**MINUTES**

**WARRICK COUNTY DRAINAGE BOARD**

**&**

**DEPARTMENT OF STORM WATER**

**May 23, 2022**

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 Dan Saylor, Vice President; Terry Phillippe; Secretary; Morrie Doll, Attorney; Bobbie Howard, Storm Water; Phil Baxter, Surveyor; Jason Baxter, Deputy Surveyor and Dana Upton, Recording Secretary

Present in the audience: Sundra & Larry Faass, Tabatha Helmick (Deig Bros), Angela Ward (Ragle Inc.), Gerald Beard, Chris Haisley, Nick Will

**PLEDGE OF ALLEGIANCE:**

President Bob Johnson: We will call the May 23rd 2022 Drainage Board Session to order if you will all stand and recite the pledge.

**APPROVAL OF MINUTES**

President Bob Johnson: First item on the Agenda is approval of May 9th 2022 minutes. I need to abstain from that since I wasn’t here.

Commissioner Dan Saylor: I’ll make a motion to approve

Commissioner Terry Phillippe: I’ll second.

President Bob Johnson: All in favor? Motion carries 2-0, 1 abstaining.

**Sundra Faass- 8788 Arizona Dr.**

President Bob Johnson: Up next we have Sundra Faass, 8788 Arizona Drive. Is that you all? Can one of you please approach the bench and talk? Hi ma’am could you please state your name for the record please?

Sundra Faass: Hi, Sundra Faass.

President Bob Johnson: Ok, and you’ve got a drainage complaint due to your neighbors not maintaining their portion of the easement. Is that correct?

Sundra Faass: Correct.

President Bob Johnson: You want to explain more about that?

Sundra Faass: There is a fence next to our, there is an easement that comes all the way down from Libbert Road through or behind our house which it’s kind of like supposed to be open for drainage and there is a fence right there on our property that is stopping the flow and it’s created a backup into our yard and into the neighbor’s yard behind us to the point where when it rains real heavy we have a drainage problem even with the drains from our roof getting away.

President Bob Johnson: Ok, were you aware of this?

Jason Baxter: Yea. I’ve not seen it but we’ve talked to Steve about it. Steve’s been out there and it’s like we’ve been having trouble with all the others in the past.

President Bob Johnson: ok.

Jason Baxter: Just building into the easement and similar to Mrs. Johnsons.

President Bob Johnson: Built out into the easement?

Jason Baxter: Yea. Her neighbors’ fence is blocking the drain.

Sundra Faass: and there’s like 2 neighbors east of us and part of their fence is blocking the easement too. So the water stops at our property.

Jason Baxter: right

Morrie Doll: is that a photograph of your property?

Sundra Faass: Yes. The guy that came out and looked at it said there is actually a sinkhole which there is. You can’t tell from that picture though.

Morrie Doll: So the picture shows 2 fences.

President Bob Johnson: yes Sir.

Sundra Faass: Yea, that’s the easement in between those 2 fences.

Morrie Doll: Well that’s not the width of an easement.

Sundra Faass: No.

Morrie Doll: who owns the fences?

Sundra Faass: The one to the East of us is the people that, it’s a rental house. We don’t know his name.

Morrie Doll: Ok, so we could look on the GIS Map through the County and see that. Who owns the other property?

Sundra Faass: On the backside it’s Steve Rogers.

Morrie Doll: and he lives there?

Sundra Faass: And he’s working. He wasn’t able to come today, but he’s got in fact a worse problem than we do. He said sometimes the water comes all the way up to his patio.

Morrie Doll: And are both fences, is it your contention that both fences are in the easement?

Sundra Faass: No, just the one that blocks it across here.

Morrie Doll: ok, so the end of the tunnel.

Commissioner Dan Saylor: So, these 2 fences that are running parallel with each other are not causing that issue?

President Bob Johnson: But they are in the easement I’m sure.

Commissioner Dan Saylor: Oh yea, so that.

Bobbie Howard: It’s a 20 foot easement.

Commissioner Dan Saylor: Ma’am what is this? Do you know? Is that a piece of pipe?

Sundra Faass: Yea, it’s just when we bought the house a few years ago, there was a basketball court and we took that pole down and it’s filled full of concrete so it’s difficult to get it out of there.

Commissioner Dan Saylor: Can you take that pole and just ram it down through that other piece of fence? That’s not a suggestion.

Sundra Faass: We don’t want to cause a problem with our neighbors, we just want somebody with an authority to take care of the problem.

Morrie Doll: Do you know who owns the fence that is crossways?

Sundra Faass: I’m told it’s an Attorney and we haven’t touched his fence.

Morrie Doll: Do you know who this Attorney is?

Sundra Faass: No, I don’t. But we’ve had 3 different renters in that property since we’ve been here.

Morrie Doll: So he’s the landlord

Sundra Faass: yes.

Morrie Doll: but he does not live there?

Sundra Faass: No.

Morrie Doll: And do you know the address of that house?

Sundra Faass: No.

Morrie Doll: And what is your address? Did you write that down?

Sundra Faass: 8788 Arizona Drive

Morrie Doll: And this is to the East of your property, this house?

Sundra Faass: And the one next to him is also a rental property and they also have a fence crossways of the easement.

Morrie Doll: It looks like there is a slight. The fence is off the ground just slightly or is it touching.

Sundra Faass: No, it’s in the ground.

Morrie Doll: Ok. Thank you.

President Bob Johnson: Ma’am we’ve got several of these popping up lately. We are trying to make an Ordinance or something to help us correct this issue but on this particular case here we’re going to have to probably do some more investigating on it and see what we can do to get those for lack of a better word, the vertical fences taken out or taken care of to let some drainage through there.

Sundra Faass: Ok.

President Bob Johnson: I don’t really have a good answer for you at this point other than the fact that we are going to address it. We will probably send Steve and his helpers down to, which is the person you probably met before. Big tall gentleman.

Sundra Faass: We didn’t actually get to see who came. Did we see the guy that came originally or did he just come on his own?

Larry Faass: He just came on his own.

Sundra Faass: Yea, we didn’t get, we asked to see him when he came but we didn’t get to.

President Bob Johnson: Ok. We are going to do some more investigating in this and see what we can come up with and we will have somebody get back with you on what we can do ok.?

Sundra Faass: Ok. Hopefully you can help.

President Bob Johnson: I certainly hope so.

Sundra Faass: Thank you.

President Bob Johnson: Thank you.

**Jorgelina Johnson- Lincoln Pointe Estates**

President Bob Johnson: You said Mrs. Johnson is not going to make it today?

Dana Upton: Correct and she was just following up on the Ordinance.

**Jerry Beard/ Chris Haisley- Walden Lane Drainage Easement**

President Bob Johnson: Next we have Jerry Beard and Chris Haisley Walden Lane drainage easement.

Jerry Beard: Just for the record, we are not husband and wife up here.

Chris Haisley: or anything thereof

President Bob Johnson: Please state your name Sir.

Jerry Beard: Gerald Beard- Jerry Beard

Chris Haisley: Chris Haisley

President Bob Johnson: Address issues in a letter sent from Mr. Doll.

Morrie Doll: For the record, this was brought to us with a complaint concerning the flooding in this neighborhood. There is a drainage easement, platted easement in the subdivision that came before the Board apparently in 2008. Mr. Bivens represented Mr. am I saying it right?

Chris Haisley: Haisley. Just like Paisley. Hated that when I was a kid but it works fine

Morrie Doll: Haisley. Oh ok. Mr. Haisley, he wanted to install a 24 inch HDP Pipe on a slope in a small swale ditch and that’s been installed however, the photographs that were brought to the Board with the complaint show that a retaining wall has been built and a fence.

Chris Haisley: it was all done at the same time.

Morrie Doll: ok, well what was brought to the Board was the installation of the Pipe but there wasn’t anything about a retaining wall or a fence or apparently I’m going to guess from the side view, it’s a Pool House

Chris Haisley: Correct

Morrie Doll: that appears to be built and all of that is in the public easement. The public drainage way.

Chris Haisley: I was not aware that the Pool House itself at all was in there. I know drainage pipe, the relief ditch and the retaining wall was built in the easement but it was signed off from this Board that it was ok.

Morrie Doll: Well the pipe was signed off.

President Bob Johnson: The Pipe was.

Chris Haisley: ok.

Morrie Doll: But none of the rest was.

Chris Haisley: It was all done at the same time. And I’m not arguing. I’m just saying it was all done at the same time and members of this Board came out and looked at it and said it was fine.

Morrie Doll: They looked at it after the?

Jerry Beard: Well it says in the minutes that it was filled in with railroad ties.

Morrie Doll: Well, the pipe is not taking the water out of the neighborhood at the present time and that’s the problem.

Chris Haisley: Ok, so I know this was 14 years ago and at that time I hired Mr. Bivens. He did a watershed study and did a 100 year watershed study and said that with the pipe and with a 43 inch 42 inch swale ditch behind it that, that was fine and that’s what I was told that the Board had signed off on. Like I said, this was 14 years ago and honestly it’s been fine up until probably the last 3-4 years. We have more water coming down through that valley than has ever come down before. My neighborhood, Mike Griffin is the President of our neighborhood and there’s flooding issues on Wedgewood, on Eaglewood and throughout the whole area. I mean, there is more water that comes down this area than there ever was and so the impression I had in 2008 was 24 inch Smooth Board Pipe, 42 inch relief ditch behind it was fine, adequate and it was approved by this Board and like I said, I know you came out to look at the Pool House, I had to get a fence permit and that was done and so.

Commissioner Dan Saylor: Wait a minute, stop right there Chris. You had to get a fence permit?

Chris Haisley: yes.

Commissioner Dan Saylor: ok.

Morrie Doll: APC. Does the swale still exist?

Chris Haisley: Yea but its eroded.

Morrie Doll: It’s deeper than it was?

Chris Haisley: No, it’s wider. So, the whole basis of Jerry’s complaint is that it’s eroding on his side and to be honest it’s eroding on my side as well but anyway, like I said there’s a lot of water that comes down his hillside, I mean directly down his hillside which contributes to that but there’s also so much more water that comes down through that valley than ever before and I don’t know if it’s from people building more houses, pole barns or what but like I said there is more water that comes down there than ever before.

Morrie Doll: What maintenance have you done on this drain over the years?

Chris Haisley: On the drain itself or?

Morrie Doll: Have you cleaned out the pipe, have you done any work?

Chris Haisley: The pipe itself is clean.

Morrie Doll: Have you done any work on the swale?

Chris Haisley: Multiple times where it has eroded and I have put like retaining wall block which has still eroded so minimal and the ditch honestly today looks horrible. You know, that’s a matter. I don’t see it like he sees it. So, like I said it’s kind of out of sight out of mind.

Jerry Beard: Well, the problem is there is a lot of water that comes from the East over Rolling Hills Country Club our direction and water that comes from the South. That comes barreling down my hill and the water from the South can never get into the pipe. It gets into the little ditch here and it has to make a right angle, ok the water has to go here, make a right angle turn. Everybody on that side of the table knows what happens. You’re going to have the swirl. When you got to make a right angle turn. You’ve been out there and that’s caused erosion. I mean, it’s several feet.

Morrie Doll: On your side?

Jerry Beard: On my side, yea. And we’ve talked about solutions and to be perfectly clear, my first thing was to find out who was responsible here. We are not looking to become the Hatfield & McCoy’s but that’s where we are at there.

Morrie Doll: the plat for the Subdivision would have a description of the responsibility to maintain the drainage and 99% positive all of the plats of Warrick County state that the property owners of the various lots are responsible for maintaining any drainage easement or right-of-way that crosses their property so the County does not have any. This is not a regulated drain so the County does not have any legal authority to even frankly enter upon your property to do anything to this.

Chris Haisley: Even with our permission?

Morrie Doll: Well, ok if you gave permission, we’d have the right to enter upon your property but we’d be setting a precedent where we’d be agreeing to maintain private drains and that’s a very dangerous precedent in a county with as many private drains as Warrick County has so I guess do you have any suggestions for the Board as to what will correct this problem? First of all, do you both agree that it’s a problem? Sounds like you both agree.

Jerry Beard: Yea.

Chris Haisley: Yea, without a doubt.

Morrie Doll: ok

Chris Haisley: I don’t think it’s, I mean it’s nothing I did intentionally.

Morrie Doll: Nobody is saying intent.

Chris Haisley: I understand that, and what I mean is 14 years ago, I thought I did the right thing, ok, according to an Engineer that I had to go hire. He said I did the right thing, obviously we have more water today than we did then for whatever reason. I don’t know if it’s development or what but, so there is definitely an issue. As far as maintenance, I am responsible for that, I guess we both are cause it’s kind of his and mine but the bottom line is, like I said, it’s behind my fence and I don’t see it and so I do still think about it, whereas on his side as he looks down his hill, he sees all of it. As far as a solution, ideally we thought that the County could come in with an excavator where that turns to the right 90 degrees. It’s just a hillside, there is nothing there and if we could get the County to open up that 90. It’s not even 90, it’s like 60 degrees but if you could excavate that, then that would open that up. As far as to fix his side of his property, I’m not an Engineer but I would think it needs to be graded and probably riprapped and I think that would, I would think that would solve the erosion. If it’s graded and riprapped I don’t see how you’d have any more erosion as far as on his side. As far as on my side, what I thought was I know he said you had been out there and I guess you have been out there so there is a tree stump that is right in the middle of the actual ditch and what I thought was from the point to the West if I went from a zero point there, because there is no hill there on his side or if there is, it’s maybe a foot. There is no erosion there. Erosion is to the West. So my thought was to start there and then at the West end of where I built that up to pull that back let’s say 12-14 foot so on the West end it will be wide open 14 foot to like I said, this is all my side because that’s where you got a bottle neck. Does that make sense?

Jason Baxter: I think so, yea. I mean, I know that the 90 at the end of the riprap or I’m sorry, railroad ties where it takes that jog to the North.

Commissioner Dan Saylor: You know Jerry, you made, I don’t know if there has been a ton of development that is South of you. I think what has happened, because I live in that same area and I just know since we’ve lived there, we’ve had many 100 year rain events that happens twice a year, or 3 times a year. I can remember when we looked at the house. I live in Pleasant Ridge Subdivision and so I can remember back then we might in a year, we might have 1 heavy downpour but man we’ve had 8 inches of rain in less than an hour in that proximity so I think just different weather events have caused some of this issue but there has been Pole Barns that’s been built South and East of you guys so all of that.

Chris Haisley: Sure, there is a new house on Old Plank

Commissioner Dan Saylor: Yea, that’s South and East of you.

Chris Haisley: My neighbor built a Pole Barn right east of him. I mean, that’s.

Commissioner Dan Saylor: Yea, there has been some Pole Barns.

Chris Haisley: Sure, I mean there has been development there and I don’t know how far south if you build 50 new houses, each house you know takes out that much area. I don’t know how many houses have been built southwest to.

Jerry Beard: well I think the elevation, it continues up all the way to 261 and I don’t think it starts dropping down until you start getting on the other side of the bank you know into the castle property. I mean, everything eventually comes down to there. And I know you guys got a big problem because the water that comes between us goes into another pipe which goes into the ditch and goes to Fuquay Road and you’re getting ready to fix all of that. So, that’s all the same.

Morrie Doll: Expensive.

Jerry Beard: So, I understand you guys don’t have any resources to come in there with a crew and fix this and fix that and put money towards it. Do you guys have somebody that could give an unofficial opinion if he’s on the right track here or come out and say you know, I think you are thinking the right way or you know I’m thinking of you. Does the County have that resource available to come out and give an opinion before we start ripping and sorting and tearing stuff out and we are back here again in 3 years?

President Bob Johnson: Counselor?

Morrie Doll: Well if we express an opinion. We have Engineers, I mean, we have Engineers on staff at the County but if we give a private homeowner an opinion about correcting a problem of any kind. This one is water. We own it. If you follow the instructions of the

Jerry Beard: I’m looking for that.

Morrie Doll: I know you are.

Commissioner Dan Saylor: We’re not looking for that.

President Bob Johnson: We’re not.

Jerry Beard: I thought I had that here in the minutes. That’s what I thought I had.

Chris Haisley: That’s kind of my stance that I had that approved.

Bobby Howard: Those are just amending the drainage plans for the subdivision.

Chris Haisley: I’m sorry?

Bobby Howard: Those were amending the approved drainage plans for the subdivision.

Morrie Doll: We didn’t agree to maintain whatever it is that you installed.

Chris Haisley: And I understand you all don’t maintain.

Morrie Doll: And I don’t think we gave you permission to build a fence. I think we gave you permission to build a pipe and install a pipe into, this Board gave you permission to install a pipe and a swale but this is far beyond that. These photographs, there is a retaining wall. There is a fence. I presume there is some hard surface on the inside of the fence? Concrete pavers?

Chris Haisley: There is posts.

Morrie Doll: No, I mean, the ground. It looks like a patio for a pool. Is that a patio for a Pool?

Chris Haisley: Yea, the pool was already there.

Morrie Doll: ok but did you pour patio after you built up the retaining wall?

Chris Haisley: Yes.

Morrie Doll: Ok, so that’s runoff and I don’t. We haven’t measured I don’t think but it looks like there is a pool house of some sort that sets in the easement in a drainage way and that’s not copacetic.

Chris Haisley: So, I know I got a permit for my Pool House.

Morrie Doll: and is the Pool House outside the Easement?

Chris Haisley: Honestly, I don’t know. I mean, that’s a matter that I’m not

Morrie Doll: You would have submitted a drawing.

Chris Haisley: Right

Morrie Doll: And the drawing should’ve made a representation of whether the pool house was inside or outside the easement. If it was inside the easement, you should not have ever gotten a permit.

Chris Haisley: Well, I did get a permit but honest, I couldn’t tell you. I know.

President Bob Johnson: Did the size of your Pool House change?

Chris Haisley: No. 16 x 20

Morrie Doll: well you can’t build a pool house in a drainage way. You just can’t. Legally.

Chris Haisley: Yea, I understand that now.

Morrie Doll: And so, if the County wanted to they could seek an injunction to have it removed.

Jerry Beard: Well, I don’t know that anybody is looking for that.

Morrie Doll: I understand that but so we need to solve this problem and I guess I’m looking at the 2 guys who has to figure out a solution.

Commissioner Dan Saylor: And let me say this. You got 3 Commissioners up here that are reasonable. I’m a neighbor of your guys you know, I want to, lets come to a solution to fix this. We want to do what we can but you know if you get the wrong person in here, they could say yea, I want you to remove it.

Chris Haisley: Right.

Commissioner Dan Saylor: See what I mean? So, let’s work together

Chris Haisley: Absolutely, that’s why we are here is to you know like I said, that’s why we are here.

Commissioner Dan Saylor: Yea, I know.

President Bob Johnson: And when you go to sell, that could be an issue too.

Morrie Doll: You may not be able to give good title to your property if you’ve got a structure built in a drainage way. And I know that’s your home, you may never intend to sell it but that day comes.

Chris Haisley: someone is going to sell it someday.

Commissioner Dan Saylor: Somebody. Kids or someone.

Morrie Doll: So I guess the appropriate thing I guess is for the Board and I’m not a member, I’m just it’s Counsel is a solution to be recommended by the property owners to the Board and we can look at it and see if we think it would be acceptable in light of the subdivision plat as an amended.

Jerry Beard: So if we are going to come up with a solution. How about some guidelines. I mean.

Morrie Doll: The water comes in, the water goes

Jerry Beard: You know what I mean, if we are going to come up with a solution and it comes before this Board and you say no that’s not going to work because of this, this and this.

President Bob Johnson: Have you considered getting another Engineer to look at it?

Morrie Doll: Mr. Bivens is now incapacitated

Chris Haisley: well he may have been back then.

Morrie Doll: No comment. But he’s living in an assisted living facility somewhere in Warrick County.

Jerry Beard: Well, there’s a lot of Civil Engineers.

Morrie Doll: Sure there are and any one of them could give you an opinion on correcting the flow problem. What type of structure or what kind of modification to the swale should be done to alleviate that problem and to drain the water out. And all at the same while I presume you want to maintain the railroad tie wall, the fence and the improvements.

Chris Haisley: Yes, if not, my yard would be gone.

Morrie Doll: Yes, well that just goes to show you the power of water.

Chris Haisley: Oh, I understand that. Yea, I understand that today.

Jerry Beard: Ok, so your suggestion is that we get an Engineer. He comes in and gives an opinion and we come back to this Board and say this is what we think the next steps ought to be.

Morrie Doll: It’s up to the Board. That would be my suggestion to the Board.

Commissioner Terry Phillippe: That sounds like a good first step at a minimum.

Jerry Beard: Pardon me?

Commissioner Terry Phillippe: I do think that sounds like a good first step at a minimum.

Chris Haisley: so then is that a matter of I guess just having and Engineer basically do the same study as what I had paid for before?

Morrie Doll: Well the facts are a little different now aren’t they? I mean, there are structures in the drain that weren’t there before.

Chris Haisley: Well in his drawing it shows it’s here.

Jerry Beard: Yea, everything is there that was there before.

President Bob Johnson: Let me ask you this Counselor. If they hire an Engineer and they come out and comes up with a solution, Mr. Haisley and this gentleman figure out a way to get this accomplished and get it done do they even need to come back to this Board?

Morrie Doll: No, we are addressing a complaint.

Chris Haisley: If you don’t maintain the ditch then the liability just comes on us.

President Bob Johnson: Sure and I think amicably which you guys seem to be. I mean, you are neighbors. You know if you can get this figured out and get it fixed. There’s no reason to come back.

Jerry Beard: If not, we’ll be back.

Commissioner Dan Saylor: Well here is another thing. I’m familiar with the ditch that runs between the houses and there is debris in there and stuff. That’s not helping this situation either.

Chris Haisley: Exactly.

Morrie Doll: But it’s not a regulated ditch.

Jerry Beard: Well, the one ditch is. The one that runs north and south. That’s got to be. The one that goes underneath your road and goes back. I mean, I would think that would have to be. That’s one hellacious ditch.

Commissioner Dan Saylor: Jerry, what I have learned is on one side of the road it can be a regulated ditch and I think it is on Fuquay Road. Isn’t it on the West side of Fuquay it’s regulated but on the East side it’s not. Don’t shoot the messenger.

Chris Haisley: You don’t know which ones are or are not.

Morrie Doll: Yes. Yes.

Commissioner Dan Saylor: Jason could tell you.

Chris Haisley: So the reason I say that, when you had said that, I know Mike Griffin had his side of this same ditch dug out, they riprapped it because it was eroding as well and that’s on the North side of Eaglewood but I don’t know if that was a regulated ditch or not. I don’t know if that was paid for.

Phil Baxter: We don’t have a regulated drain. Far as I know

Bobby Howard: Storm water removes blockages if that was the case.

Morrie Doll: Wait, what were you saying Phil?

Phil Baxter: That ditch is not a regulated drain. As far as I know, the County has done no work in there whatsoever.

Morrie Doll: So that would’ve been a private project?

Commissioner Dan Saylor: I know the only and I know Mike, I’m friends with Mike. He had a sink hole issue in relation to that ditch and there was a leakage there that we worked on.

Chris Haisley: In the road.

Commissioner Dan Saylor: in the road and we worked on that because of the failure of the road.

Chris Haisley: Yea, I understand that.

Commissioner Dan Saylor: So, but as long as I’ve been Commissioner, I’ve not worked, or we have not done any work on that ditch. The only thing that we are trying, we actually have 2 or 3 houses or 4 houses that flood.

Chris Haisley: Down the Street?

Commissioner Dan Saylor: That’s a big deal you know. So we are trying to get that and hopefully it will help your situation somewhat but it’s not going to fix this.

Morrie Doll: But if there is growth in the ditch upstream which I think I heard somebody say there is brush growing, trees growing?

Jerry Beard: Yea, but it slows down before that. I mean there’s a 24 inch drain that goes into that ditch and that’s under sized too. That’s why he put a 24 inch drain in because he matched it up with the neighbor so downstream from him there are 2 lots?

Chris Haisley: There is 1 lot before it turns 90 degrees and goes across Eaglewood. There is 1- 24 inch drain which over capacitates all the time and then that water actually runs in between their house and our house towards the street. There’s a 12 inch drain in between our houses which over capacitates and then it actually runs in the street there.

Commissioner Dan Saylor: It’s an enclosed ditch to your neighbor to the west of you right?

Chris Haisley: Right

Commissioner Dan Saylor: see that’s another issue Counselor.

Chris Haisley: Yea, and that’s a matter that the, but beyond that there’s times where when you say we have these 100 year rains. There’s times where Eaglewood will have 6, 7 or 8 inches of water coming down the street which has nothing to do with this ditch. I mean, that water is coming from kind of northeast of that area. You know, water is not going to. This ditch is behind all of that and this is elevated above that and there is like I said 8 inches of water that will come down. It will be curb to curb coming down Eaglewood Drive and it does it on Wedgewood as well and you know, that’s all I would guess from Rolling Hills but you know, it is what it is. It’s raining more than it was or however that may be but like I said its Eaglewood, Wedgewood, Fuquay and I mean, in those houses at the end of Telephone, I mean we all know they all.

Commissioner Dan Saylor: I know that Lochmueller did the hydraulic study and it was amazing what they said that corridor, it was, what was it Phil, like 300 acres or 500 acres? That number was significant. So you’re right, it does take a lot of water on.

Chris Haisley: Oh, it’s amazing.

Commissioner Dan Saylor: A lot of that Fuquay area gets water from kind of the North and East. Not so much

Chris Haisley: It will come from the North and the South like off of Telephone.

Commissioner Dan Saylor: It’s like that valley is kind of right, just north of you.

Morrie Doll: So, to sort of summarize, it’s a private drain required by your subdivision plats, not a regulated drain for which the County has jurisdiction or responsibility and maintenance responsibility so we can’t maintain that drain. Even if you say to us, hey come on in, we’d love to have your help. We’re not going to be considering it a Trespass, come on in. We still can’t do that because we can’t spend tax payer dollars to fix private property and if we fix your private property we’d have to put ropes up and have folks queue up and take a number.

Chris Haisley: Everybody will want the same thing.

Morrie Doll: Oh my god.

Jerry Beard: I always liked being a Trendsetter.

Morrie Doll: I know you do. I can certainly appreciate that.

Jerry Beard: So, I think we’re all on the same page here. So we will see what we can do here.

Morrie Doll: And you don’t have to come back for a private remedy.

Jerry Beard: ok. Good.

President Bob Johnson: But if you need us, we are here for you.

Commissioner Dan Saylor: Yea, Jerry has my number and gosh what did we spend over there, 45 minutes to an hour and I learned a lot. I learned a lot of history about the house that Jerry lives in.

Jerry Beard: He learned not to wear his wet weather boots.

Commissioner Dan Saylor: yea, I ruined a pair of shoes. Oh well.

Jerry Beard: Sounds good. Well thanks a lot. I appreciate it. Have a good one.

President Bob Johnson: Thanks guys.

Commissioner Dan Saylor: let us know if we can help in any way. Thank you.

**CLAIMS:**

President Bob Johnson: Next we have claims for Gas for the Surveyor Trucks and as well as diesel fuel for cleaning a ditch for a total of $1,137.20.

Commissioner Terry Phillippe: I make a motion to pay the claims.

Commissioner Dan Saylor: Second.

President Bob Johnson: All in favor. 3-0

**OTHER BUSINESS:**

President Bob Johnson: Any other drainage business?

Morrie Doll: do you want to talk about the Nuisance or don’t you? Ordinance?

President Bob Johnson: We can. Briefly

Morrie Doll: It was on the Agenda with Mrs. Johnson. The Board ask whether we might be able to amend the County’s Nuisance Ordinance. That’s section 157 of the County Ordinance. We would have to significantly amend that ordinance. That Ordinance basically deals with Weed, Brush and Overgrowth and junk cars and things of that sort and it cites the state statute defining public nuisance which is a great precedent because it’s a state statute and there is court decisions that support us on that so if we want to make failure to maintain a drain a public nuisance to be enforced by the County on private property, 2 of which we heard today, you’d have to add a new section to this ordinance, add failure to maintain a public drainage way as a public nuisance even if it’s on private property and establish the procedures to review it etc. The difficulty with it is, I think you and I could look at a yard and say yea the grass is greater than 9 inches in height and that’s violation of the ordinance. That’s a junk car that’s more than 3 years old, that’s a violation of the ordinance and it’s the same thing we just heard here. Well, what’s the problem technically that we have to fix to make the drain work properly? And that takes an Engineer to do the calculations to figure it out. Now, the state statutes talk about drains, legal drains being restored to their original specifications. That’s my words, not statutes. That’s much longer in the statutes. But they go back and look at the Engineering work done when they dug the drain if they find it and that’s the problem quite often, they can. That’s presumed to be the right specifications for that drain and they basically say ok you got to restore the drain to that specification in the state statute 36, we won’t have that I don’t think easements for drainage ways in subdivisions and that’s what this is all about so if you want me to work with the County Attorney and see if we can come up with something we can do that but you’re going to open a, there is going to be a, how many claims like this are there in the county?

Commissioner Terry Phillippe: I think you more explicitly nailed my thoughts because you are looking at the 3 inspector’s right here.

Morrie Doll: Yea

Commissioner Dan Saylor: well, but I think long term big picture, I think with our County nuisance ordinance that is in existence, you know at some point I think that the town of Boonville has an inspector. I think that all needs to be encompassed in a person who this is what they do full time, they know all the legal drains, they know all the laws and rules. This is what they do every day all day and you know when we created that nuisance ordinance and when that was created we wanted fairness and we didn’t want it abused and I’m glad I have some oversight on it because there isn’t a neighbor that complains about a neighbor because they leave their trash cans out 2 hours after their trash is picked up but I think long term and inspector for something like this would be in order and of course if we have, do we, is this putting a cart before the horse, do we hire the inspector first then do things like this or do we put this thing, you know work on it and then bring an inspector on, here’s your tool box going forward.

Commissioner Terry Phillippe: My suggestion was going to be yes, please talk to the County Attorney, and see if you guys can get a revision for our consideration.

President Bob Johnson: an amendment

Commissioner Dan Saylor: That would be my same wish too.

President Bob Johnson: Because these aren’t going to go away.

Commissioner Dan Saylor: No, and if we keep on kicking the can down the road. Phil you had something you wanted to say?

Phil Baxter: In my opinion, the growth and trash is 75% of all the drainage problems in these swales. If they don’t mow it, don’t keep the trash out, that’s it. There’s hardly anything else.

Commissioner Dan Saylor: I agree Phil. It’s lack of maintenance.

Phil Baxter: That’s right. It’s just simple.

Commissioner Terry Phillippe: If I recall, Mrs. Johnson’s problem was concrete in the ditch.

Phil Baxter: It’s in the ordinance, overgrowth.

Commissioner Dan Saylor: You know, it’s just like this gentleman here.

President Bob Johnson: It is?

Phil Baxter: Well yea

Morrie Doll: The ordinance has and it doesn’t distinguish between a drainage way or a yard or a fence row or anything else.

President Bob Johnson: Whether it’s in a drainage ditch or not. It’s just overgrowth.

Morrie Doll: that’s correct Commissioner. It is, over 9 inches in height.

President Bob Johnson: So is it already there where we can enforce something?

Morrie Doll: Over 9 inches in height, you can enforce it. Whether it’s in a drainage way, in a yard or in a fence. If it’s taller than 9 inches.

Phil Baxter: And the drawings call out a public drainage easement, utility easement or whatever. That’s the whole argument right there. If a swale is built for a drainage, there is a drainage easement there.

Commissioner Dan Saylor: you know, it’s just like this situation here on Walden Lane. Here, Chris has done what he did and he’s forgot about it. You know, he said he’s done a little maintenance on there. He’s thrown some landscaping block in there. I’ve seen it. I say throw, but he stacks them there not mortared in, not concrete in. Now it’s everywhere. His was out of sight out of mind and of course Jerry is forced to look at it but it’s eroding his property. Chris is protecting his.

President Bob Johnson: But Mr. Baxter, in this case, these gentlemen here, that’s not going to suffice.

Phil Baxter: This has nothing to do with these gentlemen here. I’m talking about Mrs. Johnson and Mrs. Faass. That addresses their problems as far as I can tell unless you guys see something different?

President Bob Johnson: Well, in Mrs. Faass case, the issue was the fences in the drainage easement of the cross section stopping the flow of water.

Phil Baxter: that’s pretty self-explanatory there.

President Bob Johnson: Yea.

Phil Baxter: Hey bob, these ladies here for something for drainage?

President Bob Johnson: Storm water.

Commissioner Terry Phillippe: Counselor, is that all you need is just our consensus?

Morrie Doll: You want me to work with the County Attorney to discuss or explore expanding the nuisance statute or nuisance ordinance for Warrick County to include protecting drainage rights in platted subdivisions?

President Bob Johnson: Something to that effect.

Morrie Doll: Is that to narrow? Is that too broad? Is that?

Phil Baxter: I think that’s hitting the nail on the head.

Commissioner Terry Phillippe: For us to consider, yea.

Morrie Doll: Ok, and then bring it back to you to be considered? Well actually Commissioner, it’s got to go to you as later in the day, it’s got to go to you as County Commissioners because you are the only ones with the authority to amend the ordinance.

President Bob Johnson: ok. Good enough.

Commissioner Terry Phillippe: Is everyone good with that for the record?

Morrie Doll: alright.

President Bob Johnson: are you ok with that?

Morrie Doll: Yea. A motion, second?

Commissioner Terry Phillippe: I’ll make a motion to approve our Attorney to go to the County Attorney and revise the ordinance.

Morrie Doll: I’ll work it up right away.

Commissioner Dan Saylor: I second that.

President Bob Johnson: All in favor. 3-0. Anything else?

**STORM WATER DEPARTMENT**

President Bob Johnson: Mr. Howard.

Bobby Howard: all I have for Storm Water business is 2 sealed bids for the Fuquay Road and Pleasant Ridge Drive Drainage Improvements.

Morrie Doll: Bobby Howard has handed me a Deig Brother’s envelope. It’s filed on May the 23rd at 1:49 P.M. addressed to the Highway Department. I’m sure that means Storm Water and it reflects that this is a bid for the Fuquay Road / Pleasant Ridge Drive Drainage Improvements. It is a collection of documents including bid proposal from Deig Brothers Lumber & Construction Inc. worked to be performed by September the 2nd dated today and it is in, oh my. It is in the total bid amount of $647,498.65. That’s 647,498.65. In addition to that it has a copy of the drug and alcohol policies, the non-collusion affidavit required for public bids, a bid bond, an executed bid bond, and public works, contractor bids for public works Form 96 and a consolidated financial statement for December 21, December 31st of 2021 in the rears until 2020. I’ll return that Bobby.

I have a second proposal dated this date addressed to Warrick County Storm Water Department from Ragle Inc. of Newburgh for the Drainage Improvements on Fuquay Road and Pleasant Ridge Drive. It is a bid proposal submitted with the work to be completed by February the 2nd of 2022.

President Bob Johnson: Did you say February?

Morrie Doll: I’m sorry, September the 2nd of 2022. February would be post days. The total amount of this bid is $609, 672.30. That’s 609,672.30. It has a A-310 Document for bid bond, it has the bid bond through Zurich Insurance, it has subcontractor bid request, e-verify affidavits which is required public projects, qualification statement with references, affiliated companies, financials, and it has bio’s for the individuals involved and it has a health and safety manual included. I’ll return this bid to Bobby Howard. The financials are sealed. I’m not going to open that unless you deem their bid low and acceptable for company privacy reasons but it would be reviewed before their bid could be accepted.

President Bob Johnson: so are we just going to take these under advisement Bobby?

Bobby Howard: Yea but we’ve taken under advisement. When is the next meeting?

Morrie Doll: 2 weeks.

Commissioner Dan Saylor: June 13th.

Bobby Howard: How about we look at approving, because it’s what a September 2nd

Morrie Doll: September

Bobby Howard: How about we look at approving the low bid subject to meeting requirements of the bid?

President Bob Johnson: Mr. Saylor?

Commissioner Dan Saylor: Bobby, what was our total budget on this deal?

Bobby Howard: I’ve been told that I’ve just texted Steve a little bit ago and he said that it’s feasible for him.

Commissioner Dan Saylor: ok, so it’s. That was my concern. So you guys ok with it?

Commissioner Terry Phillippe: Yep.

Commissioner Dan Saylor: ok, I make a motion to approve the low bid subject to legal counsel and Bobby and Steve’s review.

Commissioner Terry Phillippe: I’ll second that.

Commissioner Dan Saylor: and meets all of the criteria.

President Bob Johnson: All in favor. 3-0

Morrie Doll: when will Steve be back?

Bobby Howard: End of the week.

Morrie Doll: Will he be in this week?

Bobby Howard: I can deliver this to him at home.

Morrie Doll: I’m just wondering whether you and I and he ought to sit down to review this or not. $600,000.

Bobby Howard: First, we are going to have him take it and review it as the designer.

Morrie Doll: I agree. Well, I’m at your disposal so tell me when.

Bobby Howard: ok. I’ll get it figured out.

Morrie Doll: ok. We will get together

President Bob Johnson: You finished? Anything else?

Bobby Howard: No.

**MOTION TO ADJOURN/RECESS:**

President Bob Johnson: You’re up.

Commissioner Terry Phillippe: I make a motion to adjourn.

Commissioner Dan Saylor: Second.

President Bob Johnson: All in favor. 3-0