**MINUTES**

**WARRICK COUNTY DRAINAGE BOARD**

**&**

**DEPARTMENT OF STORM WATER**

**APRIL 10, 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; Marlin Weisheit, Secretary; 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, Don Gries, Wes Christmas, Jim Morley Jr., Glen Merritt, Michael Stevenson, David Matson, Charlie Braun, Sherri Rector and Bobby Howard.

**PLEDGE OF ALLEGIANCE:**

President Johnson opened the meeting of April 10, 2017 with the Pledge of Allegiance.

**APPROVAL OF MINUTES:**

President Johnson: Ok, no minutes to approve.

**ARBOR POINTE:**

President Johnson: First up is going to be Arbor Pointe. Vacation of existing right-of-way. Morley and Associates.

Jim Morley Jr.: Jim Morley Jr., Morley and Associates, Project Engineer. I believe we’re wanting to get rid of that drainage portion of that drainage and underground public utility easement to allow for Vectren to run along the road through there. As we’ve redeveloped that property into the Warrick Trail Apartments, it’s just an unnecessary easement.

Steve: So as you stated, it’s no longer necessary for its original intention?

Jim Morley Jr.: No. Originally this was a subdivision with subdivision lots and different pipe structures and systems so when they put the apartments in, these are just some leftover extra easements.

Steve: There are no underground structures containing this easement to be vacated?

Jim Morley Jr.: No.

Commissioner Weisheit: See any problem with it?

Steve: That was the only question I had. Just wanted to have the engineer verify there was no underground structures.

Commissioner Weisheit: I’ll make a motion to approve the vacation of the existing right-of-way there.

Jason: Second.

President Johnson: Ok, I’ve got a motion and a second. All in favor? 2-0.

Sherri Rector: When you have a vacation on your agenda, it’s a recommendation to the Commissioners to vacate. You do that next in the public hearing.

**KNIGHT COURT:**

President Johnson: Next we have Knight Court Drainage Approval. Morley and Associates.

Jim Morley Jr.: This is a three lot commercial subdivision along the south side of State Road 66 between Trinity Drive and Country Place Drive. It’s commonly known as ‘that lake that sits between the highway and Rabbit Run Subdivision’. The existing basin has excess capacity in it already and so the water from these three lots will go to that ground which is where it drains already. So no additional retention is required. As part of the subdivision there will be a couple new pipes and a couple swales to help get it there buts it’s the same basin that’s always been there. The basin was originally done as a borrow pit for the highway so it wasn’t like it was a basin sized just for Rabbit Run or something like that. It just has plenty of excess storage capacity in it already.

Steve: As the engineer has said, the existing basin that was originally approved for Rabbit Run and all that drains to it had capacity in there and his numbers have proved that this is not going to increase it above what it already has capacity for. And all the drainage structures within it will be private for this development.

Jim Morley Jr.: Yeah. This subdivision isn’t granting any additional right-of-way. So any pipe structures or swales that we have will all just be in drainage easements.

Steve: Just for the Board’s record, there is someone in the public that wants to address when it’s appropriate. Unless you have any other questions for the engineer at this time.

Spring Marcias: Lot 101. On the blueprints that I received in the mail it had a line going through the end and the corner of my property and I really don’t know how to read all those blueprints and everything like that so I just came to get questions answered. Will you be doing any property digging or anything of the sort? And also, in the back of our yard, on the blueprints it says flooding zone. I just want to make sure that when you guys build up back there, will there be any flooding or damage to my property for digging construction?

Jim Morley Jr.: All of the work that we do will be on this property and/or the existing county right-of-way. There’s a little bit of work that the County Engineer wants us to do to fill in some erosion that’s occurred along the right-of-way. We’ll be doing all our work on our property and won’t increase the flooding on someone else’s. After the meeting I’m happy to meet with her and go over those lines of what she had questions about.

President Johnson: Does anybody else have anything? I’d entertain a motion.

Commissioner Weisheit: I’ll make a motion to approve the drainage approval.

Jason: Second.

President Johnson: Ok, I’ve got a motion and a second. All in favor say aye. 2-0.

**ORCHARD VIEW:**

President Johnson: Next we have Orchard View Townhouses PUD. Drainage approval. Cash Waggner and Associates.

Glen Merritt: Glen Merritt with Cash Waggner. Engineer on the project. We have a 23-lot townhome project located on the west side of Park Place Drive there with the old Englebrecht Orchard. Used to be right there west of Peachwood and 261. We have 23-lots. There are three private roadways extending west off of Park Place Drive to service the proposed lots that we have within this development. There’s some existing storm sewer that we’re utilizing in Park Place that drains back to the existing detention basin that was constructed in a prior development. All the water from our site has always been intended to go to the west to that basin and we’re installing some new storm sewers and swales to direct the water from the roadways back to that detention basin as well. I’d be happy to answer any questions anybody might have.

Steve: Similar to the previous issue that was before the Board, this is part of a larger scheme. The watershed and drainage areas were already approved in the original development. He is developing the last remaining portion of vacant land within the proposed Englebrecht development. The retention basins were all sized previously to handle this extra water in the original design so he’s correct and his notes reflect that. Calculations reflect that. That they’re not going to over capacitate the existing drainage facility. With that, I’ll turn it back to the Board if they have any questions for Mr. Merritt while he’s here.

David Matson: David Matson, 7749 Andy Drive in the Orchard View Condo Association. More of a clarification question. Our property includes that basin. The Homeowners Association, the Orchard View Condo Association is responsible for that basin. Is that not correct? Our property line goes around that basin.

Glen: Correct.

Steve: Warrick County does not maintain any retention basins.

David: No I’m just saying, basically it’s our responsibility, is that right?

Steve: Whatever the plat says. Sometimes it’s the homeowners, sometimes it’s the Homeowners Association.

Glen: It’s the Association I think.

David: So that anything that goes in or out of that, we need to approve that?

Steve: It falls under the original drainage package. For when Englebrecht, the development there, was approved originally. So his developing the last vacant section, technically it still falls within the realm of the first drainage package that was approved for the development.

David: The only thing is, somebody put an exit into that between the original plan and now and I guess we’re just questioning how did that get approved?

Morrie: I don’t understand what you’re saying. Somebody put an exit…..

David: There’s a surface water exit on the east side of the basin that was put in within the last several years. And it’s not maintained.

Steve: Do you mean a pipe or an overland flow?

David: It’s underground and they put a pipe into the basin and put a dam at the end of it.

Steve: Again, it may be part of the original drainage package. I would say Surveyor’s office would have to verify the structure.

Jason: I can go and look at it.

David: I wish somebody would. We just want a clarification of it.

Steve: Are you’re referring to the new cul-de-sac that was built there in the northeast corner in the last couple years? Near Vann and 261?

David: No. On the east border of the basin. Directly across from us.

Glen: Can you point on here and show me where you’re talking about?

David: This one here.

Glen: That’s the one Steve is talking about.

Steve: All that drainage in the original plan was approved to go that direction. I think that cul-de-sac moved just several feet because it wasn’t in the right location according with the original plan so they re-platted it to contain it I believe. All that drainage was approved in the original drainage package and the Surveyor’s plans will show that 10 to 12-years ago when the original development was approved.

David: But then they just put this one in. Between the original and now.

Steve: But what you’re referring to is that cul-de-sac that was just recently built. It was originally planned 10 to12-years ago, they just now got to building it.

David: Ok.

Jason: Yeah. It was on the original plan.

David: So I guess our question is, are we responsible for maintaining that?

Jason: As Mr. Sherwood said, depending on how it reads.

David: Well our property line goes on the other side of that. It goes to the east of where it exits into the basin.

Glen: Part of it would be within the lake maintenance easement of that pipe. The property that he’s referencing is the condo development on the west side of the basin and their property line basically goes 15-feet east of the detention basin over towards our parcel that we’re developing now. The pipe that he’s referencing would be about 20-foot in a lake maintenance easement on a condo association.

Steve: The structures coming from the public roadways are contained in drainage easements, is that not correct? And anything that drains from the county roads will have to be maintained under our jurisdiction? Pipes that would prevent the roadway from flooding. Within the basin, the basin is under the jurisdiction or maintenance of the Homeowners Association or the joining property owners, whichever controls.

David: So the mess that was created is our responsibility?

Morrie: What mess are you speaking of?

David: There’s a lot of silt going into the basin from this pipe.

Charlie Braun: Charlie Braun, 3700 Taylor. Originally they built a coffer dam around that drain so they could clean that drain out. It’s a mess now because they never did clean it up. And also, on the overflow pipe, they cut a section out of it and it took the lake down about 3 or 4-inches.

Morrie: Was the lake constructed at the right elevation for the pool of the detention?

Steve: There’s platted information on what the pool elevation of the lakes is supposed to be.

Jason: Let me come out and talk to you tomorrow and visualize what you’re speaking of. Can we do that?

Morrie: Do you know who made this mess?

Charlie: It’s Holweger’s property.

David: I think it’s the people that surveyed the road.

Morrie: They’re the ones who dug out around the pipe? I don’t know if Highway needs to see this or not.

Steve: Would you leave a phone number with Mr. Baxter, please?

David: Sure.

Jason: I can meet you any time after noon.

David: It would probably have to be after 1 or 2pm for me. Let’s make it 2pm.

Jason: That’s fine.

Commissioner Weisheit: Will that bother you if we continue this for 2-weeks so we can review?

Sherri Rector: If you continue it, they won’t be able to get their plat approved tonight. It’ll be another month.

Glen: I guess my only comment regarding the conversations that have happened; That existing basin, we’re not modifying it from where it stands right now. If somebody else has created a problem, it’s from a prior project, it’s not the result of our development. I think our drainage plan, Steve and Bobby have both reviewed it, and there’s no issues with our drainage plan. I understand where they’re coming from. Some things happen during construction of when that road was built and when that pipe was dug into the lake but it doesn’t affect my plan that I have in front of you. I believe my plan is still valid and it meets the ordinance. If this stuff needs to get addressed here in the next couple of weeks, we’re prepared to move forward and if we can’t get this today then it’s going to push us back a month. We’re getting to the point now where construction needs to get going here as soon as possible with our development.

Commissioner Weisheit: Bobby, you and Steve have looked at this drainage plan and you’re okay with it? Hopefully between Jason and Bobby they can answer all the questions that need to be answered. If there’s repairs we’re obligated to, we can do them but if it’s the Homeowners Association or the developer then we can work with that. As long as Steve has reviewed it, I’ll go ahead and make a motion to approve the drainage so they can get through all their Area Plan meeting and everything, so I’ll make a motion to approve.

Jason: Second.

President Johnson: All in favor say aye. 2-0.

**WATERS EDGE:**

President Johnson: Next we have Waters Edge Subdivision Section V.

Don Gries: Don Gries with Andy Easley Engineering, I’m here on behalf of Waters Edge Subdivision. I was here before you last month at the Drainage Board meeting but due to lack of foresight on our part, we didn’t get the notices out on time to get to the APC meeting so I’m back again to state what we did last time. We’re not making any modifications to do anything. This is simply a bisection of a lot to create two parcels. 95% of this ends up in a multi-acre borrow pit so we’re making no improvements.

Sherri: The reason they had to come back is by statute and by our rules of procedure. Notice has to be sent out to all the adjacent property owners 21-days prior to the meeting. They weren’t sent out in time so really this shouldn’t have been heard at your last meeting. So he had to re-notice that it would be today.

Morrie: Here and tonight?

Sherri: Yes.

Morrie: So once again, what you’re asking for is a motion to determine that no drainage plan is required? Just as there was a month ago.

Don: Right. Correct.

President Johnson: I’d entertain a motion for Waters Edge Subdivision Section V. Request for no drainage approval.

Commissioner Weisheit: So moved.

Jason: Second.

President Johnson: All in favor? 2-0.

**TOWNE MARKET / BELL AIR LAND, LLC:**

President Johnson: Next we have Towne Market / Bell Air Land.

Morrie: This was a matter that came before the Board last year. Bell Air Land, LLC came before the Board and asked for the ability to encroach into the easement right-of-way for the drainage ditch on the south side of State Road 66. You’ll be familiar with the fact that Towne Market is occupying that premise. This Board, after a debate, agreed to allow a 40-foot out of the 75-foot top-of-back right-of-way to expand the parking lot. The reason that amount was selected was, that put it in keeping with the neighboring developments to the east and to the west of this particular site. This is the former flower shop, Zeidler’s. Their parking lot did not protrude as far towards State Road 66 right-of-way as the neighboring property’s did. After that, construction was commenced without a permit and they didn’t just expand 40-feet, they expanded the full 75-feet, covering the entire right-of-way. And that may have encroached on Vectren right-of-way as well but that’s not our problem. In addition, they erected a guardrail adjacent to the edge of the ditch bank and then they started construction of a gazebo. A commercial gazebo. Also partially in our right-of-way. I was previously instructed by the Board, and last Fall (I believe November 22nd), wrote them a Cease and Desist letter and instructed them they had a period of time. The Board authorized me to inform them that they had a period of 4-months in which to remove these encroachments from the right-of-way. I sent the letter by certified mail and regular mail to the registered agent for the corporations in the state of Georgia where their office is located. Then I brought it up to you in February that time was running out. On March 22nd there had been no visible attempts to remove any of these improvements in the encroachment. The Board authorized me to wright another letter telling them that we intended to fulfill our obligation and to commence litigation after March 22nd if they didn’t remove the encroachments. I wrote the second letter, sent it certified and also regular US Mail. I think I also enclosed a copy of my original letter in the second notice and it’s my observation that since this second letter was sent in February, the gazebo has been taken down.

Sherri: Yes. Jason went and took pictures.

Morrie: But I don’t see where there’s been any efforts whatsoever to remove the cement parking area that extends into the right-of-way that we didn’t give them permission to occupy. Or where there’s been any efforts to remove the guardrail that was constructed there as well. So March 22nd has come and gone. It’s my recommendation to the Board that they are not in compliance. I know there’s been some conversation with the Surveyor’s office about this project. Am I wrong or right?

Jason: I’m unaware of anything.

Morrie: So I’m looking for instructions from the Board whether you want me to commence litigation to have them remove their encroachment into our public drain right-of-way? We don’t seem to be getting anywhere. Although, like I said, the gazebo is gone.

Sherrie: Jason, weren’t there lines or something where the gazebo was, still in the ground?

Jason: The electric that was pulled up beside it.

Morrie: Footers where the gazebo was bolted to the foundations. I mean if you want to wait until we have a full complement of members we can certainly continue this until the next public meeting if you wish. Or if you want to not authorize or authorize, we can certainly do that today as well. I would also point out that when this construction was done it was done without a building permit.

Sherri: When they came in we told them they couldn’t put it there, that it was in the legal drain and the Vectren easement. They went ahead and put it up anyway.

Commissioner Weisheit: I, for one, think they need to remove everything back to the agreement that they were allowed to.

Morrie: Well I think, commissioner, that’s the point. I think if we don’t enforce our determination then why wouldn’t every other neighbor come in and say ‘hey I could use 6 more parking spots’.

Commissioner Weisheit: We worked with them when they moved in there because that originally was going to be a car lot.

Morrie: I don’t think so. I thought they were already saying it was going to be a deli at the time. Did we grant it for a car lot?

Steve: They petitioned to get it rezoned. It was denied. Then it became a deli after that.

Morrie: I don’t remember which came first. The car lot or the right-of-way expansion. But I know that last Fall I was instructed to write them and give them a deadline. In fact, it was a debate about how long to give them and Phil Baxter wanted to give them a good amount of time to give them an opportunity to come into compliance and that’s how we ended up with 4-months. Two of the commissioners are no longer here who voted on that at that time. I just wanted to give you the history of it.

Commissioner Weisheit: Since that’s in Dan’s area, why don’t we let him get involved in it? In two weeks we’ll bring it up again. I’m ready to make a motion to table it out and we’ll wait until Dan is here.

Morrie: Ok, I understand. Table it.

**CLAIMS:**

President Johnson: Ok, where are we at? Claims.

Commissioner Weisheit: I’ll make a motion to pay the claims for $459.31.

Jason: Second.

President Johnson: All in favor? 2-0.

**HALSTON MANOR:**

Steve: Donnie, while you’re still here, Halston Manor, just to officially address that issue; Donnie’s office, Easley Engineering, has been approached by the homeowners of the Halston Manor basin to do some surveying and hydraulic studies for the basin. They would have trouble meeting the deadline of later this month and requested from our office if they could be put back to the second meeting in May. That should give sufficient time.

Don Gries: I’m not sure we’ve entered into contract with them yet.

Morrie: So you haven’t been retained yet?

Don: We have not been retained yet to my knowledge. Now that may have happened today.

Steve: Justin sent an email prior to April 6th but my correspondence with him was that he would appreciate being put off until the second meeting in May.

Don: Right. We can’t make the first one.

Morrie: My only concern is, until we know they’ve been retained I’d rather keep the momentum moving towards a resolution and would recommend we not…..

Don: I can follow up on that in a minute and get back with you.

Morrie: And perhaps the Board would be happy at the second meeting of this month to then continue it to the second meeting of May. But until we know they’re hired I’d rather we keep this moving.

Don: Ok, thank you.

Morrie: And that doesn’t mean you have to come back. You could just let Steve know.

Steve: I’ll bring it up again under Drainage Board and we’ll discuss it at that time.

**MAGNOLIA PLACE:**

Steve: Last item I have for the Board, and this is a Drainage Board matter as well, I sent out an email to the Board, Surveyor’s office and Bobby Howard concerning Magnolia Place. An issue where these underground retention basins, one of them was constructed and several more feet of dirt had been placed on top as well as some trees and various landscaping. Just so the Board knows, the drainage amount has not been reduced to cover this issue but we do have concerns that placing that kind of load on top of these underground structures, let alone live root systems that are going to grow and mature and maybe penetrate the basin. We did discuss it during site review exclusively with the developer and his engineer that they’re not supposed to have any penetrations on top of the soil on top of these basins.

Morrie: You had been promised that there would be some kind of clarification letter from the representative of the manufacturer as to the abilities to withstand these types of pressures.

Steve: Through the discussion with the developing engineer which is Cash Waggner, I was told there would be a letter forthcoming from the vendor of the underground retention system that they’d withstand several more feet of dirt and an exact number was supposed to be prepared. Nothing has been said about trees or vegetation being planted on that or the equipment it took to dig those holes and plant the various trees and landscape. So I just want the Board to be put on notice that these numbers have to be reduced at some point. This issue needs to be discussed and remediated prior to those reduction dollar amounts.

Morrie: There’s bonds put in for drainage structures. Performance bonds. And before they’re released we need to have an answer as to whether or not the vegetation and extra cover of soil is in violation of the capacities of these underground systems. Otherwise we’re going to end up having the residents of the neighborhood complaining at some future date that the underground drainage system isn’t functioning and the Drainage Board needs to fix it and that’s not how this is supposed to work.

Steve: Again, to Morrie’s point, eventually the plat says the homeowners will take this over for maintenance and we would ask that these have to be inspected obviously and it’s not going to be an easy inspection. Someone has to get inside, underground to inspect these for their integrity. I didn’t know if it was appropriate for the Board at this point, since officially the developer has not been put on notification, I believe he knows about it in speaking with his engineer, but at some point this matter is going to have to be dealt with. I don’t know if he’s going to take it upon himself to remove the landscaping but he still has time before his letters mature.

Morrie: We still have to know whether the planting of the trees perforated the underground structures.

Steve: And as they mature I’m pretty sure the root system is going damage it in some capacity.

Morrie: So you could continue this for two weeks or you can decide you don’t want to do anything or we can talk about it when we have a full complement of the Board. It’s up to you.

Commissioner Weisheit: I think we need to put him on notice.

President Johnson: I think we need an answer.

Morrie: Do you want Phil’s office to put him on notice? Do you want me to put him on notice? Steve, in capacity, is working for Phil to put him on notice with a copy to me?

Commissioner Weisheit: That would be fine.

Morrie: So Steve could draft a letter on behalf of the Surveyor’s office or the Drainage Board with a copy to me.

Steve: I can do it.

Morrie: Thank you.

Commissioner Weisheit: That’s a consensus. Is that all you need Morrie?

Morrie: Yes.

**HALSTON MANOR (CONTINUED):**

Don: Ok, back to Halston Manor. I have made contact with the engineer’s office and we did receive contract from them today so we will need two more weeks.

Morrie: So you want it set for the 4th Monday of May.

Don: Correct.

Steve: May 22nd at 2:30.

Don: Very good. Thank you.

President Johnson: Ok, is there anything else for the Drainage Board?

**PIGEON CREEK:**

Jason: One other thing. I met with Mr. Faulkenburg which is the Surveyor for Spencer County this morning about Pigeon Creek. The following projects in the future, they’re going to split with us. Little Pigeon Creek. It’s just in the early stages of anything but they said that they will help us with Little Pigeon Creek in keeping the jams out.

Morrie: This is the same drainage way that we qualified for a state grant about 2-years, maybe 3.

Jason: 4. It’s been awhile.

Morrie: It was about $750,000.00. We did it in many different sections. Let it out for public bid and it went through from the river up as far as we could spend under a state grant. Is this some of that same area?

Jason: Yeah. It’s a continuous process.

Steve: I think traditionally in that past, Jason will tell you, that Spencer County will participate financially but Warrick County’s office does all the leg work or specifications related to any issues.

Jason: That’s correct.

Steve: It’s probably been a few years since you’ve had a joint Drainage Board meeting with Spencer County.

Morrie: I’ve never had one.

Jason: Next month on the 2nd, I’m going to their meeting and talking to them then.

Commissioner Weisheit: Alright. Keep us posted on that.

President Johnson: Mr. Sherwood.

**DEPARTMENT OF STORM WATER**

**RICELAND MANOR / MR. MAGAZINE:**

Steve: Yes. Under Storm Water Board. First item I have; I met with Bob Dale at his request on-site. This is the Riceland Manor or Mr. Magazine drainage issue. Met with him back on March 29th. I had a good discussion with him. I pitched to him a reduced scope of work that would affect the rear of his property. It seemed to address all his concerns. With that, I sent him a new package on March 31st with a sketch outlining my intentions. I believe I’ve copied the Board members concerning that. Just want to report to the Board, I have yet to hear back from Mr. Dale concerning that. It appears Newburgh does have in all their improvements on the upstream side. Mr. Dale seems to think that the soil is not so much an issue running into Mr. Magazine’s yard anymore. I’ve not spoken to Mr. Magazine but there’s a chance that if we are to move forward we can probably reduce the scope of that project. If there’s no longer a soil issue, we may just want to be able to discharge water into the street if we don’t have a mud issue to contend with and go back to what I’ll call my original phase 1 of trying to solve that problem. Just discharge the water. Collect it in the rear of the properties and discharge it to the street. So just wanted to brief the Board that that’s out there. That would greatly reduce the cost of the project and we can go back to phase 1.

**BELLEVUE SUBDIVISION:**

Steve: Next issue I have; Bellevue Sub. If you’ll recall, there was a trash issue concerning the amount of debris blowing into the Bell Road right-of-way into the east and the Angel Drive’s properties. One of the homeowners complained. I sent a notice to Mr. Combs. He has since cleaned up the trash and I believe you were forwarded an email from the homeowner who sited the original complaint that he was pleased with the outcome but is something that needs to be monitored especially during windy days. All the original trash from that first inspection was cleaned up within a matter of 7 to 10-days. So I just wanted to report to the Board the discharge notice has been addressed.

**NEW COUNTY TRUCK:**

Steve: Last item I have; Joe, any news for you to report to the Board on the truck?

Joe Grassman: Joe Grassman, Purchasing Manager. Yes, I heard from the dealership last week. The truck was delivered to them last Friday and it’s going to the outfitter today. However long it takes for them to put a service body on the truck and then get it to us is how long it’s going to take to get the truck. And I have no idea when that will be.

Steve: We’ve received an invoice concerning the truck. The check is being processed so that when the truck is delivered we’ll be able to make an inspection, accept it and have an exchange of title for the cash security.

Morrie: What’s it been? 3-months?

Steve: First meeting in December was when it was approved. Typically, 60 to 90-days but the dealership has said that they had many more orders than what they could process. That’s all the business that I have.

President Johnson: Anything else?

Commissioner Weisheit: Make a motion to adjourn.

Jason: Second.

President Johnson: Ok, I have a motion and a second. All in favor? 3-0.