interest in trying to capture this property for its preservation values and create the corridor. They also, at that point in time, made it clear to me that they are not interested in doing so if the legal drain status was not removed. We talked about multiple scenarios but it was their strong opinion that any value placed on that action was greatly diminished. So given that, we are prepared to provide certain assurances to this Board that we will assume the responsibility for maintaining the ditch. If you remember, I was a little bit cautious in doing that the last time that we met and the reason being, I just wanted to make sure that we understood what those requirements may be over time, recognizing that it’s not a reversible action. So we prepared a letter. Mr. Doll has that letter been distributed?

Morrie: No. Do you have copies?

Nick: I do have copies.

Phil: You should have one.

Morrie: Maybe Phil has put it in the packet.

Nick: Did you already do that?

Phil: Yes.

Nick: Ok, thank you. So we prepared a letter for your consideration. It provides a written assurance and our assumption is that those written assurances would become part of a condition of an approval of a vacation action and that we will comply with all applicable local, state and federal rules and regulations to insure that obstructions are removed that may disrupt water flow. We’ll also have to work out the language with the Army Corps to allow us to do that but that’s the second paragraph of that letter. I also want to make sure that we don’t confuse this action with another action, and that is the fact that we understand that there will be significant requirements should we go forward with development, to provide a Storm Water Management plan as a condition of development approval. That will be no minor task on that given site. So I think I should probably pause there and give you an opportunity to ask any questions. I know from a conversation that I had with Mr. Doll before this meeting, we probably also want to clarify the area in which we’re looking for the legal drain to be removed and also make sure that is acceptable to this Board. Any questions?

Morrie: What Nick and I talked about prior to today’s meeting in the hallway was that his phrase “portion of Hines Ditch” and what that really entailed. He has the same aerial that I think you have. The question that we had was, at the upstream end there’s actually a piece of property in that area that’s next to the county park, it’s not in this development’s footprint, who would assume future maintenance responsibility in the Warrick County Department of Parks and Recreation area? Where it comes out of the lake and runs eastwardly into the area that’s set for the wetlands and future development. That’s the question. Who would maintain that? Options would be you don’t vacate Hines Ditch in the vicinity of the County Parks Department property but you do vacate it in the vicinity of this development and onward to Cypress Creek. I’m not sure how reasonable that is. You have a small segment of a ditch that’s maintained by the Drainage Board and then you run into an area that isn’t maintained by the Drainage Board, I don’t know how we’d ever manage that very effectively. I think what Nick needs to understand is, what is the expectation of that section next to the Parks Department property as to future maintenance going forward and are you asking that this development assume the maintenance responsibility for that section as well or are you willing to keep that small segment? And maybe we need to ask the Parks Department if they have an opinion about it. I don’t know. That’s one thing. I understand that the developer is proposing that they will assume the financial responsibility for any future maintenance and that you will maintain it in keeping with permitted steps by the Army Corps of Engineers and the Department of Natural Resources of the state of Indiana to avoid obstructions to the drain that would disrupt or alter current water flow. So, in effect, it will drain in the future the way it drains now.

Nick: That’s correct. That’s the intent.

Morrie: And that you would do any future maintenance to maintain that flow, right? At the cost of the development.

Nick: That’s correct.

Morrie: Now and in the future. And obviously what this general written agreement would become is a part of a resolution to vacate Hines Ditch should this Board decide it wants to do that. I would draft such an agreement with Phil’s help and Steve’s help and then we’d submit it to all the interested parties so they could take a look at it, neighboring land owners etc. Then we would have to vote on that final agreement at a later time. So this is like a middle step. From the verbal conversations we’ve had before and the public hearing to ‘do we continue to work on this’? But I think everyone needs to know where we’re going so we can tell if we’re working in the right direction or not. If any of the surrounding land owners have questions, whether they’re pertinent or not, I think that’s what we’re all waiting to hear. I know one of the surrounding land owners is present.

President Johnson: Do you have any concerns about this?

Phil: I’m just concerned about this one area.

Commissioner Saylor: What area is that Phil?

Phil: The western end. From the lake going east.

Commissioner Saylor: Adjacent to the Parks?

Phil: Yes.

Morrie: While it doesn’t show it, Hines ends up at Cypress Creek which is just off the corner of this paper a little bit. You’re proposing that you are going to acquire this piece that is a notch out of the drain area?

Nick: That is our intent. All of that would be included under our responsibility.

Morrie: Your responsibilities would then flow all the way to the merger of Hines Ditch and Cypress Creek?

Nick: Correct.

Morrie: The only question is this upper end of Hines Ditch and whether the Board has any thoughts that we could give direction to about whether you are going to keep the maintenance responsibility on that small segment or not or whether you would expect the developer to agree to assume the maintenance responsibility on that section? Whether we need to get the County Parks Department’s input about that question? Do they have some plan for that water area?

Commissioner Saylor: I have sat on the Board previously and under the development of this park and that was never in any of the discussions. Now I’m not speaking on behalf of the Board but I’m just telling you the history of what I know. At one time we talked about maybe doing some cleanout in that lake area but I think that was kind of dropped. That’s the only discussion that I’ve ever heard.

Morrie: Phil, do you have an opinion about maintaining that section of Hines Ditch? What’s your thoughts?

Phil: I’d really rather not. Just that one little piece there. I’d like to have the whole thing deregulated if we’re going to deregulate.

Morrie: If you’re going to deregulate any of it, you want to deregulate all of it. Would that be a safe statement?

Phil: Yes.

Morrie: I guess the question gets to be of Roslin Partners II; Nick, do you believe they’re willing to accept responsibility all the way to the lake?

Nick: It does appear as though that segmenting the area out or segmenting the ditch out is causing a little bit of concern here today. I think that where that has been introduced to by us is I’m a little bit concerned on how we ever get the rights to do what you described. Access. You’ve got homes on one side of that lake and you’ve got the park on the other side of the lake. I’m not so concerned about the condition of the ditch itself leading to the lake. I know there was an issue with the lake before. I don’t know whether it has ever been remedied and I’d hate to assume some responsibility for something that may already have a condition in that warrants some maintenance.

Commissioner Saylor: So, Nick, your concern if you did accept to maintain all this, is getting on the other side on the park’s property to maintain it? Is that right?

Nick: Well I would assume right now that the county has certain rights and easements in place to be able to do that. I don’t know if those would be transferable to us?

Morrie: We have all our regulated drains 75-foot from top-of-bank as a statutory right-of-way created by the state of Indiana for this body.

Nick: Including that pond?

Morrie: Well, I don’t think the pond is part of Hines Ditch.

Jason Baxter: No, it’s not.

Morrie: It feeds into Hines Ditch but it’s not part of Hines Ditch.

Commissioner Saylor: That’s where I was kind of confused. You said development. So on the north side of that there’s nothing there on that side of Hines Ditch. And then on the park’s side, I think there’s no permanent structure there.

Nick: I stand corrected. For whatever reason, I assumed that the pond was part of Hines Ditch. If that’s not the case, then I’m not concerned.

Commissioner Saylor: Ok, so Hines Ditch starts at the mouth or the overflow of that lake.

Morrie: Who owns the property to the north? Is that Victoria Conservation LLC?

Nick: Yes. It’s either Victoria Conservation LLC or it’s Victoria Operations. It’s one of our entities.

Morrie: We currently have a 75-foot top-of-bank right-of-way on the property owned by Victoria?

Nick: That would be correct.

Morrie: So you wouldn’t need a right-of-way on the north side of Hines Ditch from a sister entity. I would presume you already have that relationship.

Nick: Exactly. If all we’re talking about is the actual ditch or creek, then my concern that I expressed to you is removed.

Morrie: The only thing that I would recommend that we approach is our sister agency, the Parks Department. If we give up the regulated portion of Hines Ditch as it crosses their property, perhaps they would be willing to give a maintenance easement right-of-way of some width adjacent to Hines Ditch to the entity assuming responsibility for the maintenance of that section going forward so they can get on either side of the ditch at that location to do whatever work in the years to come that might have to be done there. It would just be prudent of us to try to do that if we could. We have ditches we only access by one side. It wouldn’t be a bad idea if we could talk to the Parks Department to see if they would agree. And that would be something that would be included in this final document that details what the agreement is if we deregulate Hines Ditch. So I take it then, that the developer is willing to assume that area of responsibility too?

Nick: That is correct.

Commissioner Saylor: Nick, I have one question. I wouldn’t see why the Parks Department would give that right up to give you guys access to the Parks Department property but could you maintain that ditch just from your side?

Nick: I would think in most cases the answer to that should be yes, but I reserve the right to say there could be some things………

Commissioner Saylor: But it would be real helpful if you could have access to it?

Nick: That would be preferable. And I would think, given the development plan for the park, that ought not be too difficult.

Commissioner Saylor: Right. There’s no permanent structure there.

President Johnson: Have any more question for Mr. Cassala?

Earl Wood: How far is the responsibility? What I was wanting to know is where, as it went past my property, does that mean that I have to maintain my ditch now?

Morrie: No. As I understand it, is that Roslin Partners II, LLC, if we agree to abandon this as a regulated drain, they will agree to assume future maintenance cost and responsibility so that the current flow rates would be maintained into the future.

Mr. Wood: Monitored and maintained?

Morrie: Maintained into the future, yes sir. And they’re going to do it in a way that allows……..

Mr. Wood: As far as my responsibility to the ditch, it doesn’t change? And it will be maintained?

Morrie: That’s correct. It will drain the same volume of water in the future as it does today.

Mr. Wood: And nobody else is going to put more water on us?

Nick: Water from our development flows the other direction. It won’t flow towards Mr. Woods unless there’s an obstruction that we have to clear.

Mr. Wood: That ditch was not constructed for mining. That ditch was there before mining ever came to that property.

Nick: Your concern is about other developments that are moving water this direction.

Mr. Wood: Yeah. The extra load. That dam has breached before. My final question is, if it is deregulated, who holds the responsibility that I know we can talk about it, that has lifetime responsibility? This is the number you call.

Morrie: It would be a written document between the Drainage Board and Roslin Partners II, LLC which would be a covenant that would run with the land that would place that responsibility on the present and any future owners of the property Roslin Partners II, LLC owns. That who would always be responsible. It’s a covenant that runs with the land. In other words, if something happens to Roslin Partners LLC, that doesn’t end the obligation. If someone else steps in and buys that property, they step into that responsibility.

Mr. Wood: What previsions in that agreement will give you timely repair if it needs to be done?

Morrie: We haven’t drafted that agreement yet but we’d have to prepare language which you could see before we would vote on it for the Board’s approval. To see if we’ve got it worded in a way that you feel a timeliness issue has been addressed.

Mr. Wood: What if the dam is breached?

Commissioner Saylor: My question is, 10-years down the road you guys sell and it goes to the new owner, but will they be as willing to be a community partner as you? Would it go before this Board again if there’s an issue?

Morrie: Only if you re-regulate the drain which you wouldn’t want to do. Mr. Wood asked a question I want to give an answer to. You asked about ‘what if the dam is breached’? The dam is a part of Hines Ditch so if the dam is breached, the county would be responsible for any damages that might occur downstream because it’s their dam. They are the ones with the liability in the neighborhood if the dam is breached. Hines Ditch is just a vehicle to get the water away if that would happen but it’s not the fault of Hines Ditch that the dam might have been breached. Mr. Wood, I would think you would want to see whatever document we’re considering. I will get something drafted and show it to you, if the Board allows me to, and see if we’ve got it covered in a way that you feel protected. So the question to the Board, then is, is the spirit of the offer by Roslin Partners II agreeable to the Drainage Board and if so, would you authorize us to begin to work on the formal documents to deregulate Hines Ditch which would have to be adopted in another meeting? And we could circulate that, show it to Mr. Wood, work with Chris about it and I guess show it to the County Parks Department.

Commissioner Weisheit: Need that in a motion?

Morrie: Yes, sir.

Commissioner Weisheit: I’d make that motion that you can go ahead and start the paperwork on the deregulation of Hines Ditch so we can review it at a future meeting.

Commissioner Saylor: I second that motion.

President Johnson: All in favor? 3-0.

Morrie: Couple of weeks. Is that timely enough to get you a draft and then you can get it reviewed and we’ll get it to Mr. Woods?

Nick: That’d be great.

**HALSTON MANOR:**

President Johnson: Next up we have Halston Manor; retention basin release structure.

Neil Chapman: Good afternoon, lady and gentlemen. I’m Neil Chapman. I’m here as a homeowner in Halston Manor. I’m one of the first parcel owners. If I may first, I want to introduce those from the list of 6 property owners that are here today. Mr. Kevin Putnam and his wife Vickie. Mrs. Topper is here; Mr. Topper is not. Mr. Scagg is on Spring Break with his kids in Florida. Stephanie Stanton is not here but her brother, Robin Hershman is here on her behalf. And Ms. Melda Sermersheim is here. I am here not only on behalf of myself but I’m also council for the Halston Manor Property Owners Association. The retention basin or retention lake is owned by the Halston Manor Property Owners Association as well as the bank. I wanted to clear up any misunderstanding. The 6 owners who are identified don’t own that land. It’s owned by the 62 homeowners that comprise the Halston Manor Property Owners Association. I’m here to answer questions and to listen. I will say, certainly we respect the thankless work that all of you do. Sitting on a Drainage Board has got to be pretty dry. Yes, these are contentious issues and we certainly didn’t intend to cause any harm to our neighborhood or to our county. I was a bit surprised. I live on the southwest corner of the neighborhood which is the lowest point in the development. I’ve not seen any problems or issues. Mr. Sherwood’s letter identifies issues that are caused by the fact that we elevated the water level in our basin by a couple of feet over the years. About 11 or 12-years ago. I’m here to listen to what kind of problems have been created and also give a forum for my fellow homeowners to tell you what they have experienced. Are there any questions or something specific?

Morrie: What we have is a situation where when this development was approved it submitted a drainage plan and that came before this Board’s previous members serving at that time. Engineers had prepared calculations on the Storm Water flow that the development of that subdivision would impact the area with and as a consequence, they designed a drainage detention pond for the neighborhood which is required both by the state and in some cases by the federal regulations and that’s the case in your neighborhood. When that drainage structure was designed, it came before the Board and the engineer was here, and he explained that these calculations, in rain conditions, this body of water would hold excess runoff of a certain capacity. There was a set of covenants, restrictions and protective covenants and reservations that was adopted for the neighborhood and recorded. And article #10 says “the existing natural drain courses and manmade drainage facilities in the subdivision shall not be altered”. What’s been discovered is that a modification to the drainage outlet has occurred at some time in the past in which cement appears to have been added to it in some way. It’s caused an artificial raising of the surface water level in this detention. It’s raised 3-feet.

Steve Sherwood: Approximately 42-inches or 3 ½-feet.

Morrie: What that does is it increases the size of the body of water in the neighborhood for esthetic purposes etc. What that also does is that denies the ability of the detention pond to collect and hold for discharge in a more prorated, less dramatic way 42-inches of water. Which is a lot of water. That comes because there’s been a lot of surface addition when a subdivision gets built. Streets, sidewalks, sewers etc. It deprives detention holding facilities for the neighborhood and it also submerges culverts that drain into the structure from various surface street drains. There are photographs of that, that Steve sent out with the packets. What that does is that basically backs that water back up into the drainage culverts which accelerates the deterioration of the culvert pipes.

Steve: And the freeze-thaw affect.

Morrie: So as a consequence, we’re looking at future accelerated maintenance cost because of that.

Steve: One inlet on the east side of the basin just has several inches from the top of the grate to the water level. The boxes never drain dry or the pipe never drains dry in the street.

Morrie: So as a consequence when we have freeze-thaw that really damages those structures which means, at some point in time, you’re going to have to replace them. Cut streets. Cut sidewalks. Dig up things. And put new piping in. It’s largely because they never completely drained and they can’t completely drain because the surface water level of the detention pond has been raised by 42-inches. So our question is, will the homeowners lower it back to the approved level that the drainage plan was approved at the time the subdivision was allowed which will lower the surface by 42-inches?

Neil: Well first I want to respectfully disagree with the measurements that were made. If you turn to the photograph that shows the 42-inches, I’ve measured that over the weekend and again this morning to double check. What we did was, back in 2005 shortly after forming our Association, we passed a motion to raise the wall by 12-inces. You can see that first strata. Then a year later, because it improved the appearance of the pond immeasurably, we raised it another 12-inches. So we have raised it 2-feet or 24-inches, not the 42. The red line at the bottom goes to the bottom of that structure. There was already a small wall there when it was installed. So while I agree that it’s 42-inches from the top to the bottom, the initial wall was 17-inches tall. Here is the problem that we found back in 2004. The basin, which is an acre in size, had a water level of less than 18-inches and so we complained to the developer and he explained that the only thing that could be done is to dig it out deeper which would cost $50,000.00 by his estimation. He said he wouldn’t do it. That would be on our dime. So we did nothing that Spring and so the pond surface became nearly covered by algae, horsehair algae. It’s very resilient and resistant to chemicals. I didn’t know what to do. I don’t know a thing about drainage or cleaning the water from algae and so forth so I contact Gary Michell, he’s with the Purdue University Extension office and he went and inspected it. Then he prepared an email that he sent to his boss. That email was dated October 2005. It said, “Carol, I looked the Halston Manor Subdivision retention pond on October 4th, 2005. It’s about a .75-acre surface that is said to be 3-feet deep. (We later measured again and it was about 18-inches so he overestimated the depth of it at 3-feet.) There are four 12-inch inlet pipes and 2 ½ of 54-inch drainage pipes. There was slight outflow on a dry day and can have significant outflow. I found horsehair algae covering ¼ to 1/3 of the pond. What is your suggestion?” Then Carol replied, “the algae should fall to the bottom through the winter but with such a shallow pond they are going to have very persistent problems and the outflow sure doesn’t help any. About all they can do, I think, is to spray the surfaces of the floating mats as they appear.” I was getting complaints right and left from the homeowners. I’ll grant you, Morrie, it appears that we committed a foul. If you read the restricted covenants than I’m sure the drainage plan was submitted, I didn’t investigate, I was aware that we were probably committing a foul but my argument was going to be ‘no harm, no foul’. I wasn’t aware of any harm. You’ve educated me here today that freezing and thawing could accelerate the aging of these culverts. I would like to ask for, request, make a motion, for a variance or waiver so that we could either keep the water level as it is or not have to knock it back down the two feet that we took off of it because at 18-inches it was impossible to keep the water clean. Now we have a lovely pond that has increased property values, it’s a pleasure. Everyone enjoys it. We have health concerns with horsehair algae that’s resistant, mosquitos, Zika virus, who knows. We’re not aware of any drainage issues. The water seems to drain through fine. I was out there this morning looking at, we had substantial rain, it doesn’t back up into the streets. It flows through just fine. I would know if there was, I would be here complaining. We also had a fish kill because the pond was so shallow. Let’s say that we had not modified the wall or the water elevation…..would the drainage culvert still require replacement or maintenance in the future? What is the normal life span? Rough estimate.

Morrie: We have two engineers in the room. Any idea?

Steve: Concrete pipe, 30 to 50-years.

Morrie: So your normal wear and tear, if they fully drained out, is 30 to 50-years.

Neil: It’s been 12-years since we first elevated the pond by a foot and 11-years since we elevated the second foot. Are there any signs of deterioration, cracking or problems?

Morrie: Can’t tell until we drain them.

Steve: In regard to the 42-inches, that figure was derived by looking at the design drawing that’s in your packet, assuming the back of the top wall had not changed, if you follow the red line down where it steps down to the bottom, we measured about 42-inches.

Neil: It is about 42-inches.

Steve: We’ve not gone out and verified the elevations written on that drawing at this point in time.

Neil: But if the original design intended for this 1-acre pond is to have a depth of less than a foot and a half that’s tough. In fact, the developer, Bruce Miller gave us our first fountain.

Commissioner Saylor: I have a question directed more to our engineers. Do you think this pond was not deep enough in the first place or maybe not to specs?

Steve: We don’t regulate that. Normal water elevation is 390.25 on the construction drawing and then if you go to the plat of out-lot A, it says the same thing.

Morrie: Which would mean 390-feet above sea level. And the amount of detention would be what? 7-feet more than that?

Steve: To the berm elevation stated there at 397.04. Upper berm.

Morrie: So theoretically in a really bad storm this detention pond, if it was as designed, would hold 7-feet of water.

Steve: If it would reach maximum detention.

Neil: Because the street level is much higher. Even at the level it is now which is a little under 4-feet, we’re still 2-feet or more below the surface level of the street and we’ve had some biblical rains and only one occasion that water came out of the banks. Then it receded within an hour or so.

Steve: The current configuration, the box allows for just water in, water out. There’s no real retention. The original design of the box, as you can see, is kind of modified of a specific size so it would choke back a little bit more water as water came into the basin.

Morrie: The modified box is the height of the top of the drainage culvert? Would that be a correct statement?

Steve: I believe it’s just slightly above the two outgoing half-pipes that serve.

Neil: I have video from 2004 which shows the overgrowth and it was clogging the drainage outflow.

Morrie: That would mean that any detention that would come into the pond now wouldn’t be able to flow out at much of a pace at all.

Steve: It’s just not matching the approved numbers that the original drainage plans were approved at. The other discussion, in relation to Mr. Chapman’s comments, the damage that’s being caused is that we have three pipes under water.

Robin Hershman: I used to work for PVC Plastics before it closed on Morgan Ave. I was an outside sales person. I sold the materials that are in our subdivision. The storm piping and the sanitary sewer pipes and also some large culvert pipes that were cut in half and formed the drainage structure. The one thing I wanted to point out, in reference to the RCP a moment ago with the concern of the freeze-thaw and the 30-year life expectancy, the storm pipes and drainage pipes that encircle the neighborhood are actually the underground storm piping under the main portion of the neighborhood is not RCP. It’s corrugated polyethylene.

Neil: What is RCP?

Robin: Reinforced concrete pipe. The drainage structures that are under there, it’s been roughly 15-years ago that they were put in, they were 12 to 15-inches in diameter. I’m sure it’s probably in the development design somewhere. Corrugated polyethylene is a high density polyethylene pipe. This is a duel-wall pipe. It’s got a smooth interior. I’m not going to stand here and tell you I know completely what freeze-thaw will have on it because I don’t sell polyethylene, I sell PVC pipe. But there is a significant difference between a reinforced concrete pipe and a high density polyethylene pipe which is around the neighborhood. I just wanted to bring that to your attention that the main portion of the drainage system is not reinforced concrete. What’s reinforced concrete are the actual outlet pipes that stuck out through the ground that dump the water into the draining basin.

Neil: Thanks Robin. You made a very good point. If you do the math on that sea level of where the water elevation was intended to be, it was intended to be 14-inches. I don’t know if that’s the best design in the world. I would ask for a variance to accommodate additional water.

Steve: As the letter said, we don’t know how this came to be. You’ve explained some of that today which is what the Board was needing to understand. The point being, none of it’s been approved by the Drainage Board since the original design was installed and constructed. The Highway Department’s concern is we still have three pipes, no matter what the material is, that are under water 24/7.

Neil: I can understand their concerns.

Steve: Typically when drainage plans are approved, all these pipes drain dry meaning the normal pool elevation should not be any higher than the lowest incoming pipe from any street drainage.

Morrie: And typically, Neil, when someone comes in and asks for a variance the burden is on the applicant to have an engineer provide calculations to show why the variance doesn’t have an adverse effect on the original design of the detention. So the Board isn’t guessing about its effect of the variance but it has somebody standing here that’s got the right initials, not mine, that says to the county ‘this is what it will hold and this is why it’s still good enough and this is why the variance is okay’ etc. We don’t have that obviously. So that makes it difficult for the Board to agree to a variance without having at least some scientific evidence.

Neil: Absolutely. If I may do this; If I could move to continue this discussion and at the next meeting I could present a more formal request for a variance and also present expert testimony through an engineer?

Morrie: That would be up to the Board to decide.

Commissioner Saylor: One of my concerns is it seems like we’re getting 100-year rain every 5-years. Could this have any effect on any homeowners? We’ve had substantial rain in the last 5 years. What happens if we get double that? Could this get in homes?

Neil: One thing that Bruce Miller, when I first came to him about the problems we were having, he said, take a look at the streets in Halston. They’re different than most subdivisions. My driveway is so steep that when it snows or has any kind of slick precipitation, I cannot get into my driveway with my car. My point is everyone’s homes sit up higher than street level. He said the way this neighborhood is designed, the streets themselves are a backup drainage. So even on the worst situations we didn’t have water that came anywhere near our homes.

Commissioner Saylor: Is Bruce and engineer?

Neil: I don’t think so.

Morrie: He’s a respiratory therapist.

Commissioner Saylor: I guess my concern is that the pond was engineered to retain water and now that it can’t retain as much water that water has to go someplace. That would be my concern. If this Board made an exception without some expert testimony and some engineering that we could be responsible for dumping water somewhere where we shouldn’t.

Bobby Howard: I just wanted to say that I’m willing to go back and do some of the investigation in regards to our culverts and how much does this level need to be dropped so that the culverts would not be impacted at the street level. There is slope on these culverts so we do have some situations where there is water in the basins that they do hold a little bit in those locations. Normally it’s not seen back at the street inlet. So there’s some things and some measurements that I think my office can look at and report back to this Board on. You did mention that your first 12-inch lift, the pond did look better. Did it take care of the algae issues at that time?

Neil: It improved it.

Bobby: If they can come back and show that this basin will hold what we need it to hold and also do what we require, maybe that’s not the full 2-feet, maybe there’s a meeting in there that we can live with.

Steve: And in reference to Mr. Chapman’s opening comments, we know that out-lot A is owned by the 62 lot owners comprised but these are the 6 parcels that abut it that would be directly affected by any change in elevation of the water. That’s why they were notified.

Neil: I understand that.

Morrie: So, Neil, are you asking the Board to continue the hearing today and let Bobby go out and I guess everybody would let him come on their property if he needs to, to do any measurements.

Neil: I don’t think he does because like I said, the banks are all owned by the association also.

Morrie: Ok. And in the meanwhile, is the Homeowners Association willing to have an engineer of its choice conduct measurements of capacities to see what the effects are?

Neil: Yes. Obviously that would be an expense but it would be an expense that we would be willing to spend because we would love to preserve things the way they are without causing undo harm to the priorities and regulations of the county.

Steve: The original engineer was Andy Easley Engineering, the plans that were approved.

Morrie: Mr. Easley is deceased.

Steve: But his company still survives. It’s owned by the people that used to work for him.

Neil: Would he be a good option?

Morrie: That’s up to you. We really don’t want to pick your engineer.

Steve: We’re not recommending one or the other. He would be the one who has most familiarity with the design.

Commissioner Saylor: I have one more question; Your vision of this pond, is it the size of it or was it that it created its own algae and was an eyesore?

Neil: All of the above. When it was at a lower level, the banks which are really steep were even steeper. When the water is low it looks like a crater. Esthetics was certainly a concern but also keeping the water reasonably clean. We still have some algae problems in the dead of August and September and we treat it on a monthly basis. We’ve commissioned a company that’s been treating it for the past dozen years. Back in the early days, when it was low it was a losing battle.

Commissioner Saylor: And to have it dug out a little deeper is not an option?

Neil: It’s an option but Bruce Miller estimated $50,000.00.

Morrie: If the Board would see fit to give you an extension, we don’t think two weeks is enough time to analyze this. So at least a month from now and the next meeting one month from now would be April 24th.

Commissioner Weisheit: I’d make a motion that we table it for one month until our April 24th meeting to allow Bobby time and whatever they chose to do on their own is fine but mainly to give Bobby time to give us a report in one month and see if we can compromise a level.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0.

Neil: Monday the 24th at 2:30?

Morrie: Yes. Thank you for coming in. We don’t always get cooperation.

**CLAIMS:**

President Johnson: Ok, now we’re to claims.

Commissioner Weisheit: Make a motion to pay the claims of $163.59.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0. Other business? On to Storm Water.

**DEPARTMENT OF STORM WATER**

**KINGSTON / EASTBROOKE:**

Steve: Thank you, Mr. President. I’ll try to be quick. First off, the bids from the last meeting have been executed and sent to the contractors. The Kingston Eastbrooke basin emergency overflow was awarded to JBI. The amount was $13,430.00. I’ve been in contact with them. As soon as the time period passes for the two remaining hold harmless agreements, Morrie and I discussed previously, we’ll probably cut them loose to begin that emergency overflow construction.

Morrie: Doesn’t that have water backed up in the inlets on that drainage pond, that detention pond?

Steve: It’s reduced significantly from what it was.

Morrie: Thank you.

**REMINGTON RIDGE:**

Steve: The second bid was Remington Ridge drain issue. That was awarded to Deig for $13,389.00. Their contract has been signed off ‘approved’ and they will begin here in a few weeks as soon as weather permits.

**MANCHESTER BLVD / SQUIRE ESTATES:**

Steve: Next item I have; I believe Bobby presented at the last meeting, the Manchester Blvd or Squire Estates Drainage Improvement Project. The last easement was acquired thanks to Mr. Marlin Weisheit’s efforts. I appreciate that. We are updating the current plans and specs and plan on putting those out for bid next month in April and hope to have a bid letting in May so that project can continue. As a reminder to the Board, that precast concrete structures are already made for that project. We’ve been holding them at the vendor’s yard in Evansville since last Fall.

**MATT WALLCE:**

Steve: Number 3; Matt Wallace. I will report to you that the preliminary Yorkridge and Stonegate Subdivisions, Matt has designed those, got those in and I’d like him to brief the Board on the proposed plan of attack at this point. If you’ll recall, this is the drainage project, the upper end starts at Lancaster Drive and Yorkridge, goes between the two subdivisions at Yorkridge and Stonegate through the Ashland Oil and Vectren easement that the tornado in 2005 went through. It was reported that the Vectren trucks crushed some pipes. We do not have any accurate drainage plans since it’s a very old subdivision. Matt has looked at the problem from the upper end of the watershed to the lower in that area and has a proposed plan.

Matt Wallace: Matt Wallace with Clark Dietz Engineers. You’ve got a couple of issues going on here. One: The original subdivisions were built prior to your current ordinance so it appears none of the pipes were sized to handle what would be the current storm event that we would design for if we were going to build the subdivision today. Also, there’s no storm detention basin of any kind so all the water just runs off. It either has to go into the Bell Road storm sewer or into the ditch that’s there on the east side of Yorkridge Subdivision. Having that be compounded by the fact that when the tornado came through some modifications were done to the drainage facilities. If you’re going to fix it and you’re going to spend some money, you might as well fix it properly and size the pipes that would handle the 50-year storm like what your current drainage ordinance call for. What’s compounding the problem in Stonegate is that the Yorkridge doesn’t have detention either so you have water that runs from one subdivision through the other and down into a creek, so we would recommend replacing some of the curb inlets. The current curb inlets are constructed by means of taking 24-inch pipe and turning it on its end and that’s the inlet structure and the cast iron grate is then grouted on top of that pipe. I recommend going to a regular 2-foot by 3-foot box with a larger grate on it that would have the ability to take more water in and take out the old pipes that were laid and lay larger pipes to get the water to move more efficiently.

Steve: Ultimately this discharge is into the Sycamore Ditch which is a drain we just invested some money in the last few years and cleaned out.

Matt: And there was another project just to the east of these.

Morrie: This sounds like a major project. And one that we would either have to have temporary construction easements or new permanent easements.

Matt: I’ve got one parcel right now that we would need a new permanent easement on. You have legal right to access the properties now through the permanent public easements but in many cases they’re only 12-feet wide. And there are some fences that would need to be taken down that people have fenced across the easements. Aerial photos were taken again by Google in the Fall of 2016 so there’s current photos of the neighborhood. There does not appear to be any yard barns or anything in the easements but there are some fences that we would need to temporarily take down. There is some landscaping both in the right-of-way and in the easements that would be affected.

Steve: Once we approve a final design then we may have to have a public hearing with the effected residents to ask for their input and then, of course, we’d have to have temporary right-of-entry agreements secured from all the effected properties so that we can work in the easements and outside of them as it effects their property. Removal of private fencing is always a concern and we’ve built that into the project as well. That’s it unless the Board has any other questions.

Phil: Move to adjourn.

Commissioner Weisheit: Second.

**BELLEVUE:**

Steve: Last item; I made a copy for the Board of Bellevue Subdivision. An illicit discharge notice has been sent out verbally. I just want to go on record that that’s being monitored. That’s all I have to report.

President Johnson: I’d entertain a motion to adjourn.

Phil: Move to adjourn.

Commissioner Weisheit: Second.

President Johnson: All in favor? 4-0. We’re done.