**MINUTES**

**WARRICK COUNTY DRAINAGE BOARD**

**&**

**DEPARTMENT OF STORM WATER**

**MAY 14, 2018**

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 Jim Biggerstaff, Tom Keith, Mike Whetstine, Bill Bivins, Ray Hall, Cathy Cranick, Bobby Howard, Joe Grassman, Shane Suits, Nurahmed Mohammed, and Paul Carey.

**PLEDGE OF ALLEGIANCE:**

President Johnson opened the meeting of May 14, 2018 with the Pledge of Allegiance.

**APPROVAL OF MINUTES:**

President Johnson: First up we have the approval of the minutes for April 23, 2018.

Commissioner Weisheit: Motion to approve.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0.

**THE ENCLAVE AT OAK GROVE:**

President Johnson: Next up we have The Enclave at Oak Grove / Continuance to May 29th.

Commissioner Weisheit: I’ll make a motion that we continue this until May 29th.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0.

**LEXINGTON SUBDIVISION:**

President Johnson: Lexington Subdivision Replat #2 of lot 76.

Jim Biggerstaff: Jim Biggerstaff, for the record and the Doctor, the owner of the property is here.

Phil: We’re good with this.

Commissioner Weisheit: So there’s just no drainage improvements needed here, right?

Jim: No. This is originally 6 ½-acres; we’re splitting it in half. We are requesting no improvements.

Steve Sherwood: It’s part of a larger development in Lexington, the overall drainage was inclusive for the original development and that’s why they’re asking for no drainage improvements. And I believe the plat shows they’re vacating the platted cul-de-sac. Is that correct?

Jim: Yes.

Commissioner Weisheit: I make a motion to approve the request.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0.

**CAVENDISH PARK ESTATES:**

President Johnson: Cavendish Park Estates.

Jim Biggerstaff: Jim Biggerstaff, this is Paul Carey, he’s the owner of the subdivision.

Phil: We’re good with this. We recommend approval.

Steve: Mr. Carey’s made the final improvements requested. Jim Biggerstaff has submitted and updated a letter to reflect that and I believe at some point, the acceptance of the hammerhead cul-de-sac will come up as well.

Jim: Does that come up with the County Commissioners?

Steve: Through Planning Commission, so I would assume it will be their 4pm meeting either today or the next meeting.

Commissioner Weisheit: Make a motion to approve.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0.

**TOMMY CAR WASH / WARRICK PLACE IV:**

President Johnson: Tommy Car Wash / Warrick Place IV.

Tom Keith: My name is Tom Keith, I’m with Andy Easley Engineering. I am here to represent RYJO Enterprises and the Tommy Car Wash. They will be installing a new car wash on the proposed Lot 5B of this proposed subdivision. We’re going to be capturing the water coming off of the old K-Mart parking lot with 4 new inlets running over to an 18-inch drain in the middle of the road.

Phil: I think we’re good with it.

Steve: If you’re not familiar with it, it’s all an existing asphalt parking lot between the old K-Mart coming down south of 66. They’re building the major portion of it, I believe, as Tommy Car Wash. They’ll be getting a commercial driveway permit for the new entrance that comes out on Fruitwood and the existing drainage. They’re basically rerouting it because of the car wash. They’re going to abandon it and fill it in place and put a new one in to drain it. In your system, you’re proposing some type of filtering system so none of the actual detergents from the car wash are going into the Stormwater system. So they’re rerouting it. They have drainage plans on file in Phil’s office and they have a proposed cost amount to cover the improvements. A small part will be within the road right-of-way, the rest will be privately, not publicly, maintained. Some will go to HealthSouth and some other developments that we’re requiring a cost be established for and Phil has all that. So it’s in order and we ask that you go ahead and comply with Phil’s request.

Commissioner Saylor: I make a motion to approve.

Commissioner Weisheit: Second.

President Johnson: All in favor? 3-0.

**MR. WHETSTINE / HICKORY HILLS RETENTION BASIN:**

President Johnson: Mr. Whetstine / Hickory Hills Retention Basin.

Mike Whetstine: Mike Whetstine for the record.

Steve: At the request of the Drainage Board, I sent Mr. Whetstine a package requesting him to be here today. I believe sometime in December of 2015 you came to Phil’s office regarding the proposed purchase of the lot in question. A Sheriff’s sale asking what you may be able to do with the retention basin that was in the back. I sent you a package stating that it is a retention basin, what you could and could not do if you were going to do something to modify or change the approved drainage plans. You needed to submit a package back before this Board for any change to the original approved drainage plan for the subdivision. Driving by recently, we were notified that the retention had disappeared. I don’t know if it was just filled or if there’s something else buried there but we have no record of it on file with the Drainage Board.

Mike: I’d like to correct what you stated. My first contact with Phil about this was because, if you look at the plat, there’s supposed to be a retention basin on lots 1 & 2 in that 25-foot area. I had already purchased the lot at the Sheriff’s sale and I was going to build a house there. So I asked him about that because the retention basin that was built there was built in the middle of the lot. I paid Mr. Bivins to go out and mark on the lot where the easement was and where the retention basin actually was. The retention basin was a good 20 to 25-feet wider than it needed to be so I approached the neighbor on lot 2, John Kilmer, and said I need to put this retention basin in because this ruins my backyard and it’s going to have to go across your yard. He didn’t want to do that. At first I put the retention basin in to where it should’ve been in the first place. The drainage there was running down Hillcrest Street and it’s a least a 3-12 pitch on that street, it might even be 4-12. It’s a steep incline going up and only goes up 3-lots then it starts back downhill. Most of the drainage was in the street and it goes to the storm drainage that is buried that goes out to the road there, Telephone Road. I’ve never seen a drop of water go into that retention basin. So I said, if the neighbor is getting away with it, I will do it too, so I filled it in.

Steve: What Mr. Whetstine said early in December when he came to Phil’s office in 2015, he had concerns that the retention basin was larger than it was supposed to be and I directed him to contact the design engineer of the subdivision which is Mr. Bill Bivins. If you think you have concerns that it’s too large, it still needs to meet the approved plans on file at that time.

Mike: I’ll gladly do that but you’ll have to take it up with the neighbor.

Steve: The neighbor is a separate issue yet to be addressed. But the bulk of the basin existed on that lot.

Mike: If you really want a retention to work, you need to figure out a way to stop that water from running downhill so fast.

Commissioner Saylor: Mike, where’s that pipe at now?

(Mike is showing Commissioner Saylor on a drawing….inaudible)

Steve: We have concerns that the two street inlets across from the lot that are supposed to drain over to the north end of the basin, it’s all completely buried, we don’t know how they function. The other gentleman to the north, with the abutting lot, we’ve not addressed him yet. But he did have a pipe stubbed out and you can see it in the before pictures of that timber wall. The home is currently for sale and I don’t believe it’s been released from the building inspector’s jurisdiction at this time.

Mike: We’ve taken it off the market. I’m going to keep it as a rental. It might take you guys 10-years to decide what to do.

Commissioner Saylor: So what’s the solution to this?

Morrie: The correct procedure would be, if it’s a petition to delete the drainage plan, a new engineering survey would have to be performed to show that the original specifications are no longer required. Barring that, you have to put the drain back.

Commissioner Saylor: I’m not an engineer but it doesn’t look like it’s taking a lot of water but I didn’t know what was piped into it.

Steve: For the record, the design engineer is in the audience, Mr. Bivins. Obviously there was a certain amount of water that came that way and there was a certain volume approved to be detained and released through that basin. I believe part of my discussion back three years ago with Mr. Whetstine was that if you’re going to change the approved drainage plan, you need to submit a plan for this Board to review and approve. Now the basin is gone. We don’t know how some of the street drains function. The other pipe coming to the property to the north under that timber headwall, I don’t know what is connected to it. We have issues that may manifest in the street because the drainage is blocked off. He may choose to put in another ground retention basin. I don’t know what he would like to do with that property. Obviously it was for sale on the Sheriff’s Sale quite some time ago because they may have had difficulty in doing something with that lot because of the limitations in the backyard with the retention basin and the easement. I don’t disagree with Mr. Whetstine that the retention basin may have been over-excavated making it larger than what was necessary but it needs to at least equal what was on the approved plans and that he should seek consultation from the original engineer who developed the property. Mr. Bivins is in the audience. I don’t know if he’s contacted you in that regard.

Bill Bivins: The previous owner of the subdivision went bankrupt and has passed away. The retention basin was to extend to the lot on the north side of his property and that was filled in like Steve said. There’s a pipe in there and in order to go back to the original design, that wall would have to come out and we would have to extend the retention basin back onto this property to the north.

Commissioner Saylor: My question is; where is the water coming from for that retention basin?

Bill: From the top of the hill.

Commissioner Saylor: It isn’t like its handling 20 or 30 lots.

Bill: No. The retention basin is really small.

Steve: He has a defined drainage area on his approved drainage plans. He will tell you that it was supposed to drain to that area, including that portion of the affected street.

Bill: Yes.

Commission Saylor: What was the original size of that dry retention basin? Could you recall that?

Bill: No, I don’t. I’d have to look at the plans. It wasn’t very large. It’s not a very big area.

Mike: I believe, Mr. Bivins, you told me when you were getting this subdivision approved, that they put that in just to calm some of the neighbors that were remonstrating.

Bill: It was required by the Subdivision Ordinance and the Drainage Board. But it was constructed a lot larger, particularly wider, than what was required.

Commissioner Saylor: So if we could put something back, could it be smaller in nature? Where it wouldn’t take up much of the backyard but still serve the purpose of what it was originally intended to?

Bill: Yes.

Morrie: Smaller than what had been built or designed?

Commissioner Saylor: What had been built because nobody can answer the question. What was built; was that bigger than the design?

Morrie: I think Mr. Bivins said it was.

Bill: Yes.

Commissioner Saylor: So my question is; can it be put back in smaller in nature to where it might be just a narrow……..because there’s a fence up there and there’s a mound up there so no water is going over to the neighbor to the west.

Bill: Yes, we could do that. The question is whether we can extend it to the north onto the neighbor which is where it was supposed to be.

Steve: There is a drainage easement for it.

Morrie: So the neighbor has the same problem that would have to be pursued by the Board.

Commissioner Saylor: If we require Mr. Whetstine to do this then, to me, that drainage easement goes farther to the north, so what’s fair for him should be fair for the other guy.

Steve: The majority of it is on Mr. Whetstine’s lot. We told them all along, we understand that a portion of the lot to his north was circumvented in the same fashion. But the majority of the volume is on Mr. Whetstine’s capacity or volume of the retention basin. We’ve also told him if it needs to be modified, he needs to have information brought and approved before this Drainage Board. But it needs the volume as Mr. Bivins is getting to. It needs to meet with what the Subdivision Ordinance call for. If he says it was over designed, that’s fine, but it still needs to meet the minimum requirement that suits for that area for that specific size. Whether it’s above ground or underground, those are options for the owner/developer to pursue.

Commissioner Saylor: Bill, was that dry basin taking any water from the street?

Bill: Yes.

Commissioner Saylor: It was? Because I feel like that’s higher than the street in the back.

Steve: Remember, it’s taking two inlets in the street above the intersection with a pipe that goes between those two houses to get to the basin, which we don’t know how they function. The argument still is, we had an approved feature on a land that no longer exists.

President Johnson: So we either put it back to what is on the plan or we design something different and submit to the Board for review.

Mike: I don’t object to putting it back to the way it was as long as we do it to everyone.

Bill: Could we get a letter from the Board notifying the adjacent landowner that we are going to be constructing in that area and that it will be on him? Actually, he should be paying for his portion on it.

Commissioner Saylor: I don’t disagree with that. I think if we’re going to hold Mr. Whetstine to something…..I mean what’s right is right. On the other hand, if something can be designed to where it serves the purpose and meets the criteria……I don’t want to see him incur $15,000.00 of cost for an underground aquafer or system. If some kind of trench can be built to where it serves the purpose to where it doesn’t take up the whole backyard.

Bill: Let me take a look at that and see. It could be a possibility that the neighbor is backing up water and releasing it at a certain…..and may not have to get on him. It’s something I have to look at.

Commissioner Saylor: Would you take a look at it?

Bill: Sure.

Steve: And we don’t know if the property owner to the north is the same person that lives there now who actually filled it in.

Morrie: Doesn’t matter, legally. It’s an existing drainage easement.

President Johnson: Until we receive some type of modification, which I’m not opposed to, it needs to go back to the original specifications for that subdivision.

Steve: Or give some kind of timeframe to allow them to…..

Morrie: I agree. Is this a 30-day continuance to try to reach the neighbor and have a conversation with the neighbor?

Bill: That’s fine.

President Johnson: Mike, will that give you enough time?

Mike: Yes. I’m just going to rent the house. It doesn’t make any difference to me.

Morrie: First meeting in June?

Commissioner Saylor: I make a motion to extend this to the first meeting in June.

Commissioner Weisheit: Second.

President Johnson: All in favor? 3-0.

**RAY HALL / NESTER HILLS DRAINAGE ISSUES:**

President Johnson: Mr. Ray Hall / Nester Hills / Drainage Issues.

Ray Hall: Ray Hall.

President Johnson: We talked about this a couple weeks ago and now we’re back this week. I know we’ve had some visitors out to your place to look at the issue.

Commissioner Saylor: I went out there today with Bobby and Steve. I’m going to give you my opinion. I tell you what, Steve, you go ahead and talk and then I’ll speak up when you’re finished.

Steve: I think we discussed, three weeks ago, thoroughly the information at hand. We went out at Mr. Hall’s request to determine the grade elevation, trying to drain this easterly to Bell Road for approximately 190/200-feet from the bottom of the 15-inch pipe on the south side of the road. The invert elevation, just to get to the top of the hill between there and Bell Road, was 5.3-feet uphill grade wise. It may be possible to take a pipe through the hilltop but I’m really not advising you to go against natural drainage where water is drained through here and the reason there was a 15-inch pipe through the road to begin with. The minutes of that meeting approximately 3-years ago, we were requested to open up a drainage way where the two 6-inch pipes connected to the north end of the 15-inch reinforced, concrete pipe in the county road right-of-way. That’s still Mr. Howard’s and my opinion, is to create that opening.

Ray: I had also talked to Bobby. He didn’t get to look it at it but I showed him on Google Earth, a ditch that runs besides my neighbor on the west side and he’s already had a ditch that’s pretty deep and it runs from that road where the corner is at and it runs all the way down to the back where all the water goes into that back ditch. It all connects there and runs out to Oak Grove. He already has an existing ditch there but it is not being utilized. I’m not sure why it was ever put there. If all that water coming down the hill could go into a culvert there and go under the road, it would take all the water on and it would flow and not cause any issues at all.

Steve: Again, you’re talking about an area where there is no existing drainage easement and the water does not naturally run from where you’re describing to that point.

Ray: Right. The drainage easement that was put on my property when I did the subdivision, that was after I did the pole barn and I just talked to him about why the easement was ever put there if there was an existing easement before and there wasn’t. So I’m not sure why an easement was put down in the middle of my property.

Steve: I’m sure Mr. Bivins put the easement on the plat because of the existing 15-inch RCP that was there coming across……..,

Ray: No. This was after it was all filled in. This was done in 2016. Mr. Bivins never even could see the ditch was there. He knew it was there from when I told him. It looks like it did right now whenever he did the actual subdivision.

Steve: If you would like Mr. Bivins to step to the podium to address what we’re discussing, I’m sure he’d be willing to give his opinion on why the drainage easement is on the plat dated 2017, recorded.

Bill Bivins: There was existing pipe running across the road and the drainage flows to the north in that area.

Commissioner Saylor: Ray, I have a question for you. In your pole barn you built, it appears to me that your drain (there’s a drain located that we observe from the road). Is that correct?

Ray: Right.

Commissioner Saylor: Would you agree with me that that drain, is that lower than this here? Seems like everything is running to the northwest. Would that be correct?

Ray: Right. Yes. I tried to keep all the water flowing in the same direction the best I can. You guys keep going back to the minutes 3-years ago and I try to keep going back to the minutes 10-years ago but you guys keep ignoring that, where I had come in and tried to fight the lady behind me on the existing drainage and you guys said it was a civil matter. You guys wouldn’t tell the lady behind me to stop damming up the ditch even though she was doing it on purpose.

Commissioner Saylor: Ok. You’re saying behind you to the north.

Ray: To the back of me to the north. So all that water drains to that ditch and I have the minutes right here. At the time, you guys said that it wasn’t a county ditch, that you couldn’t do anything about it, that it wasn’t your responsibility to keep the ditch cleaned out.

Steve: Again, as we stated at the beginning of this meeting, that was a different time, a different matter.

Ray: So was 3-years ago.

Steve: No it’s not. This is to the point where you hooked up two 6-inch pipes to the county’s…..

Ray: I did that because you guys…..

Steve: I’m talking sir. To a 15-inch concrete pipe, across the road and county road right-of-way. Your issue is a civil matter because that is not a platted subdivision lot at that time neither for that issue 10-years ago. Let’s get back to where we’re at today from an issue that all started 3-years ago and I believe there’s someone in the audience that wants to speak at this point regarding drainage on her side of the roadway.

Commissioner Saylor: Let me ask you this; Ray, I always try to put myself in your shoes. I don’t know what happened 3-years ago, 10-years ago because I wasn’t here. What I try to do is find a solution to the problem so that’s why I took the time to go out there with Bobby and Steve and try to learn about this. I think this could be cleaned up and made a little bigger.

Cathy Cranick: Cathy Cranick, 3100 Nester Hill, Newburgh, IN.

Commissioner Saylor: Ok, so this is in Cathy’s front yard.

Cathy: It is directly in our front yard but we see it from our house.

Commissioner Saylor: To the east of your driveway.

Cathy: Correct.

Commissioner Saylor: I talked to Bobby and Steve. If we could make it a little larger. Clean it up, rip rap it to where it’s kind of a dry basin, holds a little bit of water. That goes over; we recreate the catch basin over there across the street. It would slow the water coming up here to his property. You have another catch basin across the street, which would slow it up. Then that would spill over to sheet. To me, it should flow down into this catch basin. I would saw cut the concrete and put in a bigger pipe.

Ray: It’s so deep right now. That’s ridiculous that you guys would want me to do that.

Commissioner Saylor: You have two 6-inch pipes going underneath there.

Ray: Yes because they had told me at the time that it wasn’t anybody’s ditch. That I could do whatever I wanted with it. Now I did put the pipes in the culvert. That’s fine. If you guys want to dig down where the culvert is and remove those pipes, whatever you want to do. But beyond that, there was never an easement there.

Morrie: If he doesn’t want to put the larger pipe in to protect the pool, he doesn’t have to.

Ray: It’s all just going to flow over and it’s still going to screw me over and it’s fine. All I’ve ever done was just try to make everything nice on my side of the street. I still think that, no matter what, it’s still going wash their driveway. He’s not understanding that, it’s not the issue that it’s backing up there. It’s still going to flow over because it’s holding water in your front yard. It’s still always going to hold water in your front yard. That’s fine, dig the ditch, do whatever you want to do there, it’s still going to be an issue for them but they can’t see that. And I’m just trying to create where all that water doesn’t come around that curve and make it to both of us.

Cathy: I think he’s forgetting that we never had this issue until he did.

Ray: You’ve always had the issue.

Cathy: We’ve always had water running around the hill. It was put there for a natural drain to go across the road. We’ve lived there 35-years, never had any problem until he did do this.

Ray: Your yard has always held water. That’s fine. We can move forward with whatever, it’s still going to be the same.

Cathy: And I agree, he does have a very nice place there but we would like to keep our driveway. I don’t want to have to replace my driveway because the piping has been blocked.

Morrie: Who’s going to re-open the drain path? Is it the County Highway Department?

Steve: Yeah. It’s all in the county road right-of-way. I believe that’s what Mr. Howard would say.

Morrie: So the County Highway will excavate on the north side?

Commissioner Saylor: So Steve and Bobby, what would we put on the north side? Would that be like a concrete catch basin or what?

Ray: I don’t think you realize how deep it is.

Steve: The most economical solution is to excavate and create a rip rap open pit similar to what’s already on the south side and keep both of them contained in the road right-of-way. Mr. Bivins platted sufficient amount of right-of-way on the subdivision plat in question to do that. We have to find where his two 6-inch pipes enter and use due diligence and care to remove the affected portion that’s connected to the 15-inch and allow the pit you’re discussing to create so the water will still flow into the two 6-inch pipes.

Ray: I’ve been arguing for years about, it always backs up on their side of the ditch. Every time. It doesn’t hit the two 6-inch pipes. It was never really an issue on that side of the road of it taking any water. But now it backs up on her side, it comes over the street, and then their problem is, it’s going in their driveway. But it’s backing up on your side and they don’t do anything about it.

Cathy: Once again, we didn’t have that trouble until you did this. Had no problem whatsoever.

Commissioner Saylor: So you’re saying water pools in this area?

Cathy: It does now. It never did until he put the pipes on the other side. He covered it all up with dirt and he landscaped it. It looks very nice. It’s not open on the other side anymore like it was.

Ray: It’s pretty deep on the other side where those pipes go into that culvert.

Commissioner Saylor: Where are those two 6-inch pipes? How deep do you think?

Ray: I don’t know.

Steve: We’d have to find it and allow it to drain into those two pipes.

Commissioner Saylor: You’re saying the majority of the water is coming down that street to the west of you?

Ray: Yes.

Commissioner Saylor: Then my question is; is there anything we can do to divert that water instead of coming down the road? Are we going to be shoving it on somebody else or creating another issue? Is there anything else that can be done there to try to alleviate some of the water coming on these two folks?

Cathy: Are you talking about maybe putting a drainpipe across the road?

Steve: If I understand what Mr. Hall is saying, he’d like us to divert some of the water before it gets to the lower point.

Ray: It would help her out too.

Steve: Then, of course, that would take another property owner or maybe even two and anybody downstream would receive water who is not receiving water now.

Morrie: Well we don’t have a legal right-of-way.

Steve: Right. We don’t have a drainage easement or anything.

Bobby Howard: Bobby Howard, Warrick County Engineer. My understanding is it’s the property owner that currently gets water from across the street in his front yard now is who they’re talking about running it on the west side of his house. It would go back to the same ditch that it enters into behind Mr. Hall’s house now and just pick up on the one property owner. So if that property owner is in agreement and if it will physically work, we could look at that.

Commissioner Saylor: Could you look at that and see if it could eliminate some water? But we don’t have a drainage easement to the house.

Bobby: Correct. That would be a requirement that we would ask for from that owner.

Ray: I’m just wanting everybody to be happy around there. I try to get along with Mr. Cranick. We butt heads every once in a while but to be honest, we sit out in the street and we talk about what we can do to get the water to stop coming on both of us because even if you open up his side, his front is still going to hold water.

Cathy: We even talked about putting in a ditch but our water meter is out in front so that would have to be moved and everything relocated.

Commissioner Saylor: There’s obviously some drainage issues there so hopefully we can come up with a solution.

Ray: I wish you guys would come out when it rains this week and watch how everything flows so then you’d realize how much of a problem it actually is.

Commissioner Saylor: Well that’s why we rely on this guy here. Both these guys are engineers and they understand how water runs. I go by that area a lot so if it’s raining, I’ll be happy to stop by.

Ray: That house that is next to them, across the street from me, it wasn’t existing until last year and it creates a lot more water coming off of that house too.

Commissioner Saylor: So are you on good terms with your neighbor to the west?

Ray: Yes. I actually talked to him when I got home from the meeting last time and he wants to come but he works thirds.

Commissioner Saylor: So is he receptive to something?

Ray: He just wants his front yard to stop flooding the way it is. So it would either take digging that corner ditch really deep and going around there and creating some kind of diversion or putting in the culvert into that ditch that’s already existing. His basement floods every single time.

President Johnson: Mr. Sherwood, any recommendations here?

Steve: I still stand by what the minutes called for three years ago. If we’re going to look beyond that and see if we can lessen the amount of water, that remains to be seen. We’d have to study that. In the meantime, I’d honor the Board’s commitment three years ago and construct a pit on the north side and disconnect the two 6-inch pipes from the 15-inch pipe. Take Mr. Saylor’s recommendation to improve both basins on both sides of the road.

Ray: I’m all for that if you think that’s going to take care of the issues but it’s not.

Commissioner Saylor: Let’s make that our first step. Then these two guys can investigate and you guys can get together.

Ray: What I’ve been fighting is, I don’t care to have that there but I know it’s not going to take care of the problem.

Commissioner Saylor: Maybe we can come up with a solution that helps everybody. That’s what we’re here for. That’s what we want to see. I think Steve’s recommendation would be a start. If you guys get with your neighbor and if they’re willing to look at a solution then or open up areas for an easement………..

Ray: It’s basically affecting me, my neighbor to the west, her and maybe your son a little bit.

President Johnson: Ok. Thank you very much.

Commissioner Weisheit: So do we need to make some type of motion today?

Morrie: I’d recommend it.

Commissioner Saylor: I make a motion that we instruct Steve and Bobby to look at making those basins a little bigger, rip rap them on both sides, make the one on the south side a little bit larger and rip rap it and then the one to the north, open up where the two 6-inch pipes and the 15-inch pipe meet and rip rap that area. I also want to encourage the homeowners to keep that area free of debris. If it gets clogged up, nothing is going to work.

Commissioner Weisheit: I will second that motion.

President Johnson: All in favor? 3-0.

**CLAIMS:**

President Johnson: Claims. We have a claim here for $173.90.

Commissioner Saylor: I make a motion to pay the claim.

Commissioner Weisheit: Second.

President Johnson: All in favor? 3-0.

**OTHER BUSINESS:**

President Johnson: Other business?

Jason Baxter: I just want to say thanks to Bobby on Howard Williams Ditch. Allowing us your resources helped out a bunch.

Commissioner Weisheit: Good job on that.

President Johnson: Mr. Sherwood.

**DEPARTMENT OF STORMWATER**

**SKID LOADER:**

Steve: Thank you, Mr. President. First order of business I have is; Joe Grassman, if you would step to the podium and give the Board a report on the skid loader bids that were sent out and what we got back.

Joe Grassman: Joe Grassman, Purchasing Manager. When Steve came to me with the request to get bids on a specific vehicle, a Caterpillar 259D Track Loader that he and Sam thought would be a preferred vehicle for their department; I started researching in about 150-mile radius of Evansville and contacted 5 or 6 different Cat dealers. Nashville, Indianapolis, Louisville, St. Louis and basically I found one that would place a bid other than Whayne’s Supply in Evansville. When it came right down to it, even that individual backed out of the deal. They all refused to place a bid that would be competitive with Whayne Supply in this area. That being said, we did get one bid for that particular vehicle from Whayne Supply in Evansville. That’s all we could do.

Steve: And the bid received was received in a timely manner and met the specifications stated.

Joe: Yes.

Morrie: My only comment on the record to the Board is, I think that’s price fixing. And I think that’s illegal. I think it’s a monopolistic attitude among the franchisees with this particular piece of equipment and I think that’s against federal law to have done that.

Joe: Our only way to combat it would be to look at other models. Different suppliers with similar equipment.

Steve: We had a Cat and we wanted to replace it with a Cat. The existing Cat will go to the Highway Department as soon as we take delivery of the new skid loader.

President Johnson: Does it have to be a Cat?

Steve: The reason why we did such was to have a supply and meet the existing parts and stuff like that. And we have a Cat. We wanted equal quality that we were surrendering and requiring. We get into different specifications for opening up for other skid loaders.

Joe: There is one code that fits here. Indiana code 5-22-10-8. It talks about compatibility of equipment, accessories or replacement parts. It gives us dispensation in a case like this to purchase without placing bids of the piece of equipment we want because it’s more compatible with what we have.

Shane Suits: My name is Shane Suits. I’m with Whayne Supply Company. I wanted to explain the reason why none of the other dealers would submit a bid is that by Caterpillar’s Dealership Agreement no other dealer is allowed to sell new machinery into another dealer’s territory. It’s not price fixing; it’s simply just protecting that dealer’s home turf by not allowing other dealers to submit bids for new equipment. Now you can submit bids for rental or used equipment but you’re not allowed to sell new out of territory. It’s not an attempt to try to limit anybody’s buying capabilities; it’s designed to protect our dealerships and their ability to service our customers.

Morrie: I would respond that I think it has the same effect.

Shane: I think to the extent that the other dealership would contact us and that we would work together and submit a price; I think that would be price fixing. But by them simply abstaining from submitting a bid or a price, that’s the complete opposite.

Commissioner Weisheit: Shane, in your opinion, would you think we’d get the same bid if we lived in that area? Basically, a piece of equipment lists for a certain amount of dollars wouldn’t it?

Shane: It just depends. Dealerships have some levity with funds and how they apply them so there could be some variance between dealerships.

Commissioner Weisheit: You’re probably as large a dealership as there is in the area.

Shane: We’re fairly large. Most Cat dealers have about the same footprint as what we do.

Commissioner Weisheit: I’d say in the future, if we want to, we compare it to a different type. Let John Deer and different types bid on it but in this case……..

Bobby: I guess there are two different options that I thought about and talked to Joe about. One being that this is already a pre-bid through the National Joint Powers Alliance bidding government and I think the code applies to that as well; that it’s already a machine that has been bid at per pricing per that, that the county is a member of the National Joint Powers Alliance. Two, as former Stormwater Director, in the past we had an opinion and we were considered a utility and by the utility we didn’t have to go by the same purchasing laws.

Morrie: I’m not relying on my advice about the state statute concerning……..I’m talking about the federal law.

Commissioner Saylor: So if I understand you, Bobby and Joe, this was part of a national bid schematic so to speak?

Joe: Yes. Then there is a code that says a government discount available, which again, make it a special purchase.

Steve: My question is to Shane; will your bid reflect that NJPA pricing?

Shane: It does. And where you would see, if you got a bid from any other dealership close to us, Caterpillar sets the governmental bid discount so it’s a certain percentage off the list price. So outside of some miscellaneous functions like freight, maybe prep, labor rates per hour, there may be some minor differences in pricing but by in large, the pricing should be the same.

Morrie: Does the Board want to proceed with the opening of the bid?

Commissioner Weisheit: I’m okay with it.

Morrie: It was received on 5-9-2018. It’s addressed to the Warrick County Purchasing Department, attention Joe. It’s from Whayne Supply Company, sealed. It includes an Invitation To Bid dated April 13, 2018 from the Stormwater Department. 2018 Caterpillar 259D Compact Track Loader. It includes a bid from Mr. Suites, specific by stock and serial number with an SMU4 in the amount of $56,800.00. It says after tax balance but I don’t believe that there is tax.

Shane: No. There’s no tax to that dollar amount.

Morrie: Okay. So the bid is $56,800.00. FOB, Boonville, In. There are options for extended warranties but those are above and beyond that bid price.

Commissioner Weisheit: What’s the standard warranty?

Shane: Standard warranty is two years at 2,000 horsepower.

Commissioner Weisheit: What horsepower is that?

Shane: 74.

Commissioner Weisheit: Diesel?

Shane: Yes.

Commissioner Weisheit: Steve, does that sound reasonable to you?

Steve: Yes.

Commissioner Weisheit: I make a motion to accept the bid from Whayne Supply for the 259D Compact Loader for $56,800.00.

Commissioner Saylor: I will second that motion.

President Johnson: All in favor? 4-0.

Steve: Thank you. Can you tell us when we can expect delivery?

Shane: What I’ll do is check and make sure that that specific serial number is still available. If it’s not, I can move it to a different serial number that is equipped identical to what that machine is and to what your specs require. Thank you guys.

Steve: As soon as we can take delivery on that and it’s operational, then we can turn over the existing skid loader to the Highway Department. Thank you.

**ANDERSON ROAD / PRUITT:**

Steve: Next item I have whom involved Morrie’s opinion; we’ve got an opinion back from our insurance certification adjuster on the Pruitt issue. The Anderson Road drainage issue where he……

Morrie: It was a torte claim.

Steve: $2,095.00. It was recommended by the insurance adjustor; no action.

Morrie: They are denying the claim.

Steve: I don’t know if Morrie had an opinion. My opinion was, no action.

Morrie: We do nothing. That’s my advice to the Board.

Commissioner Weisheit: I’m okay with that too.

Commissioner Saylor: I’m okay with it.

Steve: Just to remind the Board that the amount invested by Warrick County at this point to correct the situation on Anderson Road was $65,479.37 in material and contracted labor. So you will relay to the adjustor?

Morrie: I’ve already told him I fully expected we would do nothing and I would report to him if I was in error.

**HALSTON MANOR:**

Steve: Next issue I have also involves Morrie. We’ve been trying to get on top of the Halston Manor basin issue. I’d like Morrie to give an update please.

Morrie: Apparently, counsel has left the neighborhood and his house is for sale. He’s moved into Vanderburgh County. There is a conflict in fact, counsel I was indicating, who was here twice to address the Board, two different deadlines have passed. Counsel has indicated that he still remains legal counsel for the neighborhood Homeowners Association. But the homeowners have told the Drainage/Stormwater Board of a Mr. Don Gray who has called the office and indicated that Mr. Chapman has moved and is not returning any phone calls. They’ve hired an excavating company to do the work on the basin but they have no plans or anything to show them. He wanted to know if we could provide plans.

Steve: I believe they contacted Jason Baxter and Phil’s office. Jason and I looked up the minutes. I don’t know if that was provided to them but the last word I had is that they were getting that information to the contractor to pursue what the minutes called for that the Board requested last Fall. Which was to build a sluice gate option, which appeared to be the less expensive of the two options submitted by Mr. Chapman at that time. So that’s just an update on where we sit with Halston Manor.

Morrie: May I ask, when did you send that out to Mr. Gray?

Jason: I did not send it out. Chris has.

Steve: I’m not sure if she has but we will follow up.

Morrie: Why don’t you continue this for 30-days? And let’s at least get the replacement President of the Homeowners Association the opportunity to step up and do the right thing.

Commissioner Weisheit: I make a motion to table it and review it in 30-days.

Commissioner Saylor: Second.

President Johnson: All in favor? 4-0.

Steve: And, Jason, if you still have that information, I will get you an address so it can be forwarded to Mr. Gray.

Jason: I can do that.

**OLD HICKORY ESTATES / MR. SLANKARD:**

Steve: Next item I have is Old Hickory Estates #5. I’ve sent some correspondence internally between the Board members and the attorney. Mr. Gary Slankard is asking for some help in regard to the defective structure that was found. We responded to his request and set our video camera up from the street inlet and on the outside of the right-of-way. Inside the retention basin easement, they found that the pipe was bad and by their visual inspection inside the basin by removing some rip rap, they found that the pipe was also rusted and had holes in it. Short story, it’s not doing its job and holding the water and releasing at a controlled rate and he will be at the meeting with some constituents on May 29th, which is our next meeting, to ask the county for help. I had asked Morrie a legal opinion for what services we can provide outside.

Morrie: We don’t have the right-of-way. We don’t have the legal authority to enter to construct anything. Plus we don’t agree to maintain detention structures.

Steve: Or basins inside the easement.

Morrie: Of the detention basin. On a county road easement, we can do whatever we need to do.

Commissioner Saylor: So none of our pipes are failing or anything like that?

Steve: Not inside the road right-of-way, no. Not by the video evidence shown to me by our own inspection forces for that particular location.

Morrie: We have to hear him out because it’s a public meeting but I don’t think there’s any precibut for going offsite.

Steve: They will be coming 15-days from now.

**MIKE COLLINS / 8211 LINCOLN AVE:**

Steve: Next issue I have for the Board’s attention; we received a phone call from a Mike Collins at 8211 Lincoln Avenue. As you will recall, he believes his drainage was affected by the Lincoln Avenue Phase 3 construction. We sent him a package last year, regarding the Board’s instruction, on August 3, 2017 saying that if he would buy the pipe and material which amounted to $6,700.00 worth of storm drainage piping and inlets and basins that we would construct the installation of said improvements and contain a drainage easement if he would dedicate it. Basically, reconstruct a drain that was considered a private drainage tile across his basin from a roadway that entered into his property to the east and came southwesterly across his property and driveway into the Lincoln Avenue right-of-way. Currently the pipe is connected in new platted right-of-way with new pipe and we don’t believe the blockage is in there but he is insisting that he has a blockage on his property that may be caused by a collapsed tile by work outside the right-of-way. I have authorized a consultant to contact him and to explore those claims accordingly. So I’m waiting to hear back but I wanted to update the Board with what is happening with Mr. Collins.

**ASHBURY PARKE:**

Steve: Next item I have is the Ashbury Park basin on the northeast corner of Epworth and Lincoln Ave. It’s another one of those basins where the water elevation was raised significantly without any record on file in the county Surveyor’s office. Two pipes leading into the basin are completely under water and they wanted us to repair one of the streets inlets and we have video documentation that the pipe is full of water and partially collapsed and obstructed due to being under water and I cannot access the pipe. Original plans call for 75-feet of pipe. There appears to be almost twice that amount installed with most of that being under water. So I want to ask for an explanation as to why and see if we can get that rectified and the water elevation returned to normal pool elevation so I can at least fix the part that they’re requesting that I fix.

Morrie: You’ve not written them a letter yet?

Steve: Yes, I have. I have requested them to be before us at the May 29th meeting.

President Johnson: So you’re going to ask them if they lowered it?

Steve: To restore it back to its previously approved pool elevation and ask why it was raised.

Morrie: If there was damage to the drain from wrongful raising of pool elevation, I’m not sure it should be the county’s expense to repair the damaged pipe. But that’s for the 29th of May I guess. Legally I don’t think the county is obliged to repair that. Somebody needs to. I don’t know that it ought to be a taxpayer expense.

Steve: Again, you have an email to the Board members concerning detail in the issue.

**MS4 CONFERENCE:**

Steve: Next item I need to report to the Board; tomorrow is the annual MS4 Conference, one day conference, in Indianapolis so I’ll be leaving to go to that and I’ll be unavailable locally here at the office tomorrow. The MS4 Annual Report was signed by Marlin as the MS4 Operator and sent out prior to the deadline. I want to report to the Board that that’s been submitted.

**BASELINE PLACE SUBDIVSION / TOM NEWMASTER:**

Steve: I sent out a letter to Tom Newmaster with Baseline Place Subdivision at the corner of St. Johns and Baseline Road. As you recall, the Board gave him 30-days on the April 9th meeting to respond with a SWPPP. After 30-days, I sent him a letter stating ‘I’m still waiting for your SWPPP to arrive’. Today it arrived in the mail so I will review it to make sure he is in compliance. And if not, we will get it in order to get it approved. I will report to the Board; he has done some work out there. He has raised the edge of the embankment to make the embankment higher to lower his pool elevation and try and contain the stormwater. I’m still waiting to review his emergency overflow and other issues related to that.

**NEW CAMERA CRAWLER:**

Steve: I have a quote here, Trio-Vision, for our camera. We are having trouble with our crawler. It is 6 or 7-years old or older. A normal crawler body for the same type and model number is a $15,000.00 unit. If we trade in our existing crawler body for our camera to go through these pipes to videotape, we will get a $5,000.00 refund for a net difference of $10,000.00 for a new crawler. It will come with a standard 1-year warranty.

Morrie: What’s wrong with the old one?

Steve: It fails. It doesn’t move. It locks. It’s really a pain when it stalls 200-feet into a pipe and you try to pull it back out to retrieve it. It’s beyond any warranty and we are spending a lot of money sending it down to have it fixed and shipped back. It comes out of the Atlanta, GA area. I’m asking for the Board’s approval to purchase the $10,000.00, with the trade-in, new crawler body to replace our current model.

Commissioner Saylor: How does that affect your budget Steve?

Steve: I have money in it to purchase that. This will be new equipment. It comes out of our equipment budget.

Commissioner Weisheit: The cable, the trailer and everything else is in good shape?

Steve: Yes. That was a total of an $80,000.00 investment at that time.

Morrie: And the new body will be compatible with the cable.

Steve: It will be very compatible. Hook up the current cable system and TV network camera. And our wheels are interchangeable with it so we can mount several different types of wheels depending on accessibility.

Commissioner Saylor: So it’s $15,000.00 with a $5,000.00 trade-in?

Steve: For a net difference of $10,000.00 cost.

Commissioner Weisheit: I make a motion to approve.

Commissioner Saylor: Second.

President Johnson: All in favor? 4-0. One more motion.

**MOTION TO ADJOURN:**

Commissioner Saylor: I make a motion to adjourn.

Commissioner Weisheit: Second.

President Johnson: All in favor? 4-0.