**MINUTES**

**WARRICK COUNTY DRAINAGE BOARD**

**&**

**DEPARTMENT OF STORM WATER**

**June 13, 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 Bob Johnson, President; Dan Saylor, Vice President; Terry Phillippe; Secretary; Morrie Doll, Attorney; Steve Sherwood, Storm Water; Phil Baxter, Surveyor and Dana Upton, Recording Secretary

Present in the audience: Blair Reeves, Stan Hull, Sam Kissel, Joe Loge, Jeremy Mattingly, Jeramy Elrod and Barbie Shelton

**PLEDGE OF ALLEGIANCE:**

President Bob Johnson: We will call the June 13th 2022 Drainage Board Session to order if you will all stand and recite the pledge.

**APPROVAL OF MINUTES**

President Bob Johnson: First we have approval of minutes for May 23rd 2022.

Commissioner Dan Saylor: I’ll make a motion to approve the May 23rd 2022 minutes.

Commissioner Terry Phillippe: I’ll second.

President Bob Johnson: All in favor? Motion carries 3-0.

**Blaire Reeves- 7811 Ashwood Court- Addition**

President Bob Johnson: First up we have Blaire Reeves, 7811 Ashwood Court- Addition. Addition to home inside the Easement for legal drain. You want to step up and state your name please Sir?

Blaire Reeves: My name is Blaire Reeves and I am here today because back in the month of April, due to the housing and kind of way things are and everything else, I had inquired with the Area Planning Commission about potentially building an addition onto my home so when she started doing some checking, basically she looked at the computer and she said that because of the drainage to the south of me that the drain was classified as a legal drain and that I think it would be built within 75 feet top of bank. 75 feet of bank is an issue because that goes through the middle of my house and also through multiple houses along this ditch. So she basically said she didn’t know the classification or why that had changed and she encourage me to essentially go to the drainage Surveyor Board to find out what exactly or why that had happened. So, in doing so, basically that had been relaxed from 75 feet 40 feet. The issue still is that there are several homes still along that way that range anywhere from 40 feet to 7 feet and so.

Commissioner Dan Saylor: 40 feet to how many feet?

Blaire Reeves: 7

Commissioner Dan Saylor: 7 feet?

Blaire Reeves: 7 feet. So, I’ve got drawings and everything else, we can kind of walk through and talk through some of that basically. So, the little history with that is that, so I live at 7811 Ashwood Court and we are in Tanglewood Subdivision, Section D and back in 2016 there was a drainage project essentially that went through and widened and cleaned the ditch out. The section that I live in is the old Tanglewood Section and per plot map and everything else, that drainage had an easement from centerline of ditch 25, or 20 feet on each side of it and then the Sandalwood Subdivision is a newer Subdivision and essentially meets those new criteria’s so when Area Planning Commission looks up those on their computer essentially they look and see legal drain, here is what it is, sorry I can’t help you type of deal. So, I can kind of walk, I’ve got drawings and I can walk through, if you guys want to. It’s not too elaborate. Its things that you guys have and everything else.

President Bob Johnson: It might help us a little bit if you would.

Blaire Reeves: There should be 8 packets.

President Bob Johnson: Is this your home here Blaire on the cul-de-sac?

Blaire Reeves: Yea, Yep.

President Bob Johnson: Goodness.

Blaire Reeves: I just drew them up big because I didn’t know what I could have, didn’t have and so.

President Bob Johnson: So, Steve are you aware of this?

Steve Sherwood: I know something about it but I haven’t done any research on it lately.

Blaire Reeves: That’s fine. So, in this Section D. This is the plot map essentially of the Subdivision when it was originally purposed back in 88’. So my lot is Lot 10 so what I’ve done is basically taken that and I’ve redrawn that and that is on sheet 2. It makes it, blow it, and makes it easier to see. So, basically the outline of the house was what, it was done essentially in the Recorders Office to show where the house is at so, when the house was placed onto the property it would’ve been basically 39 feet from the corner of the house to where the Easement would be where the 20 foot Easement is at.

Morrie Doll: Can I ask Phil a question? Phil, normally when we relax to an Urban Drain setback, it’s not 40 feet, it is 35 feet isn’t it?

Phil Baxter: 40.

Morrie Doll: 40?

Steve Sherwood: We have lesser amounts.

Phil Baxter: this was relaxed to 40.

Morrie Doll: ok. Do you know, sorry, do we know why it was only relaxed to 40? I’m thinking of the Route 66 has a 35 foot setback. That’s a Commercial area.

Phil Baxter: I don’t remember why. It’s been 15 years ago probably.

Morrie Doll: ok, so it’s been a habit in Warrick County that we have on occasion relaxed the setback from the 75 foot limit more than 40 feet. We’ve relaxed it to 35 feet.

Phil Baxter: 35 has been the minimum.

Morrie Doll: Thanks. 35 feet would place your home?

Blaire Reeves: Mine, essentially right at the edge.

Morrie Doll: Right, but you’d be outside what you’re 39.9 now?

Blaire Reeves: So, I am to the edge of my house as it exist. So, I was not aware essentially that the easement had changed from drainage easement.

Morrie Doll: From 75.

Blaire Reeves: Well no, originally it was a 20 feet on either side of the drainage easement but it had changed essentially from the drainage easement to a legal drain.

Morrie Doll: right, legal drains have, we assume the responsibility for or this Board assumes the responsibility for maintenance. We’ve got to be able to get equipment alongside the drain to maintain it and that’s why. From top of bank we have a setback.

Blaire Reeves: So that’s where I wasn’t aware. So way back whenever it was approved and everything else, essentially the documents had shown that whenever they reconstructed the ditch essentially that the ditch was to stay, the company doing the drainage reconstruction essentially was to only stay 20 feet on each side essentially of the

Morrie Doll: Center line

Blaire Reeves: the centerline of the ditch and essentially they did that but the way they accessed it was to the South of my property, lot 8 and 9 essentially the County owns because accessing it. They cannot access it from the cul-de-sac because this ditch basically separates it. So, whenever they reconstructed the ditch, basically they reached across from the county owned property 8 and 9 and reconstructed the ditch. They did not go down my side. They did not travel down my side of the ditch so that’s where it’s kind of confusing me and stuff like that.

Morrie Doll: Was this the part of the ditch that we got in trouble

Steve Sherwood: The other side was the low water.

Morrie Doll: on the right hand side with DNR or Core. This ditch has a history.

Blaire Reeves: Yes it does.

Morrie Doll: And uh

Blaire Reeves: Not saying it’s a good history but it has a history.

Morrie Doll: Thank you.

Blaire Reeves: So kind of going back, me just inquiring essentially when they said you can’t do 75 feet, then it relaxed to 40 feet. Picture essentially, the house is along the ditch range anywhere from 40 feet where I’m the widest all the way to the Far East at 7 feet. So, that’s why I’m like, the addition I’m looking at building on the home. I’m not trying to go the full width of my yard.

Morrie Doll: Well, I would advise the Board that the homeowner has standing is to his own lot. With all due respect, but you don’t have standing to raise the questions about other lots. It’s not your property. Now, obviously if the Board recognizes a problem in the neighborhood, they want to address it. I don’t know how we are going to do that here if one of them is 7 feet off. You can address anything you find. But Blaire can only speak to Blaire’s property and it seems to me that I don’t know how Phil feels about it. Do we need the full 40 there, particularly for reaching across?

Phil Baxter: We don’t necessarily need the full 40 but I’m not sure there will be 20 feet left. And I’ve got a question also.

Blaire Reeves: Sure. Can I come around there Sir?

Phil Baxter: Yes. Is that your property line right there?

Blaire Reeves: So, the County owns, so this actually goes through the center line of this ditch and it actually comes across. So, the center line of the ditch controls essentially the green half. This is the County property here. The fence goes from the corner of my house and I think, I have to look at the survey notes from my friend and stuff like that, but the corner of my fence, it may go over into the counties property maybe a foot or two because like I said the drain or this ditch separates essentially the Counties property which is lot 8 and 9.

Phil Baxter: Ok. Thank you.

Morrie Doll: I mean, I think that green hatch line on sheet 2 of 8, I think that is your lot line.

President Bob Johnson: Is the green dotted line your property line?

Blaire Reeves: yes. So, essentially what I wanted to do, on the very last page of the pack and everything else essentially is that build my property 6 feet or build the addition essentially 6 feet off property line so it comes within all the guidance and basically of the county ordinances but like I said right now with Area Planning Commission, they said you can’t build within that so that’s why I came here. That’s what brings me essentially here.

Morrie Doll: You’re trying to comply with a 6 foot side setback?

Blaire Reeves: Yes, on that yes. Because it dictates essentially in the center corner of where the building would be at. The very last page. Sheet 8 essentially would should where, from the center or the corner of my house to the South essentially is 24 feet basically gives me 6 feet off property line but like I said, so that would put me if I’m building it straight parallel to my house essentially would put me 15 feet away from that ditch.

Steve Sherwood: Is the blue line on sheet 8 indicate the center of the ditch or the 20 foot easement?

Blaire Reeves: That is the top of the bank. Top of the bank, they kind of go within both. There is top of the bank and it was also the original easement.

Morrie Doll: Well the easement applied if it’s a private drain. If it’s a public drain, a lawful drain then it was 75 feet by State statute from the top of bank which this Board has the authority to relax in what’s called an Urban Drain configuration and that is typically 40 feet or 35 feet. So, once it’s made a legal drain, that’s the law. So it’s top of bank. What this does is it gives us the parameters, the location of the drain easement and that’s center of the drain dotted line on page 2 of 8. So, if we went out there and shot survey, we should be able to see that it’s within that 40 foot wide easement.

Blaire Reeves: It is.

Steve Sherwood: I think he had a survey performed to delineate the lines. And as he mentioned on the front sheet, Lots 8 and 9 are owned by the County. We took title to those 2 lots. That’s why they got frontage on the cul-de-sac across the drain.

Blaire Reeves: I had inquired about purchasing that but because they are land locked I have no way of getting easement to them basically that was my original intent was to build a building over there. That’s when they said no you can’t do that, you can’t get access to them either direction so that’s why I said ok.

Morrie Doll: You mean on 8 or 9?

Steve Sherwood: There once was a pipe across that ditch from the cul-de-sac which we removed and the

Morrie Doll: Steve knows, we bought that because we removed the cul-de-sac pipe.

Steve Sherwood: We removed the pipe across the legal drain and that’s why you see in the aerial the tip of the cul-de-sac is somewhat straightened off. It doesn’t come to a complete circle on the aerial.

Morrie Doll: Was that in the last Tanglewood project?

Steve Sherwood: It was before that.

Blaire Reeves: It was in 16’ whenever all of that got reworked.

Steve Sherwood: We had to remove that in order to do the project.

Blaire Reeves: So the area photos whenever I show on sheet 3 essentially were from 2016 because they were much clear and it was essentially right at where they reconstructed the ditch.

Steve Sherwood: To get to what you are asking. What does he want done?

Morrie Doll: Yea, I mean. Won’t your property problems be resolved by a 35 foot top of bank right-of-way?

Blaire Reeves: No. Because that would only be 5 feet from my existing house.

Morrie Doll: How long have you owned this property?

Blaire Reeves: So, my wife has owned the property since 95’.

Morrie Doll: ok. And her name is?

Blaire Reeves: Tristie Diehl. Now it’s Tristie Reeves.

Morrie Doll: Ok. Thanks. Lots of unusuals. Well, you realize that you can’t exceed 6 feet from your lawful property line regardless of whether that ditch is there or not. That’s the maximum. What is that South?

Blaire Reeves: Yes.

Morrie Doll: That’s the maximum direction you could get a building location improvement permit. A lot improvement permit so really doesn’t a 35 foot setback maximize your ability to use your land?

Blaire Reeves: So, maybe I’m trying to understand so the top of the ditch 35 feet would essentially only add 5 feet to the South of my house.

Morrie Doll: And you are at 39.9 feet now?

Blaire Reeves: Yes. So I was looking at adding to 24 feet south of my house.

Morrie Doll: And so?

Commissioner Dan Saylor: A 24 foot addition?

Blaire Reeves: Yes. It would be a 24 foot addition on my house.

Morrie Doll: The one measurement you really haven’t given, well you have I guess. You’re 31 feet and 1.25 inch from the property line.

Blaire Reeves: Yes, so that would be from the corner of the house straight directly to where it would intersect at the property line itself. So, on the last page basically.

Morrie Doll: So if you have a 6 foot setback, and you have a 31 feet 1.25 inch, doesn’t that leave you 25 feet for construction?

Blaire Reeves: Yes.

Morrie Doll: And you want to add a 25 foot addition?

Blaire Reeves: Yes.

Morrie Doll: So, if this Board and I don’t speak for the Board, but if this Board decides to, if the Surveyor recommends and this Board adopts a relaxation of the top of bank right-of-way from 40 feet to 35 feet as we have done in other cases, doesn’t that give you the ability to use the maximum permitted area of your lot for a room addition?

Blaire Reeves: So, Sir 35 is what I was thinking would be

Morrie Doll: It’s not usable yard. It’s setback from the top of the bank 35 feet. But you are controlled by property lines. Your lot line.

Steve Sherwood: Go to the last page. So he is saying

Blaire Reeves: It would be a relaxation from 40 feet top of the bank to 15 top of bank.

Morrie Doll: He’s got 25 feet. 24 feet 9 inches.

Steve Sherwood: Well he’s saying that’s top of bank blue line and that’s 15 foot dimension leaving him 24 foot 9 inches from the building.

Morrie Doll: With a 6 foot setback.

Steve Sherwood: Which still allows for a 6 foot setback as the ditch runs

Morrie Doll: Alright, so what we are disputing is 3 inches?

Blaire Reeves: No, so to my knowledge it was from top of bank 40 feet

Morrie Doll: If we gave the 35 foot.

Steve Sherwood: You’re saying that should be 35 and he’s saying he needs 15 from top of bank.

Morrie Doll: Well that won’t work. We’ve never done 15.

Blaire Reeves: So, that was my you know the rest of

Morrie Doll: I don’t understand your mathematics if the measurements are. It says that the measurements are 39.3 feet from your house to top of bank.

Steve Sherwood: That’s a total of 40 feet for the plat

Morrie Doll: He hasn’t added anything for top of bank.

Steve Sherwood: Right on that, but look at your first page. That’s the platted easement right there illustrated on page 2.

Blaire Reeves: On the second page, right in this location, it shows 20 feet on each side of the easement and that’s essentially just copying

Morrie Doll: And you are asking this Board to shrink the right-of-way for maintenance for this ditch to 15 feet?

Steve Sherwood: So if you take this 15 feet here.

Commissioner Dan Saylor: So we would have 20 feet on the South and 15 on the North. Is that right?

Morrie Doll: No, you’d have on top of bank you’d have 40 feet on the South unless you shrink that too and you would have and there is no reason to do that because apparently the County owns it.

President Bob Johnson: Is it 40 on each side?

Commissioner Dan Saylor: I thought it was 20 on each side.

Morrie Doll: No. 40 from the top of bank.

Steve Sherwood: the platted easement on page 1 shows the platted easement for the Subdivision. The 40 feet from top of bank is not dictated in here anywhere.

Morrie Doll: It’s not because it’s a platted easement. It’s because it’s a legal drain.

Steve Sherwood: Right.

Morrie Doll: State Statute dictates 75 feet. You have the authority to shrink that.

President Bob Johnson: And we did.

Morrie Doll: And you did but you can’t shrink it. I mean Phil would have to say whether he thinks you can maintain a ditch in a 15 foot right-of-way against a house.

President Bob Johnson: And we fight this every week.

Blaire Reeves: I don’t doubt it and stuff like that. It’s just like I said, it’s either a yay or nay type of deal and if I can’t do it I can’t do it.

Morrie Doll: And I’m not an Engineer or responsible as a Surveyor for that. I’m just the Lawyer.

Blaire Reeves: And the reason why I’m mentioning this. It’s just because the houses straight to the East of me essentially are way shorter than what I am and that’s essentially why.

Steve Sherwood: We’ve dealt with those other houses showing those distances that he has portrayed in here.

President Bob Johnson: Right.

Blaire Reeves: And that’s all of the newly owned.

Morrie Doll: How dealt?

Steve Sherwood: during the project in 2016. We had to work around them.

Morrie Doll: I almost hate to hear the word Tanglewood. It’s just

President Bob Johnson: It’s a mess.

Blaire Reeves: Like I said it’s just essentially why I’m here. It’s a yay or nay.

President Bob Johnson: Phil, do you have an opinion?

Phil Baxter: It would be tough to even get a lawn mower through it.

Morrie Doll: 15 feet?

Phil Baxter: Let alone any excavating equipment. 15 feet is not much.

Steve Sherwood: So as Morrie has stated with all due respect we are here to deal with his lot. Not the other problems along Tanglewood Ditch.

President Bob Johnson: I understand.

Morrie Doll: But you are asking the Board to be succinct, you are asking this Board to shrink it’s right-of-way for the maintenance of a legal drain from the existing 40 foot reduced amount to 15 feet?

Blaire Reeves: Yes Sir.

Steve Sherwood: From the existing Northern top of bank.

Morrie Doll: Yes. You’re not asking for it on the Southside, you don’t care and you don’t own that.

Steve Sherwood: He don’t own that.

Blaire Reeves: If I did, we wouldn’t be having this conversation.

Morrie Doll: Right, did you want to buy those lots?

Blaire Reeves: I wanted to but I was told basically, I don’t have a right-of-way and can’t get right-of-way to that.

Morrie Doll: No you can’t unless you go build a bridge.

Blaire Reeves: Right and they said I can’t do that. Well you can but it may cost you a million dollars just to have 75 feet essentially on the top of bank so it doesn’t leave much property.

President Bob Johnson: What’s your thoughts?

Commissioner Terry Phillippe: Sounds like it’s going to be a problem.

Blaire Reeves: So the other thing, some body potentially to the South if there is an empty field, if the Farmer sells off and everything else, there is a potential that those 2 lots could be bought if they have access and stuff like that but the farmer essentially has to sell to the subdivision they would gain access to them like that but that would be the only potential way that anybody could, or you could gain access to those. I’ve inquired about that and to the Farmer about potentially getting an easement in order to allow me to get access to 8 and 9 and he said no.

Commissioner Dan Saylor: Who owns that farm?

Blaire Reeves: Last name, it was, I guess it would be Naas is his name. His son actually owns a house in the Subdivision so that would be separating his son’s house from the farmer’s field and it just didn’t, it would be. It was an all-around no essentially so that’s why I inquired essentially to building an addition onto my home and that’s when I ran into the right-of-ways.

Commissioner Dan Saylor: How was this ever allowed? That’s what I don’t understand.

President Bob Johnson: I don’t know.

Morrie Doll: Wasn’t here.

Commissioner Dan Saylor: I don’t want to facilitate more of a problem for a problematic ditch.

Blaire Reeves: And like I said, I understand and everything else, I mean this is purely an inquiry and stuff like that you know because it was like if I can’t do it then essentially we are going to end up selling the home.

Commissioner Dan Saylor: Here’s my opinion. If the people on that ditch maintained that ditch and we would not ever have to need access in there, then I would look at it a little different but people they don’t maintain what they need to maintain. They don’t have a good understanding what’s theirs to maintain, what they should be doing so.

Blaire Reeves: No, I understand whole heartedly so I got and that was essentially my and if I was to buy essentially those 2 lots and had access to them and everything else, essentially I would own both sides of the ditch. Why wouldn’t I maintain that ditch because I could not see my property from my house but unfortunately there is no

Morrie Doll: So there is a request before the Board to relax the 40 foot already relaxed public maintenance on a legal drain to 15.

Commissioner Terry Phillippe: Need a motion?

Commissioner Dan Saylor: Phil?

President Bob Johnson: He said it’s not a

Morrie Doll: I think the comment was maybe a mower could get through there but that’s about it.

Commissioner Dan Saylor: I mean, I hate it for this individual but I just can’t be

President Bob Johnson: It’s not going to work. Sorry.

Commissioner Dan Saylor: I tell you, you came well prepared young man.

Blaire Reeves: It’s because I’ve been fighting this for 8 years, 9 years, trying to figure it all out.

Commissioner Dan Saylor: I’m sorry we can’t help you. I just, I love your preparedness.

Blaire Reeves: Like I told her, this is my last ditch effort before I sell this house because it’s like I have to have essentially a place for my camper essentially, so it’s like essentially this is what I was going to do.

Morrie Doll: So you are building a garage?

Blaire Reeves: yes, it would be a garage and an addition essentially. Bonus room above a garage essentially so it would be residential but I at least needed

Commissioner Dan Saylor: Garage on bottom, living area on top?

Blaire Reeves: Yea, it would be actually on the back section of it regardless.

Commissioner Dan Saylor: Is that not in a flood area?

Blaire Reeves: Yea, so our property has never ever flooded.

Commissioner Dan Saylor: Really?

Blaire Reeves: I guess we are maybe just high enough in location and everything else we’ve never had. She said even before you guys went through and reconstructed it there was no issue at our property. Now, the cul-de-sac has flooded in some of the areas and obviously everything further east I think have had some huge problems but our particular spot, we have not had that issue.

Commissioner Dan Saylor: yea, because you are more West of this.

Blaire Reeves: Yes.

Commissioner Dan Saylor: So do we need to make a motion?

Morrie Doll: Yes.

Commissioner Dan Saylor: I make a motion that we don’t relax the easement.

Morrie Doll: So, to deny?

Commissioner Dan Saylor: to deny

Morrie Doll: The request to relax it to 15 feet.

Commissioner Terry Phillippe: I’ll second Dan’s motion.

President Bob Johnson: All in favor? 3-0

Commissioner Terry Phillippe: Sorry

President Bob Johnson: Sorry

Blaire Reeves: It’s alright.

Commissioner Dan Saylor: I apologize that we couldn’t do more for you.

Blaire Reeves: It’s ok. I appreciate everything. Thank you.

**Stanley Hull- 4595 Marble Drive- Mansfield Ditch**

President Bob Johnson: Next we have Stanley & Judith Hull. 4595 Marble Drive, Mansfield Ditch. Drainage complaint. Mansfield Subdivision. Sir, can you state your name?

Stan Hull: My name is Stan Hull.

President Bob Johnson: Ok. And your complaint is what?

Stan Hull: We have a ditch behind our house that when it rains really hard, it gets really wet. In fact, I have some pictures to show you if it would be ok. To show you the normal ditch, what it looks like and then when you get a really good rain, what it looks like. The issue to be quite honestly is that it’s silted in down close to where we live and it’s silted in so bad that I bought a pair of rubber boots. You cannot mow the area because it never dries up. I bought a pair of rubber boots and got in there the other day and got stuck.

Commissioner Dan Saylor: And you made it out.

Stan Hull: And I went to my neighbor and I said who do I go see and they said call Dan Saylor.

Commissioner Dan Saylor: So, let me stop you there Stan. So, Joe Loge and I went out there and walked with Joe. Joe is out in the audience there. What Joe, a couple of years ago?

Joe Loge: Yes.

Commissioner Dan Saylor: And so, Steve I think we were working in that subdivision maybe to the West of that so and talking with Joe. I think Joe and Steve maybe talked. Steve took it on as a project to notify residents. Of course, I hate this but Covid happened, life happened. I didn’t hear anything. I guess I assumed that things were taken care of, done and then when Stan called, I was like huh. Just come to the Board because I want to know where we stand so in talking with Steve, Steve said he did send out the letters and notifications. Steve, I’ll let you take it from here.

Steve Sherwood: Yes, essentially there’s 3 north south drainage ditches through Mansfield.

Commissioner Dan Saylor: In that Subdivision.

Steve Sherwood: From West to East is 1, 2, 3. Mr. Hull lives on number 3, the second lot down from the street and there is also a 4th ditch that runs parallel to Lincoln Avenue just inside the Counties roadside ditch. Now, we have since been able to clean out ditch 1 and ditch 4.

Morrie Doll: And what is 1? The west way?

Steve Sherwood: 1 is the Western most one and if the Residents are familiar they probably saw the great amount of mud we excavated. All of these are concrete lined bottom ditches. You wouldn’t know it if you didn’t poke through the ground to find it.

Commissioner Dan Saylor: I was out there with Mr. Loge and we found the concrete Joe, didn’t we dig down and found it.

Joe Loge: You had a large enough knife that we could reach down there

Commissioner Dan Saylor: Yea, we found it. My knife was about 12 inches. Crocodile Dundee.

Steve Sherwood: As a courtesy we tried to everybody on board and all we’ve got total permission to do was ditch 1 and ditch 4. I lack 8 homeowners from trying to do the central ditch. Ditch number 2 and I lack 5 homeowners to do ditch number 3 which is the one that Mr. Hull lives on.

Commissioner Dan Saylor: 5?

Steve Sherwood: 5 out of 30.

Commissioner Dan Saylor: So there’s 5 people on that ditch that.

Steve Sherwood: I’ve sent notices on 2 different occasions. The first one went out October 6th of 2020. Which Mr. Hull did sign but unfortunately 5 of his neighbors, technically 4 but 1 has moved so now there is 5 I have to get permission from. I also sent a second notice out on March 8th of 2021 so I’ve tried twice to get everyone on board and I was evaluating whether or not to send a third notice or not and then Mr. Hull was coming to this meeting.

Morrie Doll: Are those public drains?

Steve Sherwood: They are drainage easements as specified in the drainage plat. These ditches were designed by Morley & Associates. The subdivisions designer for Mr. Sterkey, who is the Developer. They are designed to hold a certain amount of water and release into the system as part of the retention. These are not retention ponds or lakes, they are retention ditches. Hence, why he gets a period of water that’s a little deep for a while until it drains away. Now, it doesn’t drain away as quick because the concrete lined ditches are not being maintained. You don’t see the bottom in any of them which is why the County offered at one time when I got permission from the Board to reach out and contact all of these people. I’ve since got 2 of the ditches done. Ditch number 1 is already silted back up to a certain degree. Utilities are crossing them but they are laying their wire conduit in the mud, not under the concrete line.

Commissioner Dan Saylor: Above the line.

Steve Sherwood: I’m already being sued by AT&T for cutting one of their cables which I’m trying to convince you didn’t put it under the concrete lined ditch, you just laid it in the mud above it. So, I believe Mr. Hull will probably tell you that he’s received my agreement, he’s signed it and sent it back to me but I still have 5 others along ditch number 3 that I would have to get permission. Now, I quantify all of that by saying the Plat says it is theirs to maintain but if Mr. Hull was to clean his ditch, it wouldn’t do any good unless the next person downstream did and so on and so on.

Stan Hull: When we first moved there, I cleaned it out. I mean, right down to the concrete and my reward was, I got a pond in my back yard.

Steve Sherwood: I spoke with a neighbor along Mr. Hull’s roadway further south. I believe it was Mr. Wolf who questioned us about the same thing. We went out there and actually shot the concrete lined ditches. These are very shallow slopes, I’m talking about a tenth or 2 tenths of a percent.

Commissioner Dan Saylor: I knew it was very shallow.

Steve Sherwood: We actually found about a 100 foot section that ran backwards which doesn’t help any. It all needs to run from South to North. This part had a slight incline to it. Which we’d have to rebuild part of it if we were to truly fix it all. But this is why we don’t allow concrete lined ditches or even Earthen ditches anymore unless they are done to a minimum percent slope like I think the current standard it .07 percent or whatever we just did.

Morrie Doll: We just changed it.

Steve Sherwood: In the recent Ordinances. But these all predate those conditions. They all have their problems accordingly.

Morrie Doll: Steve, could we? Assuming that the Mr. Hull would be willing to do this, can we provide to him the names of the 5 holdouts and the documentation? As you know, we need a temporary right of entry to bring in the equipment to clean the ditch and to haul away whatever we clean and unless we have a temporary right of entry, we are trespassing on your neighbors.

Steve Sherwood: Even though it says it’s a public easement. It’s still on your property.

Morrie Doll: And so, my question is, can we provide Mr. Hull. Are you willing to go knock on 5 doors?

Stan Hull: You bet I am.

Morrie Doll: And can we give him those names?

Steve Sherwood: I have his address obviously so I can provide him an updated list and mail him those 5 packages.

Morrie Doll: Does he have an email address?

Stan Hull: he can today, yes.

Morrie Doll: So, if the Board would be so inclined, to instruct Steve to provide Mr. Hull the 5 names and the necessary documentation and let Mr. Hull see if he can get his neighbors. Sometime we do things for neighbors that we don’t necessarily do for a faceless government.

Commissioner Dan Saylor: Right, I agree with that. I think Joe and Stan and his neighbors have been dealing with this long enough.

Morrie Doll: Are you on the same ditch? The same one.

Stan Hull: Next door to him.

Morrie Doll: Well, I mean, that may give us one more ditch in your neighborhood that we can clean.

President Bob Johnson: Mr. Hull, is this backing up into your property and damaging?

Stan Hull: Very close to an outbuilding. Within inches and I’m afraid that if it continues to silt then I’m going to have water in my outbuilding. And that was my concern. I’d like to share these 2 pictures just too kind of give you an idea. I mean, it’s a lot.

Steve Sherwood: Hand them to Phil.

Morrie Doll: Hand them to Phil. He’s the water guy.

Stan Hull: Where the fence is, that’s my neighbor’s property.

Commissioner Dan Saylor: Just come on up and introduce yourself Joe for the record and your address.

Joe Loge: My name is Joe Loge. 4605 Marble Drive. I am Stan’s next door neighbor and I know you were talking about property damage. My fence now on every rain, it floods underneath my fence and so I am getting property damage from that and like Stan, when we first moved in, it would rain and drain fine but when people then don’t maintain the ditch it creates a problem. It doesn’t take a rocket scientist to know that if Stan or I dig out our ditch which we couldn’t possibly do that now it would all drain and stay where it is. I suspect that the people probably did not sign live South of us because it’s silted in and it’s to the point where they’ve got a really nice grassy area there.

Stan Hull: they are going to be the ones probably that are going to not want to do this because theirs is, but up on the far end where we walk, it’s a nice smooth ditch.

Morrie Doll: Do you have a homeowners association?

Joe Loge: No Sir.

Steve Sherwood: and for the record, I do have Mr. Loge’s temporary right of entry. He has signed the right of entry to get in and you are correct, they all are south of you.

Joe Loge: Is there any problem with bringing a Backhoe down to where the property is next to what is that street and just dig the silt out of there?

Steve Sherwood: You mean from your property north basically?

Joe Loge: Yes.

Morrie Doll: are you on other people’s property with said backhoe?

Stan Hull: Would be, yes.

Steve Sherwood: we’d be in the easement.

Morrie Doll: I don’t care.

Steve Sherwood: But they’d all have to sign.

Morrie Doll: An easement, you still own the ground under the easement. It’s still private property. It’s subject to the personal use of the drain but you don’t have the right to enter.

Steve Sherwood: But if everyone north of him have signed on both sides of the ditch.

Morrie Doll: For the County to do it, I guess what I’m asking Mr. Hull is who is bringing the backhoe in? Are you bringing it in, are you hiring the backhoe, or are you expecting the County to bring it in?

Stan Hull: I’m expecting the County of course.

Morrie Doll: well, it’s not going to take the water all the way to the discharge point is it?

Stan Hull: It’s going to take it awfully close. It’s going to take it to going under the road.

President Bob Johnson: My concern is we’ve already cleaned out these.

Commissioner Dan Saylor: well there is a pipe under the road correct?

Stan Hull: Yes Sir.

Morrie Doll: But it’s silted in front of the pipe and the backhoe isn’t going to get to the pipe. So, am I hearing you right, is that correct?

Stan Hull: If it is cleaned out behind Jan’s house, and Joe’s house and my house, that’s going to alleviate our pond. Is it going to alleviate up past us?

Morrie Doll: North of you?

Stan Hull: North of me is one house and that one house and then it goes into a pipe underneath the road.

Morrie Doll: So you are asking the Board to authorize Steve or actually to authorize Phil. Well, it’s not a legal drain so to authorize Steve to dig out behind 3 lots right?

Stan Hull: That would eliminate the pond because that’s the only place.

Morrie Doll: That fixes your problem, but not your neighbors on the north?

Stan Hull: there is no, there won’t be a problem if the silt is dug out up to the street. There is my house, Jan’s house and the street. And at the street level is a culvert or pipe that goes underneath the road.

Morrie Doll: Yea, but do we have signed consents for temporary rights of entry for

Commissioner Dan Saylor: Stan, how many houses are to the south of you?

Stan Hull: Well, almost all of them. Joe’s house is south of us. North of me, there is only one and that’s the direction that the water flows is south to north.

Joe Loge: It goes underneath Marble Drive. I don’t know where it goes after that. There’s 2 ditches that run parallel to Lincoln. I don’t know which ditch goes.

Steve Sherwood: Well, it’s the furthest ditch to the South or inside the Subdivision it drains to but the one along Lincoln Avenue is county maintained ditch.

Morrie Doll: well, I mean I guess what’s Steve think of that?

President Bob Johnson: My concern is this. We’ve already cleaned out the 2 ditches right? 2 years ago, is that correct?

Steve Sherwood: yea, the one along Lincoln; less than 2 years ago.

President Bob Johnson: And they are already silted back up because nobody is maintain them. What’s going to happen if we go in there and clean out, we can’t constantly be going in there and cleaning out these ditches?

Stan Hull: I’ll clean mine.

President Bob Johnson: I know you will. But your neighbors won’t.

Steve Sherwood: So, for clarification they live on Miranda Drive, the parallel street on the other side of the ditch is called Miranda. Marble and Miranda, sorry. I’d have to come down as many lots as I have permission for on both sides and clean from there north. But I still have 5 lots of the 30.

President Bob Johnson: I understand.

Joe Loge: I’m sorry to interrupt, are the 30 houses you are talking about, are those on Marble?

Steve Sherwood: 30 is everybody on Marble and Miranda from the street to the north all the way down to the street to the south.

Joe Loge: I’m just curious.

Steve Sherwood: It’s a long easement.

Commissioner Dan Saylor: so, here’s my thing. If these guys could get right of entries, you know you’ve already sent 1 ditch out. I think what we do when we go clean something out, I don’t know if there is a good understanding or people have a good understanding what their responsibilities are. Maybe they do, maybe they don’t care. But, are we on record of stating hey, this is your responsibility?

Morrie Doll: Steve’s letter.

Steve Sherwood: Yes, in my letter to them, it states right here that the easement area of each line and all improvements, it shall be maintained continuously by the owner of the lot and that is highlighted.

Morrie Doll: That’s on the plat.

Steve Sherwood: on the notice that I sent with them requesting a temporary right of entry.

Morrie Doll: They are just choosing not to do it. And this leads back to the question of is that a nuisance? We had this discussion last week or 2 weeks ago. Is that a nuisance? And I’ve still not heard from the County Attorney Todd.

Stan Hull: I tell you what a nuisance it is in my back yard, I have a snapping turtle about this big around and he has decided to catch the little ducks that fly down it. I’ve killed 2 snakes that have crawled out of that and my wife and his wife are deadly afraid of snakes. We cannot sit out there in the summer time because of the mosquitos and if that water is gone, I think our issues would be resolved. Now, I don’t know about what’s legal and what isn’t, I’m just saying that we have a problem at our house and

Morrie Doll: Well, I guess the question for the Board would be does Steve think cleaning those 3 lots is notorious?

Steve Sherwood: I would prefer on Dan’s suggestion to let me get this information to Mr. Hull and see if we can get the other 5 and if we can get that done in short order that solves doing part of the ditch, we can do all of the ditch.

Commissioner Dan Saylor: Right.

Morrie Doll: But how do we avoid it re-silting up again and then we are right back where we are today in a matter of months?

Commissioner Terry Phillippe: So, before we tackle that, let’s play for a minute that 1 person won’t sign and we are dead in the water, no pun intended. What’s plan B?

Morrie Doll: Clean 3 lots.

Steve Sherwood: Or clean as far south from the northern street that I have permission for to be on both sides of the ditch.

Commissioner Dan Saylor: But, does that not legally back up water on other people. Do we not have a legal?

Morrie Doll: No.

Steve Sherwood: We are cleaning the upstream end or downstream end coming back upstream.

Morrie Doll: The water flows to the north. Or starts at the north and so we are actually.

Commissioner Dan Saylor: ok. I’m thinking that water flows to the South.

Morrie Doll: We are actually benefiting.

Joe Loge: If you look after every rain, it gets wider and wider as it comes down to where we live.

Stan Hull: and it’s already on his fence so.

Joe Loge: And I’ll have to say kudos to the health department. I’ve called them and asked them twice to come out and spray for mosquitos and they’ve done it but it prevents us from sitting out on our patios in the evening because it’s constantly wet. It used to be it would dry up in the summer months but now it just stays wet and I can’t even mow back there.

Morrie Doll: So, it seems to me a resolution.

President Bob Johnson: I would be in favor of allowing Steve to get the gentleman the 5 names so he can go knock on some doors and see where we go from there.

Stan Hull: And I would be willing to do that.

Morrie Doll: So do you couple that with a Plan B Commissioner or do you just do Plan A and stop and see what the result is on the door knocking?

President Bob Johnson: I think at this point, we just try to get access to the easement. That would be my guess. I don’t know, Dan that is your area.

Commissioner Dan Saylor: well, I would think we go with a Plan B or Plan A and B. If he gets.

Morrie Doll: Otherwise they’ve got to come back if they fail.

Commissioner Dan Saylor: Yea, if they get all of the names, we give Steve the authority to go in there and at least what they can cleaned out so it fixes their problem. I know these 2 gentlemen. They are going to maintain their back. Maybe they can put pressure on their neighbor and say hey guys, if we all pitch in a $100 bill once a year, have a private contractor come in and clean it once a year. It doesn’t take a lot if it’s maintained but that’s the big.

Joe Loge: But that’s the big, I’m thinking about the people that live south of Stan and I and there are 4 or 5 homes there that are owned by a single person who is elderly and I don’t see how, quite honestly I’d like to tell you they would but I don’t think they can physically.

Commissioner Dan Saylor: well Joe, and that’s where a homeowners association really would benefit you guys. That whole thing. And you know you look at Old Hickory, they don’t have a mandatory. They got a strong HOA. Not everybody participates but they get things done because they strongly encourage everybody to.

Morrie Doll: I got a bill from mine today. We had to replace a pump on the fountain in the lake. So, now we got to pay but you know it’s a beautiful place and that’s the price of it.

Joe Loge: I understand what you are saying.

Morrie Doll: I’m glad I didn’t have to pay for the pump by myself.

Stan Hull: Well this is a situation where we didn’t really know where to go.

Morrie Doll: You can form a homeowners association and take care of this problem. If we clean it this time, and you realize that the County has no legal obligation to clean these drains in your neighborhood. But if we clean it this time it seems to me a good show of faith by the neighborhood would be to form a homeowners association and a small assessment once a year to clean these out. You may clean what Steve, one drain every other year or something?

Steve Sherwood: Whatever is needed.

Stan Hull: I know that if we can get the pond drained, I know of 2 homeowners that will take care of 3 lots because the one that’s right next to where it goes under the road, I’ll take care of that.

Commissioner Dan Saylor: ok, so I make a motion to give Steve the authority to give Mr. Hull and Mr. Loge the names of the individuals that they might be able to seek assistance with at getting right of entries and then once Steve gets it, if Steve is able to get all of those right of entries, to give him the authority to get the ditch cleaned.

Morrie Doll: And Steve’s to provide the paperwork to Mr. Hull to

Steve Sherwood: I will provide the necessary paperwork.

Joe Loge: Would it be ok to carry a ball bat with us to go talk to these people?

Morrie Doll: We have nothing to say about that.

Stan Hull: I’m going to take the big snapping turtle with me so and if we do not get the people.

Commissioner Dan Saylor: Yea, Plan B is to move forward cleaning the ditch.

Morrie Doll: Well, that’s really part of Plan A. What if they fail?

Stan Hull: So if we can’t get the names, then.

Morrie Doll: Come back.

Stan Hull: We’ll go to Plan B and take care of it.

Commissioner Dan Saylor: You guys are retired Principles. You’ve been getting answers out of people you want all your life, you’ll get these.

Joe Loge: Sure.

Stan Hull: That’s why we are here. We figured you guys were professionals you know.

President Bob Johnson: None of those people are your students are they?

Stan Hull: They might be.

Commissioner Dan Saylor: That could be the problem.

Joe Loge: That’s right. There is more than I would like to admit.

Morrie Doll: So, does that give you, have we armed you with enough ammunition?

Commissioner Terry Phillippe: I’ll go ahead and second Dan’s motion.

Morrie Doll: Does that motion give you enough ammunition to start and you know a plan?

Stan Hull: I think it does. Yes, that puts the ball in our court and we are to go take care of business and if it doesn’t take care of business then we will come back.

Morrie Doll: You’ll come back and we’ll talk about cleaning a smaller number of lots.

Stan Hull: That’s fair.

Morrie Doll: And, just a word of free advice, look into forming a homeowners association.

Commissioner Dan Saylor: I think it would benefit you guys.

Morrie Doll: It’s not a perfect solution but it’s a solution. Ok.

Commissioner Dan Saylor: If you get half of the people participating in it then.

President Bob Johnson: Ok, I’ve got a motion and a second, all in favor. 3-0

Steve Sherwood: And for Mr. Hull, give me some time to put this together. I will either mail it to you or hand deliver it to your address.

Stan Hull: That will be fine Sir.

Steve Sherwood: Once you get all 5 temporary right of entries signed, you can get them back to me by mail. I’ll give you a post-paid envelope or however you wish to do it.

Stan Hull: ok

Morrie Doll: Notary?

Steve Sherwood: No, no Notary for these.

Morrie Doll: Thanks.

Steve Sherwood: Thank you.

President Bob Johnson: Thank you gentlemen. Good luck to you.

**Jeramy Elrod- Acapulco Variance**

President Bob Johnson: Mr. Elrod. Is this like revision Z?

Jeramy Elrod: This is hopefully the last. Alright, Jeramy Elrod. Project Engineer with Morley. Jim Morley came and talked about this project. This is Acapulco. I have a slew of more Engineering Drawings, Applications, that kind of stuff but I figured I’d save it unless you guys request it. But the picture I passed around so, this got approval last time. We have made a small modification as they do to seating capacity or some building code issues. We have a secondary emergency access and so on the north side of the blue polygon. You’ll see that bridging or that lake and that’s an emergency exit bridge. Technically, we did get 200 square foot larger. We went from 3800 square foot to 4000 but that was a spacing requirement for building code. So the bridge would be a wooden bridge, smash material, the patio deck.

Steve Sherwood: So essentially, this changes the footprint.

Jeramy Elrod: Yes.

Morrie Doll: Is it just this north strangely shaped protrusion?

Jeramy Elrod: Yea and I have the Engineering drawing too that was submitted with Phil. Phil’s got all of that and I’ve got copies as well or you can see this one.

President Bob Johnson: You can’t get much bigger because you are going to be in both of the lakes.

Jeramy Elrod: Eventually, he’s not going to have a lake to look at.

Morrie Doll: It will be like Bora Bora, they can just build a Hutch out over the water.

Jeramy Elrod: And so, with that. There’s the, of course we have the covenant to hold harmless. That’s been updated and submitted with Phil and as was discussed previously, we’ve had to file for a zoning variance because it’s a structure inside a lake maintenance easement and we are in the middle of that process. We get heard next month at BZA.

President Bob Johnson: Mr. Baxter, are you ok with this modification?

Phil Baxter: Yes.

Morrie Doll: Subject to approval by BZA. I mean, there’s no reason to approve this if BZA turns them don’t. I don’t think BZA is going to turn them down but if BZA does, so if you vote to accept this, make it conditioned upon BZA approval.

Commissioner Dan Saylor: I make a motion to approve the variance based on BZA’s approval.

Commissioner Terry Phillippe: Second.

President Bob Johnson: All in favor. 3-0

**Jeremy Mattingly- 6833 Old Stonehouse Drive- Old Stonehouse Estates**

President Bob Johnson: Mr. Mattingly. That is your name right?

Jeremy Mattingly: That is my name. Jeremy Mattingly with Mattingly Homes & Development. I’m here on behalf of Steve and Shelly Schmelzer that live at 6833 Old Stonehouse Drive. I was here back in March of 21’ to discuss their detention basin. It’s just a pond. They have a metes and bounds lot that’s not part of Old Stonehouse. This basin has no legalities, there’s no drainage plan, and it’s not got an easement. It’s just an old pond. There is a storm drain that comes from Old Stonehouse Drive and into this. There is also a storm drain that comes from Grey Street into this, plus there is a couple of the residential little drains that drain into this. Back in March, the homeowners wanted me to approach you and see if we could redo the outflow pipe that was little and would get clogged up and all of this kind of stuff. There was a 30 inch drain that comes from the River or comes from the other side of French Island Trail that comes up into their property. We just tied onto that 30 inch drain and went to this basin. They wanted to make it a dry basin essentially and so that they could mow it and maintain it and get rid of that little pond. At that meeting you all determined that you didn’t have any authority of this and that it was a private matter and that the drains were trespassing at the time anyway so we moved forward with this, we did a 30 inch pipe. We’ve started to fill in this pond. We’ve emptied it. We’ve been trying to make it a dry basin where they can maintain it. It’s just a mess down there. It stays wet all the time, water runs through it all the time. We buried an excavator in there not too long ago and had to get another excavator to drag it out. The homeowners have asked me to come and talk to you all about. They don’t want to deal with this anymore. They want to fill it in. They want me to haul dirt in and make it yard. But, there’s 2 storm drains that come through there. They don’t feel that it’s their responsibility financially to deal with this, the drainage of it. They are willing to give easement and whatever they need to as far as property but they don’t want to have to build the pipe and do the work or the engineering and whatever it takes to do that. So, I just wanted to come and see what the next step would be.

Morrie Doll: Are they public Storm Drains?

Jeremy Mattingly: Yes. I mean, there is pipes that run from the street.

Steve Sherwood: Public and private. People have enclosed the ditches. Ditch or 2 ditches. I don’t remember which, coming from Outer Grey that’s either 2 or 3 incoming pipes. 1 from Old Stonehouse which is a public right-of-way. The ones originated Outer Grey which is a public right-of-way that opened ditches have since been enclosed privately with private pipe to this basin and he’s correct. It’s not a retention basin. It shows up about 1/3 in Old Stonehouse Estates and 2/3 on private property and you recall we were looking at the outlet pipe a few years ago when a Mr. Miller owned the property and then he has since did work to outlet pipe. Mr. Mattingly is saying they’ve done work to the outlet pipe and it drains into the town of Newburgh French Island Trail right of way and discharges on the other side of the highway into the Ohio River.

Jeremy Mattingly: a third of it that’s in Old Stonehouse used to be an outlet that Old Stonehouse Association owned, since then Mr. Bouchie that lives 2 doors around, I’m not sure what his address is, he has purchased or he owns that property now anyway. I did speak to him anyway before I came here, he’s willing to do whatever, he just wants it to be nice. He doesn’t care what happens, he’s willing to give up any easements, that kind of stuff as well, but I don’t know where to go from here with this.

Steve Sherwood: If the Board was to consider the request, they would have to, the homeowner or whoever would have to account for all incoming drainage and see that it’s adequately engineered and piped to discharge pipe the basin.

Commissioner Dan Saylor: So, what’s the fix here? Putting the pipe or laying it in the dry basin, setting the pipe? Obviously engineered, set the pipe, and cover it up with dirt?

Steve Sherwood: Two things, it’s going to be private because the County doesn’t want to maintain it in the future. If there is ever an issue of any of the water backing up into any of the county right-of-ways.

Morrie Doll: Well, we have a public drain tied now to a private lake which is desired to be done away with and so is that an extension of the public drain? That’s what the homeowner is asking it to be.

Jeremy Mattingly: And I think the homeowner is wanting to absolve themselves of any responsibility of this drain. They don’t want to be responsible for it anymore. They are tired of, they are saying hey, this is, all these drains come across my property and we don’t want to be responsible for other peoples water coming across our property so we are willing to give up an easement or whatever we need to so somebody else can assume responsibility for this. So, like I say, I don’t know what the next step would be.

Steve Sherwood: Phil, do you have any comment?

Phil Baxter: Part of it is actually that comes off of our right-of-ways. Probably more so than what the other pipes are carrying. You’d have to have an easement for sure and I don’t know that, well I guess it’d be, if the county had it I guess it would be County Highway right?

Steve Sherwood: I don’t think the County Highway wants to take on anymore pipe than what it has now.

Phil Baxter: well, that’s what I’m saying. If we did it. Would it be County Highway that took care of the pipe?

Steve Sherwood: The drainage from the west coming from Outer Grey, the ditch has already been privately enclosed at 1 or 2 locations. That’s going to be an issue with them if it ever backs up in their yard because the pipe fails their own private ditch enclosure regardless of what’s being done in the basin.

Phil Baxter: I agree with you.

Steve Sherwood: I’m not looking for more headaches, I’m looking for less.

President Bob Johnson: Is there any way to re-route this?

Steve Sherwood: Well, yea but I would think would fall on the people wanting to fill in the basin. Have some kind of engineering study done to do that.

President Bob Johnson: I don’t know what the solution here is. Or is there one? I mean, there is always a solution but.

Steve Sherwood: Bobby’s comment when I asked him about it was to as long as it’s piped, but he doesn’t want to be responsible for it either.

Morrie Doll: Why does it have to be piped? Why can’t

Steve Sherwood: They want to do away with the basin. Do they want to leave 3 open ditches to accommodate the drainage where the basin used to be?

Morrie Doll: Can the drains be consolidated into a single swale?

Jeremy Mattingly: Well, that’s what they were going to attempt to do. That’s what we wanted to do originally. That’s kind of why we were here back in March is we were going to try to consolidate this into some sort of channels or some sort of maintainable you know.

Morrie Doll: Not pipes.

Jeremy Mattingly: Not pipes. You know, either rock bottom or concrete bottomed or whatever. Like I say, that was back in March and since then this thing has never dried up and still can’t get an excavator down there to mess with it and their frustration last time we spoke was they were ready for me, they wanted me to get some trucks and start hauling dirt in so, I thought well, before we do that, we should probably talk to somebody.

Morrie Doll: I’m not sure we have legal jurisdiction over the lake, it’s not a County.

Steve Sherwood: What we have jurisdiction over is the incoming water from roadways

Morrie Doll: Yea, I agree.

Steve Sherwood: And that has to be accounted for and still function.

Commissioner Dan Saylor: So what if he comes in and just starts dumping stuff in there and just dumps it in there and blocks our drain up, what happens? Because he can do that right now right?

Morrie Doll: We don’t have a right-of-way to use, as I hear the facts described today. I’m relying on the oral presentations that are occurring. We do not have a right-of-way to use this lake for detention purposes. We’ve tied into it but I don’t know that there is any agreement or any recorded authorization for the County to put its water in this lake.

Steve Sherwood: The drain coming from Old Stonehouse shows as an open pipe coming into the waterbody. The waterbody sits one third or so in an out lot for Old Stonehouse Estates platted in the 70’s. The one or two other water sources coming off of Outer Grey were opened ditches I presume that were piped by the land owners to make more use of their yards, meaning private ditch enclosure. And they dumped into the waterbody two thirds, right or wrong, because the street water ran there through an open ditch prior to them enclosing it privately.

Morrie Doll: What’s the calculation of where the water comes from if it isn’t coming from the public drain? Why is there water here?

Steve Sherwood: You got a certain amount of water shed from the north and on the east side of.

Morrie Doll: sheet flow.

Steve Sherwood: Yes, of Outer Grey and some of those come in with the roadside ditch generated to a private ditch across those people’s property that I said that they enclosed privately. The other part comes in from the east from Old Stonehouse Drive into the part that used to be an out lot in Old Stonehouse Estates.

Morrie Doll: I don’t know that we’ve got it unless it’s an easement by use, I don’t know that we have a right to put our water in this lake.

President Bob Johnson: What would it take to take our water and move it along a different direction out of this pond?

Steve Sherwood: You’d have to get to the outfall that he earlier mentioned that they reconstructed as a 30 inch pipe. That’s where it goes to now by via the basin.

Morrie Doll: By the pond?

Steve Sherwood: Basin, pond, waterbody. Does draining of the pond constitute a DNR violation?

Morrie Doll: Yea, that’s a good question. Is it an acre or more? Is it less than an acre?

Commissioner Dan Saylor: There’s not an acre or more of water now. Nothing.

Jeremy Mattingly: It’s just a bunch of weeds right now.

President Bob Johnson: And mud.

Jeremy Mattingly: wet. Wet wet.

Commissioner Dan Saylor: I don’t think that’s an acre.

Jeremy Mattingly: I don’t think so. I’ve never seen any calculations on it.

Steve Sherwood: If they are willing to come up with a plan that connects any of the incoming pipes into the basin that connects it via a ditch, open ditch, to the outgoing pipe and fill in the differences and still be able to maintain the open ditches, everything has positive flow, I would say that would be a solution the Board might entertain.

Morrie Doll: But not pay for.

Steve Sherwood: Correct.

Jeremy Mattingly: The homeowner is not willing to put any more money into piping.

Morrie Doll: Then I guess we got a mud hole.

Jeremy Mattingly: I mean that’s why I’m here, just because they said, they told me to bring trucks. I said, no we can’t do that. So.

Morrie Doll: well, if the homeowners block our drain rightly or wrongly, there could be legal consequences from Warrick County about that.

Commissioner Dan Saylor: Filling that up with dirt is not going to be cheap either.

Jeremy Mattingly: No.

Commissioner Dan Saylor: I mean, that’s going to be some cost.

Jeremy Mattingly: Yes.

Morrie Doll: But right now, you can’t because you can’t, I mean it’s still a mud hole. It’s so wet you can’t fill it with dirt.

Jeremy Mattingly: Yea, I mean it could be

Morrie Doll: Mudded?

Jeremy Mattingly: Yea. I’m sure.

Morrie Doll: You could have a conscripted easement by use for drainage of the County public right-of-ways through that lake on private property which can’t be expanded or changed or used for any other reason that would be a legally enforceable right in a court room if you had to do that but there is uncertainty about that. So, the solution here is to reach an acceptable compromise with the County or with the private property owners and I don’t know whether it’s a situation where if one party buys the pipe and another party installs it and accepts responsibility in the future. I mean, Phil is right, we’ve got to get that water out of the public right-of-way one way or the other. It’s our responsibility to do that.

Commissioner Dan Saylor: Jeremy, I guess you know, I’m familiar with that area and travel that area a lot. I just thought maybe that homeowner maybe would’ve made that a, or put a nice ring of rock or something around that and made that just a nice, not dry basin but a nice little pond.

Jeremy Mattingly: whenever she or whenever I got involved, from day 1 she was you know wanting to eliminate it.

Commissioner Dan Saylor: well, it wasn’t real attractive. I knew the homeowner that owned the house or sold the house the first time. He had been there many years and dealt with this problem before but anyway, I just think if it was done right, that could be a nice little, I think you’d have to dig it out and make it a little deeper.

Jeremy Mattingly: Right, sure.

President Bob Johnson: You could make it attractive.

Commissioner Dan Saylor: I think so, it would take some money but.

Morrie Doll: It’s going to take money to fill it in.

Commissioner Dan Saylor: Yea. I mean, I know this has been a problem for the homeowners association for years. When they had the association.

Jeremy Mattingly: I don’t know.

Morrie Doll: But the Board is not willing to pay?

President Bob Johnson: No.

Morrie Doll: That was a question. Who would pay?

Jeremy Mattingly: well yea.

Morrie Doll: And the Board is not willing to pay so you could tell the property owner that.

Jeremy Mattingly: ok.

Morrie Doll: What about maintenance?

Steve Sherwood: There is 2 property owners. Not 1. 1/3 of the basin belonged to whoever purchased the out lot.

Morrie Doll: That’s right.

Commissioner Dan Saylor: So the other property owners is to the North of that.

Jeremy Mattingly: 2 lots. Not the next one but the very next one.

Commissioner Dan Saylor: Oh really? Oh.

Steve Sherwood: It’s not contiguous.

Commissioner Dan Saylor: Wow.

Morrie Doll: Why would he buy it?

Commissioner Dan Saylor: I just thought it was the next door neighbor.

Morrie Doll: Well, is he going to like a yard or is he going to like?

Jeremy Mattingly: He is ok with whatever. He doesn’t care as long as there is not a structure there or trees or whatever.

Morrie Doll: So, the Board has answered your question that they are not willing to use County money to close in this lake so I think a plan, you have to bring us a plan. You don’t have anything before the Board to say yes or no to.

Jeremy Mattingly: Ok.

Morrie Doll: So what does it entail, what are you talking about what is it going to cost and who is going to do what and what are you asking of the County?

Jeremy Mattingly: ok.

Morrie Doll: Steve do you agree?

Steve Sherwood: I think that’s where we are at if the Board wants to consider anything moving forward.

President Bob Johnson: Do we need a motion for that?

Morrie Doll: I don’t think so, you don’t have anything before you. This was a discussion I think.

Jeremy Mattingly: Yea, just kind of a where are we at, open dialogue about what their position is and what the next steps might be.

Morrie Doll: If you are going break piping as part of your plan, you’re going to have to have somebody that’s going to have calculated the, or has the letters or numbers after

Steve Sherwood: Engineer drawing. If piping is involved.

Commissioner Dan Saylor: They kind of filled in that a little bit didn’t they?

Jeremy Mattingly: Yea, I mean we have kind of taken the banks and tapered them. They were pretty steep banks that dropped off so they’ve tapered some of them to try to make them more mobile and maintainable. The back, the north side still needs a little bit of work to do that but even if you do that there is a good chunk in the middle that’s still inaccessible.

Morrie Doll: Steve raised a good point, DNR may not be happy with what you’ve done or propose to do, I know you don’t want to kick that sleeping dog but

Jeremy Mattingly: So, I had a customer that was with DNR, I don’t know if she any more but I talked to her about it all before and she seemed to think, I mean I didn’t go through any formal.

Morrie Doll: Is she in water or is she in a different department?

Jeremy Mattingly: Ugh, Trey Barron. I don’t know if you know who she is. She’s dealt with all of our, anytime we have development, she is who we went to with ditches and that kind of stuff so. Anyway, I don’t know. Like I said, I never went to any kind of formal meeting about it.

Steve Sherwood: We just don’t want to be dragged into that.

Morrie Doll: No, we do not want to be named as a co-defendant by the DNR in an enforcement action. That’s not going to happen. We are not going to step into that sand trap.

Jeremy Mattingly: I got you. Alright, well I appreciate your time.

President Bob Johnson: Thank you Jeremy.

**CLAIMS:**

President Bob Johnson: Next we have claims for a total of $5,425.64.

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: Anything else for Drainage Board?

**STORM WATER DEPARTMENT**

President Bob Johnson: Mr. Sherwood.

Steve Sherwood: Thank you Mr. President. First item of business I have is to discuss the current status of our Storm Water fee. I believe in 2013 it was cut from about 10 percent in exchange for increase in Wheel and Surtax. So we were collecting a $5 per month residential equivalent unit. The 10 percent cut or structured the fee down to $4.50. Because of all of the current projects starting to back log and the cost of doing some of these larger future projects, I want to bring to the Boards attention about the possibility of increasing the storm water fee in the future. The City of Boonville has created their own Storm Water fee at $5.00 per Residential Unit per month in 2020. The Town of Chandler currently has a $5.00 per month fee and they are holding public hearings to increase the fee to an amount yet to be spoken. The Town of Newburgh in 2019 raised their fee to $10.50 per month per typical Residential unit. I would just like to bring it to the Boards attention that if we are to start the process of looking at increasing the fee, I believe Morrie will tell us that a rate study would have to be performed by a certified accountant agency like Umbach & Associates or somebody. So, I would like to bring that to the Boards attention for consideration that we may have to start looking at that in the future. Second item I have, the Fuquay/Pleasant Ridge Drainage Improvement Project, as you know Ragle was awarded, they were issued a notice to proceed by me. The preconstruction conference was held on June the 2nd. They are currently supposed to start at early to mid-July and be completed by September 2nd. If that changes, I will let the Board know. The Blue Water Court project as you recall, Morrie was instructed to send all 6 property owners a letter to remove encroachments from the 20 feet of drainage easement. To date, no one has removed any encroachments. I don’t really have the money that I anticipate to do this project this year due to our other financial commitments. I probably need to send a notice to all 6 property owners saying we are going to put them off for at least a year. If the Board agrees, I would like to send that notice to all 6 property owners.

Morrie Doll: So that would take a motion.

Commissioner Terry Phillippe: Do you have a crystal ball that tells you we absolutely will not have the funding to do the projects?

Steve Sherwood: Well, looking at my current project money, what I’ve got left in my account, plus what’s left in what I’ll call the extra, I won’t call it a rainy day fund, but the extra funds we have to go to Council to procure. I don’t anticipate what this project will come into bid because we have to remove the encroachments, there is going to be additional costs and I don’t think we have the money to do that and I have and operating budget for the rest of the year.

Commissioner Terry Phillippe: So, more directly let me ask the question a different way. I know you intend on applying for some ARP funding.

Steve Sherwood: Yes and this project

Commissioner Terry Phillippe: If we were to receive that, what would that do to that?

Steve Sherwood: if we get some money back then I would have money in the account to do that but.

Commissioner Terry Phillippe: ok. So I guess my next question is do you still want to send an intent to hold off?

Steve Sherwood: it’s a double edge sword.

President Bob Johnson: I’d send them another letter to get them to start moving that stuff.

Steve Sherwood: But the anticipated project deadline for the ARP funds would be September 2nd. We wouldn’t know anything until after that which puts it off late into the fall which we could maybe still do a project, but I have to put it all out for bid and that’s going to put me into at earliest October more likely a November/December construction period which means I probably should just put it off and bid it over the winter and enact it in 2023. I’m looking at 420 feet of pipe plus drainage basins plus removing encroachments.

Commissioner Terry Phillippe: I guess my simple take is I don’t want to send a letter.

President Bob Johnson: I don’t understand why you’d want to send them a letter stating that you’re not going to do it.

Steve Sherwood: I don’t have to.

President Bob Johnson: I’d send them another letter saying this is your second notice.

Steve Sherwood: or basically we are not moving forward yet because your encroachments remain.

President Bob Johnson: I don’t know what the answer there is either but.

Steve Sherwood: I don’t have to send anything. I just thought I’d bring it to the Boards attention.

President Bob Johnson: ok.

Steve Sherwood: Next item I have is that we have a meeting tomorrow with Wessler per our contracted updates for updating our Storm Water facilities plan, our Ordinances and other issues that we contracted with them for earlier in the year. That’s going to start to happen again tomorrow. We will go ahead and add the facility at Friedman Park to our Storm Water facilities maintenance plan and update our other 5 maintenance plans to meet the new general ordinance that is being enforced by IDEM. Another notice that we did at the last week due to the Pruett Court Case.

Morrie Doll: pursuant to the litigation.

Steve Sherwood: we went ahead and replaced the 18 inch pipe per his part of the litigation. That’s been done. Last week.

Morrie Doll: Our responsibility was to rough grade only. We are not accepting responsibility for finished grade or for seeding because we’ve never been able to satisfy Mr. Pruett so the negotiated agreement filed with the Court and accepted as a settlement provided we could replace the pipe and rough grade only and we’ve done that.

President Bob Johnson: Ok.

Steve Sherwood: And as we just spoke earlier of the American Rescue Funds. The meeting was held this morning. I will attempt as priority number 1 to secure reimbursement for our funds on the current Fuquay Pleasant Ridge Drainage Project. I believe we have upwards of $957,000.00 that we can apply for and hopefully get some of that money back that Terry was eluding to earlier to go back into our general fund. Depending on how they choose to break down any type of reimbursement. There were no loans. That was all of our local money and that’s our current cost of the applicable after May the 3rd, 2021. That’s all that I have. Any questions from the Board?

President Bob Johnson: No Sir.

**MOTION TO ADJOURN/RECESS:**

President Bob Johnson: You’re up.

Commissioner Terry Phillippe: I make a motion to adjourn.

Commissioner Dan Saylor: Hey, can I make one thing before this?

President Bob Johnson: Sure.

Commissioner Dan Saylor: I just want to tell or make it public and thank Jason, Phil and what’s Jason’s helper Phil?

Phil Baxter: Dylan.

Commissioner Dan Saylor: Dylan, thank you and we had an issue up at the Industrial Park where there was a ditch that was growing up and those gentlemen went up and started tackling that. I think we all realized it was a lot bigger and then we got Highway involved in it so it was a great team effort for all departments to get together and work on something so I appreciate everybody involved in it. Thank you! I make a motion to adjourn.

Commissioner Terry Phillippe: Second

President Bob Johnson: All in favor. 3-0