**MINUTES**

**WARRICK COUNTY DRAINAGE BOARD**

**&**

**DEPARTMENT OF STORM WATER**

**July 25, 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; Jason Baxter, Deputy Surveyor and Dana Upton, Recording Secretary

Present in the audience: Dr. Mark Meyers II, David Meyers, Jim Shea, and August Nienaber.

**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 July 11, 2022.

Commissioner Terry Phillippe: I’ll make a motion to approve the minutes.

Commissioner Dan Saylor: I’ll second.

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

**Mark Myers & Group- Woodstone Manor Subdivision**

President Bob Johnson: Next up we have Mr. Myers and Group, Woodstone Manor Subdivision, drainage issue. Please come on up, state your name and sign in please.

Mark Myers II: Ok, I am Dr. Mark Myers II. I am currently a resident at Woodstone or correction, Woodstone Manor Subdivision. My brother over in the orange shirt, he has been for a year. Just moved a month ago. Mr. Shea is head of the Homeowners Association and was the second homeowner in our development so they are here additionally to assist us with our meeting. In the last year or two, it came to our attention because of recent problems more with flooding than we’ve ever had before although the flooding problem goes back like 40 years. You all are aware of that but with that review and such it came to my attention or my attention, that modifications that were done after the subdivision was approved and even though the modifications were done continuously with the County Engineers and other professionals advising us how to mitigate our drainage problem, it came to my attention that what was modified is not on the plat plan. We are here today to make sure that you all are aware of those modifications that the plat plan be updated and that those things be known to others. Example: there are drainage pipes that go all the way out to the highway. Those are not on the plat plan yet they go across the easement. There are utilities there. There is word that AT&T is an example, is going to be putting fiber optic through that area. What we want is we want all of these particular modifications to be known to anybody who comes through. They do work, they need to be aware of it, they cause damage, they need to be aware so they can repair it and such. So, with that in mind, what I have done, you should have it in front of you. I brought in 4 of them and they are distributed, a kind of summary of what is there. Now, I want to point out to you on that summary what is original and what is modification. If you look at, if you have the thing horizontally in front of you, it has up at the top the compass West, North, East and then South. If you look at the cul-de-sac between lots 18 and 7 that on its West edge in black 2 dots which represents curb drains. They then Y into a 30 foot pipe that concrete pipe that then drains originally into a ditch. That ditch then in 1976 when this subdivision was approved carried water out to then the ditch along Highway 66. By the next year and photos were taken and they were actually sent to the Commissioners, we have 100’s of pages of documents by the late Bill Ellerbusch. My brother, myself and Ellerbusch were the Developers of that particular development. Bill is dead. Shooting accident with his brother. He’s not here but I have his records. In the event a 30 feet of pipe went into a ditch which went out to the highway, the next year with rains we began learning that there was a great deal of run-off. We couldn’t handle it so that led to further evaluations, consultations, Engineers etc. How can we deal with this? So, that ended up with a summary over the years that actually ended in 1983 as we worked through these problems, modified this, tried that etc. to get the problem managed the best that we could. If you look at that black line, at the entrance of Woodstone there are 2 black dots, a line that goes across Woodstone, a black dot and a line that goes down to a red line. That particular drain was also part of the original development design and they were curb drains to carry water from the Southside of Woodstone to the north side of Woodstone to the Northside then across over to a ditch that went along Frame Road. The red line which I will explain a little bit later is actually an underground drainage, concrete drainage line that carries the water also out to the highway ditch. Now when we put this in we had lots down that are known as 6, 7 and 18. They were low. You’ll notice that those lots are very deep in other words there is a section that includes the easements, utilities and so and so forth out by the highway that actually belong to those lots but they were set back in such a way to allow the people that would build there to have enough room to manage the potential for some flooding and by 77 or 78, taking pictures, experiencing all of this water, in fact we even at our expense used back hoes to clear the ditch along the highway to try and correct things, was not effective. That resulted in our further thinking this and the first phase of this was we brought in 581 tandem truckloads of dirt to that bottom area and started distributing and building up the lots, building the berm, the vertical checked red line there is the berm to build up a levee type structure to prevent the flow from the ditch along the highway from backing up into our development. The difficulty with that is of course you can’t have a ditch there that goes through the berm. So, this concrete pipe which was the specifications that was approved by the Drainage Board at that time at 30 feet. We simply extended it. The Engineer said fine you can do that so we extended on out to the highway but there was another problem, there was the berm, the water would come from the highway and come through the thing backwards and back flow into the cul-de-sac, but then once it would drain out, it would drain out but we would still have some water because of a little area impounding. So, we built the bold red block so to speak in the berm is actually a very large, 2 huge pipes with flapper valves on the north side that allows that area then to further drain and drain out. Again, Engineers said that’s a good idea, that’s what you can do. So at our expense, we saw to it that it got through the berm to the other side. That still leaves with hard rains and stuff like this, things back up. We cannot hold the water, we become an impounding area for the cul-de-sac. Then we had the along Frame Road, you will see the red there. We had a ditch. The ditch was not attractive, it did not work well and the County at the time had the Chip n seal type of highway on Frame. They were going to asphalt it. They wanted that taken care of so in discussion we said fine, we will put pipes along there so we put underground pipes that carried the black line to the red and each of those red spots are actually bee hive drains and extended the concrete pipe to Frame Road, correction to Highway 66 along Frame Road. Later, fast forward, the Highway Department widened Frame, that intersection and they had us actually move things over as such to accommodate and they put there at the bottom another big red box so to speak and it sits an above ground drain through berm. They put that in place to further drain a low spot that goes to the berm as well. It has no flapper valve on it but the State apparently did that. We did not. That red line then continues on up along Frame Road and again mitigates a ditch problem. So we went to all that expense, went to all of those things to make sure no standing water, no ditch, no trees going up on a nice lawn, that type of thing. The area that previous referenced that comes from the cul-de-sac down, nice contour, I have photographs if you want to see them. Yard, lawn and stuff like this not eroding, it’s not an insect, mosquito infested, water standing development. If you go on that red line on up South, you’ll see some hash marks up there. That is actually a ditch in front of lot number 2 because we didn’t extend it that far and they decided just to leave it as a ditch and to me it’s ugly but its functional but It’s high enough elevation that water does run off. Then a couple of years ago because we have water coming down the hill, down what is candlewood place, and because there is even water under the street, the cracks in the street whatever water goes in, goes under, comes through the ground etc. it came down and was washing out the street so the County Highway Department said we got to correct that and you’ll notice in green and area at the intersection of Woodstone and Candlewood, it goes across that intersection, goes across Candlewood. What they did was put a French drain there. They then tore up the street and they brought the thing down part way to a green dot which represents a curb drain, carried it across the street to green dot which is a curb drain, carried that down to another green spot where they installed another curb drain. Ironically right in the middle of the guys driveway and then they attached it to our drain that was the 30 foot initially which was extended out to the highway. Ok, implying that they approved that drain to be appropriate because they tied into it, they must think it’s alright. The interesting thing is next point is when highway 66 was widened they cut the end of our pipe. It’s still effective, it’s still functional. It’s shorter ok, but they did cut it. It still dumps into the ditch along Highway 66. That ditch is not deep enough, it’s not being maintained. You know the story there, I won’t bore you with that particular scenario. But what I’m getting at is we want you to know what is there. We want you all be fully aware of it. Whether it’s approval of it, if you want Engineers to come out and verify what we did. These things, we have a spill way that is beautiful rock or stone. It’s been there for 40 years. Solid as a tank. Big pipes to carry the water out when it finally gets out of the ditch, it quickly evacuates out of there. It doesn’t become a holding pond or a mosquito infested lake for a health hazard in that regard and it clears but it clears at the expense of leaving on the street a lot of mud if I can use that term that has to eventually clear out. So, to summarize what we are asking is that this be brought up to date. We did this not knowing we were supposed to, it was apparently an oversight. Back then it was a for lack of better words a little loosey goosey here at the County level on how things were done on the County level in the 70’s and early 80’s but we certainly had no intention of doing anything that wasn’t according to code and all of that. So, if you have questions I have 100’s of pages of documents. Bill Ellerbusch kept, if he even bought a can of WD40, he recorded it. There were pictures documented, he took of the flooding in 77-78. There were letters sent to the communities, in fact he even put the postage down and the name of the people he sent it to, to keep them informed. Those were in his records. I’ve got them. I’ve got photos of these places that we just mentioned. All professionally done, beehive drains, curb drains, concrete pipe, beautiful spillways etc. to manage this. So, open for questions.

Commissioner Dan Saylor: Dr. Myers, I have a question. Is the check valves you said the State widened on 66, is the check valves still in place?

Mark Myers II: No, what they, when you say check valves, there is no check.

Commissioner Dan Saylor: Well, Flapper Valves.

Mark Myers II: Ok, the Flapper Valves, no, what they put in along Frame Road ok, it’s just an open pipe. It’s a low spot if I can, the red line is deep in the ground and it goes along the ground underground. Then it meets the berm at the intersection. That berm is rather, isn’t very tall at that point.

Commissioner Dan Saylor: Right, no, what I am referring to here, you said you put some flapper gate valves in here, are they still there?

Mark Myers II: Oh yea. That one yes.

Commissioner Dan Saylor: Are they still there?

Mark Myers II: Oh yea. Do you want to see pictures of them?

Commissioner Dan Saylor: No, I just wanted to make sure the state, because you refer to the State widen.

Mark Myers II: No, this is, well this is probably what a 100 feet from the Highway. Ok, that’s probably a good 100 feet from the highway.

Commissioner Dan Saylor: Ok. So my next question is, how do you fix that?

Mark Myers II: I don’t, I can’t.

Commissioner Dan Saylor: Watch your step there. It’s the pipe going North under 66. How do you fix that?

Mark Myers II: It’s not big enough. You need another one.

Commissioner Dan Saylor: Right, but how do we fix it?

Mark Myers II: Well, I don’t know. I just, until you can get that water to escape along the highway. Mr. Shea has had studies done. Perhaps he would be better able to talk about it but Mr. Shea is the one who has addressed that with State.

Steve Sherwood: One question Dr. Myer. When was the berm constructed?

Mark Myers II: The Berm,

Steve Sherwood: 500 truckloads.

Mark Myers II: It all started the next year, like 1977 and it took up to 1983 to make all of the changes. This tandem truckloads of dirt was 581 truckloads. There were hundreds of other truckloads over the next few years. There was 3 years in which there was backhoe work and grading work, covering pipes and things of this sort. All documented.

Steve Sherwood: 1977 through 1983.

Mark Myers II: and the streets were finally accepted I think 1986 or

Steve Sherwood: You said Engineer approved that Flood gate work? What Engineer are you referring to?

Mark Myers II: Well, maybe my brother didn’t say that but Biggerstaff was part of the group.

Steve Sherwood: I just want to clarify when you said Engineer, was it the County Engineer or was it some other Engineer?

Jim Shea: Yes, the County Engineer.

Steve Sherwood: We would have to go back and look at Drainage Board minutes to see if we can find anything that supports that.

Mark Myers II: We never met before the Drainage Board to do that. This was talking to them, we didn’t know we was supposed to. We just knew we were extending these things. We just knew the pipe that was already there. Avoiding a ditch, we were learning on the fly so to speak. A rain would occur and we’d start getting these things. When we moved all of these truckloads of dirt as an example, we had to hire boy scouts to come out and dig out around each tree so they wouldn’t get color rot.

Steve Sherwood: You mentioned that green drains on your drawing, the County did put those in a couple of years ago

Mark Myers II: Correct.

Steve Sherwood: And we tied into the inlet. That is shown on our approved set of drainage plans but the red line running from lot 2 through 6 that parallels to the west side of Frame road. That does not exist on here other than the pair of inlets and the pipe under.

Mark Myers II: That’s why we are here. Is to make sure that you are aware that those things were done. But in fact there are records here that they were digging out things along Frame Road, clearing the ditch and so on and so forth that was there originally.

Steve Sherwood: Just to clarify your request, you’re asking that the county takes in and makes improvements to everything that’s installed on your map is that right?

Mark Myers II: No, not exactly. First of all, you have to understand that along Frame Road, that was actually, the County or the State has now purchased that easement. They widened things. I don’t know who has responsibilities. It was there when that transfer of I’m going to use some ownership occurred. These were put in in the 1970-80 time frame. But the street was widened and the right-of-way was obtained. In fact, this lot 6 has a street light and they had to buy that area, move his street light over further on his property and such. Well, they went right across where the pipe is. The red line is purely a demonstration, it’s not exact location because I don’t know exactly where it is. I just know it’s over there somewhere. So it’s for illustrative purposes only. I don’t know who has responsibility, it may even be under the road at this point.

President Bob Johnson: Ok. Mr. Shea.

Jim Shea: Yea, let me just follow up with this because this is a different issue than what you have in front of you on a state.

Mark Myers II: I can vouch for the fact that the pipe that was put from the bottom of the cul-de-sac across to the highway. Yea, that was us totally and yes we put in a pipe along the highway but the easement responsibilities now since the state bought that I don’t know whose responsibility it is for that. I can see that we have responsibilities for the white, for the pipe that goes out from the bottom of the cul-de-sac to the highway. It’s just that I don’t want that to be unknown to anybody who comes across that easement with utilities and to cut into it, destroy the drainage and then say not my problem, I don’t have to fix it. It wasn’t on the plat plan. But that concrete, it’s going to last forever, it doesn’t require any maintenance and such.

Jim Shea: They have been there since I’ve been there and there has never been a problem with the pipes.

Commissioner Dan Saylor: Step up

President Bob Johnson: Sign in please

Commissioner Dan Saylor: And say your name for the record please.

Jim Shea: James Shea. S-H-E-A. I am a resident at Woodstone Manor. This water issue evidently has been around for a while. The request that I have really pertains to and has come out of this study which was done by INDOT. You have a copy in front of you. This is a Hydraulic Study that we asked the State. Khalil, I never can pronounce Khalil’s last name. Anybody know Khalil’s last name? He came down, we spent some time when we experienced kind of a flood. One of several floods. The pictures as you go through, they are typical of the type of floods that occur with these hundred year rains as you call them a lot of the times. They got pretty high for a long time and when he came down they went to work and did this study September 1st 2021 when that report came out and out of this they said that they would. They made some recommendations. 1 of which is to dig out a significantly larger ditch. The INDOT ditch East or West of Frame Road. South of 66. We will call it the Woodstone Manor ditch but it’s the INDOT ditch. They put a maintenance case number together which I’m not sure, I think it’s in this study. That hasn’t been executed as of yet. We are following up on it to see when that’s supposed to occur. I guess you learn to follow up with these guys sometimes. What the other one was, because their conclusion was the reason we get the water in Woodstone Manor with these big rains is because of the cul-de-sacs located on Libbert Road. And the problem according to them and that you can see in page 3 on this. That’s Libbert Road. If you go out there today, it looks a little shaggier than that. That ditch fills up and backs up the ditch on the Southside and that ditch ultimately backs up the ditch from Woodstone because there is only 1 pipe coming out of the ditch from Woodstone, into the ditch, the INDOT ditch on the other side or the East side of 66. Then that water that you are looking at that comes over through here goes on up and around to Edwards Ditch. This might be Edwards Ditch as far as I know. I don’t know. So their conclusion is that you need to do an additional Hydraulic Study on that Libbert setup where you have 2 huge cul-de-sacs. And they are saying that the ditch doesn’t empty fast enough and that there is some other solution that has to be sought because of that. I disagree with that but that’s their conclusion. From our standpoint. I requested that they do this study to see if a second culvert out of Woodstone Manor ditch would solve our problem. I still think that’s part of the solution.

Commissioner Dan Saylor: Ok. Stop there. Second Culvert from, to go under the Highway?

Jim Shea: To go under the highway. Yes. I mean, that’s significant.

Commissioner Dan Saylor: I just wanted to clear what they.

Jim Shea: That’s what I was asking for. That was denied here under this study. So their conclusion was instead of that, you got to fix the Libbert problem. In other words, move the water faster. Well, that’s fine. That, put some jet engines out there and fans and move the water down somewhere else but this is a significant problem, I would agree with that that it’s significant. The water is not moving fast enough but it keeps coming in. There are further developments in the last 42 years. You’ve added more drainage into these ditches. You have continually improved drainage in the last couple of years. You had a big Bell Road drainage improvement and the Commercial properties now and everything going out Libbert Road is expanding and I was under the impression that you were digging some more retention ponds and I think you probably have. I don’t know if that will solve the problem but eventually it won’t because it’s too much water coming into one place too fast. Can’t get it out. So, I would like to suggest to you that we do a joint study and take the suggestion of the state. My scope of that studies can be determined later as to what it is but it ought to include Stone Creek, Country Place, all the subdivisions around that are feeding these ditches that are east. We are kind of in a bowl here and then everything comes right in there to that one location. You have a single point of failure here and we are it. So, how do we solve it? My solution would be to put a second culvert out of Woodstone ditch and then over to the Meijer property and then let Meijer worry about it but I don’t know if that is going to happen. That obviously isn’t going to happen. The state doesn’t like that idea. But that is a very expensive proposition. I don’t know that we need a big culvert. We could use 2 small pipes even. Just to move the water over to Meijer’s, put a retention pond there. They don’t want to do that because they saw that it’s going to feed over to Edwards Ditch anyway so the same problem exists. But you get a lot of water. You know it. It’s been around a long time. We just are, there are 7 families that are about to get flooded out when we really get a 100 year rain and not just a 25 year rain. So, that’s our request and I’d like you to assign somebody to that. I’d be glad to work with it. I know the state representative Tim O’Brien understands it because the water came up to his doorstep down there along at Tucker the last time. Pictures of that. We’ve already had a conversation with him. He’s interested.

President Bob Johnson: Maybe he can get the state to put in bigger culvert under 66.

Jim Shea: well, I haven’t asked him yet but if we have a joint study we will ask him.

Commissioner Dan Saylor: So, have you asked him to recommend to the state that joint study?

Jim Shea: Well, they are recommending it. We don’t have to ask them, they are already recommending they would like to do that or they would be interested in doing that with the County. What I am asking is, is the County interested in working in unison with the state effort and a county effort and a federal effort if we need to. I mean, we can get some federal politicians involved too but we would really much less like to solve the problem, not make it bigger. So, that’s the gist of my.

President Bob Johnson: Well, thank you very much for coming in and enlightening us and we can take this under advisement and somebody will get back to you.

Jim Shea: Great. Thank you.

Mark Myers II: I’d like to follow up to answer one of your questions about who is responsible. These are some pictures on the past ground that, but this is just a picture of where the cul-de-sac, or south cul-de-sac is and you can see grass there because there are pipes under the ground. Here it moves along a little further up to the drains with the; and it has a on this one, even the drain, even with a manhole drain that additionally feeds the pipe underground. This is a picture of the flapper valves on the back side and you can see they are clear and so and so forth. The bottom line is that pipe that leads from the north end where that black 30 feet of pipe was and then extend out to the highway. You are now dumping water from that French drain into that drain. So, that implies to me that you’ve accepted this, you’ve accepted that evacuation of water out to the highway as appropriate.

President Bob Johnson: No one has said that.

Marky Myers II: Indirectly you are accepting that because you tied into it. The County Highway tied that drain into our drain. The green is the French drain and it ties into the concrete drain that was quote 30 feet and then we extended on out to the highway.

Steve Sherwood: We tied into the existing drains that were there on the approved drainage plan.

Mark Myers II: Right.

Steve Sherwood: And the same water that comes down the street, we are just intercepting that with the French drain which was requested by the residents. We looked at that and we did that work at their request along with miscellaneous concrete panel repairs that the highway department did.

Mark Myers II: Right, but it implies to me that you’ve accepted that ok. So a moment ago I said I don’t know who is responsible. We built it, we are responsible up until the time that you put in the French drain and now is there an implied responsibility for the quote maintenance if I can use that term. Along the highway, now the highway has that area, I don’t know who is required. The likelihood of this ever needing maintenance is exceedingly remote. There is no traffic over the one that goes off into the end of the cul-de-sac. It’s been there for 40 years. It drains fine. You see the pictures and you can see those flapper valves and they work and so on and so forth and you can see the grass has grown up there. There’s not a ditch holding standing water and things of that sort. It’s a definite improvement and it was done in consultation with people who are experts at the time. We don’t have records of that, we just know that’s what we did. We would not have put something in without having talked to people ok and knowing what was appropriate. We built this thing above county code requirements. Example, part of the street you wanted 3,000 PSI, we did 4,000. You wanted 8 inches in one area of the street, we put in 10 inches. We over engineered this and we did that through the advice of people who are experts in the field which included people in the county offices and such so to summarize, we’d like to see to it that this is on the current plat plan. I don’t know if that’s the correct term so people don’t cut across it and don’t destroy what is there because it is functioning the way it’s supposed to although it’s limited because the downside of this isn’t functioning and it backs up to us ok.

Commissioner Dan Saylor: So, Steve is that a big deal to get that put on the plat? It’s on there now.

Morrie Doll: It’s an amended drain.

Steve Sherwood: Yea but I mean.

Commissioner Dan Saylor: Yea but then do we own it then?

Steve Sherwood: No, you would have to amend the drainage plans and have to have calculations to support everything and run back through Drainage Board to amend the Woodstone Manor Subdivision drainage plans. That’s never been done that I am aware of.

Commissioner Dan Saylor: Well, I see his point especially with all of the broadband going by and everybody cutting into ditches. It needs to be shown that it is there.

Steve Sherwood: And also as they stated, this flooding has been going on since 1977, they built a berm and various structures. Granted the flooding may be a little more severe now because of other development in the area but the severity of storms have increased. This started out as a 25 year storm for the subdivision and our current standard is 50 years.

Commissioner Dan Saylor: well you know I even had a thing in this forum. I asked Jim Morley what about a regional retention basin and even Jim spoke. Jim Morley is an Engineer and he’s probably our County expert. You know, no one knows more about the lay of the land than Jim Morley, he said it really can’t be done. It’s just too low. He said the only way to get this water out of here is a huge pipe going along I69 going down to the river. Then if the river gets to a certain stage, everyone is going to be in the river.

Steve Sherwood: If funds were unlimited, we would want to bore a tunnel under Frame road, drain straight south to the Ohio River but that would take millions of dollars to bore a 1.6 mile tunnel to

Jim Shea: I would say that our solution would be a couple of small 24 inch pipes under 66 too.

Steve Sherwood: But once it gets to the Meijer property where does it go? Because the major drainage ditch is on the East side of Libbert Road, not the West side.

Jim Shea: I understand that.

Morrie Doll: We have a problem with Pigeon Creek.

Jim Shea: Well you’ve got Vanderburgh County and Warrick County and you got to basically re-ditch the whole thing.

Commissioner Dan Saylor: Our Pigeon is a legal drain. Vanderburgh is not.

Morrie Doll: Vanderburgh doesn’t recognize it.

Commissioner Dan Saylor: So, your conversation with Tim is not going to hurt you. You know Ron Bacon has been involved in this conversation. We became

Jim Shea: Anita Becker is around.

Morrie Doll: well, but the city of Evansville has not accepted and Vanderburgh County has not accepted portions of Pigeon Creek as a legal drain because it would be a nightmare right of way wise to maintain those. Those homes are built right up to it. There are even streets in Vanderburgh County that I’ve been told by former County Surveyor that cross Pigeon that have a undersized crossing and in fact in storm circumstances you can stand in the street and look on the north side and you can look at the south side and there is an elevation of water difference. So, the city, Lynch road is an impediment to the drain. That’s not a small impediment. That’s a big impediment.

Jim Shea: As I looked at this.

Morrie Doll: So moving the water to the North side of 66, I mean this Board is during my 10 years as Legal Counsel has wrestled with Pigeon Creek every day of the year trying to figure out a way to deal with this and the legislature has even created a study of Pigeon Creek as a consequence of a joint drainage request but I don’t think there is any answer there and I don’t think there is funding there. So merely getting the water to north side of 66 is not the answer to the problem because it has to be taken away. It has to be taken away.

Jim Shea: Well that’s what this study said. We can’t do that because it ends up, you’re just not taking it away it still doing the same thing.

Morrie Doll: And so as a consequence of that I know you didn’t sign up to be a holding pond but on the other hand.

Mark Myers II: Do you know have an option for a holding pond on the north side of 66?

Morrie Doll: Well we can’t use Meijer’s property unless we condemn it.

Mark Myers II: Then condemn it.

Commissioner Dan Saylor: That’s my question, if Meijer’s builds, they got to build a retention basin there. If they oversize that retention basin will it help this situation?

Morrie Doll: That’s an Engineering question.

Steve Sherwood: On their tentative plans, no because they will oversize it but it’s only because they need to fill dirt out of it and there is a tradeoff of how much of a hole you can dig for water vs Commercial real estate that’s left for development. So, they would control that decision as far as how they could over design it.

Morrie Doll: Well they don’t have to design it.

Steve Sherwood: But their retention basin being purposed on the West side near the Health South Facility, not over on the East side along Libbert Road. And you got to remember, Libbert Road is on the INDOT maintenance.

Commissioner Dan Saylor: Yea, but the low point in on the East side of that lot. Right? The Southeast side.

Steve Sherwood: Right. They project it to be 6-8 feet of fill that they need to elevate the property but you have to remember Libbert Road is under INDOT maintenance and jurisdiction from 66 North to the intersection where traffic lights are at Highpoint Drive. They are responsible for the Roadway and the right-of-way. The main drainage ditch is a legal drain.

Mark Myers II: what do you mean by legal drain?

Morrie Doll: Ours.

Jim Shea: Yours.

Mark Myers II: You got trees growing up in that thing. That’s got to be

Morrie Doll: we keep cutting them down we just.

Jim Shea: They like it there.

Steve Sherwood: Commissioner Saylor has had a lot of discussions with INDOT about maintaining their side.

Commissioner Dan Saylor: I have met with INDOT, I’ve met with the Trustee there. I see him shaking his head. That’s Chad Bennett out in the audience. We have constantly complained to INDOT about maintaining that area. It’s also a challenge even for our department to maintain our areas and I’ve recently learned after being the Commissioner for 5 years our jurisdiction for INDOT comes out of the Evansville office for that area where I thought it was coming out Chandler or the Chandler office so let me tell you something if an office is over here in Evansville, you think they give a rats about what’s going on over here in Warrick County. To me, if the office was made jurisdiction over here in Chandler, I think they’d care a little more. I think we could get more done because it’s pulling teeth.

Mark Myers II: It could be me, but I am not an Engineer. Pumping stations, is there anything that would get it up over the hill and out of the way to drain into a retention basin at another location. I mean thinking outside the box on what is natural drainage, what about pumping stations? That’s what they do in New Orleans. Pump the water out.

Commissioner Dan Saylor: But they fail.

Mark Myers II: Well, can we design

Steve Sherwood: It’s a matter of where you got to pump it to and it may be less expensive to buy 3 lots than it would be to create a pumping station and solve that drainage issue.

Jim Shea: On the Meijer’s property.

Steve Sherwood: No.

President Bob Johnson: We’ve got other people we’ve got to get to.

Mark Myers II: We appreciate your time.

Jim Shea: I was aware you were probably aware of the problem but we are the retention pond of the problem.

President Bob Johnson: we are aware.

Mark Myers II: Yea, we are the victims but we also don’t want to become another victim by having them damage things that could be prevented.

Commissioner Dan Saylor: Sure. Thanks guys.

Morrie Doll: These will be part of the public record for today’s meeting.

**August Nienaber -7555 Woodland Drive- ADDED (\*\*NOT ON THE AGENDA\*\*)**

President Bob Johnson: Next up we have August Nienaber. Please sign in and state your name for the record.

August Nienaber: Thank you for your time. I’ve got a couple of pictures here to show you. These are photographs of the back of my property. I live in Newburgh on 7555 Woodland Drive which is on the Northeast corner of the Reinbrecht/Sharon Road development. We came down to a meeting for the Drainage Board when the Development was in question and we stated our concerns because our house. This is our property and the Reinbrecht subdivision property corner meets our property and we said that our concern was that if you removed that wooded area, what’s going to happen and this is all set aside but it was all developed and stripped and the grade was increased and now everything comes right into our property. Mud and everything. Well they went and they re-developed everything and they built a berm and a retention pond back there and it’s gotten a little better but when it rains a lot, here it comes. Mud and what not. Its eroding the ground alongside of my fence and

Commissioner Dan Saylor: Do you have photos?

August Nienaber: I do. They are getting passed around but there is a couple of things. First, there was no ditch for this to drain into. They fixed the problem a little bit in terms of the runoff by building this retention pond. They put rocks and the slowed the water down and what not so when it rains it comes up. But the big things are it is unbelievably ugly. There are orange drainage fences on posts in the back of my yard. 2. No one has mowed the grass, this year and you can see the pictures it’s, I don’t even know what to do about it. It went from being nice to being all bad. 3. There is bugs that come out of there. It’s not a good thing. So what I’m asking you guys to do is there is nowhere for this water to go once it comes off of their property. There is no drainage ditch between, there is a power easement and drainage easement but there is no ditch. My neighbor to the back Clark, anyway his land is a little bit higher but mine is lower and it just comes in. I’ve put railroad ties back there at my own expense to stop the water but it actually overlaps that. There is no ditch down there and there needs to be one dug. I mean it’s a relatively simple affair but it needs to go on up the hill and down I guess put rock on it or something, I don’t know but something needs to be done. I mean this is not complex calculus about how to fix it.

Steve Sherwood: Where are you asking for the ditch to be?

August Nienaber: Directly behind my property and on down. Kevin Acre next door has said something to me about it, I don’t know if he has ever come up here or not.

Steve Sherwood: It’s between the two subdivisions correct? There is a 6 foot public utility easement on the south line of the one and then the north line on the other?

August Nienaber: It’s directly over the top of the public utility.

Steve Sherwood: Ok, one of your photos illustrate the issues. Somebody built a fence in the easement.

August Nienaber: Yea, that’s my fence.

Steve Sherwood: There is also a shed if I recall in the easement and there are some tree stumps or a tree still in the easement.

August Nienaber: there is nothing permanent that can’t be pulled up. Nothing.

Steve Sherwood: But the intent of the original drainage plan from South Broadview, again a 70’s Subdivision, there is an area draining on the backside of the West curb that this drains to, the problem that he is eluding to is that there is no shaped ditch to get the water from point a to point b. Point b being the area drain on the west side of the roadway.

August Nienaber: I put railroad ties along the back to kind of make the ditch but when the water comes down it goes right over into the yard so.

Steve Sherwood: we would have to have all property owners’ permission on both north and south side and then they have to verify what utilities are immediately below the ground that may be in the way.

August Nienaber: I don’t know how deep, I don’t know what code is for the utilities, I’m not sure, I don’t even know how deep you’d have to dig it. It wouldn’t be much. Just something to channel the water. That’s pretty much it. Also, I don’t know if this is your per view or not but no one has mowed the grass on that property this year and the other thing is that retention pond, once they sell that corner lot, who is responsible for that? I’m not sure. The grass hasn’t been mowed at all. There is orange drainage fence up there. I’m glad I’m not selling my property because

Steve Sherwood: The orange fencing you are referring to is a silt fencing.

August Nienaber: Whatever you want to call it.

Steve Sherwood: It’s a woven texture.

President Bob Johnson: It’s a requirement while they are developing.

Steve Sherwood: And the retention basin is part of the approved drainage plan and there should be language in the subdivision plat as to who is supposed to maintain it. I’m pretty sure it would be the lot owner but since the lot has not been conveyed, it probably falls on Reinbrecht and we are probably talking about the Hillside Meadows Subdivision I believe.

August Nienaber: I have concerns, I’m not sure how to say that about a lot owner mowing grass around a retention pond perhaps.

President Bob Johnson: Steve is there anything that we can do on the developer’s side to stop some of this?

Steve Sherwood: that was designed by his engineer Cash Waggner Associates. The basin is sized for 50 year storms of course we get rains that exceed that. But there is a smaller diameter pipe that bleeds out the natural drainage over the top if you get more than a 50 year storm that goes over the emergency overflow. Everything flows east or from west to east from the northeast corner of Hillside Meadow Sub to Jeffries Lane and there is an area drain at Jeffries lane but it’s not an approved ditch because it’s never been maintained through the years by the various property owners that border it and I couldn’t tell you if one was ever built adequately.

August Nienaber: Originally there was a ditch there but my house was built in 77 and the lots directly behind it were built in 92, 93, 91, somewhere around there. All of that property down on Jeffries Lane was developed 15 years later. The ditch was filled in as the lot behind ours, the property was developed and his was raised up and whatever ditch that was there was filled in. It’s really never been a problem until the grade was increased and all the trees and all that were removed. Everything slowed everything down. It just exacerbated the problem. There was always water there when it rained. I mean. There was, but it didn’t really change anything fundamentally but it changed the speed, it changed the amount so essentially we just need somebody to dig some sort of a trench out of there or even build a levee or something to keep it from running into my yard. That’s it. The next guy down has the same problem.

Steve Sherwood: If we were to consider it, all of the encroachments would have to be removed and then we would have to have a discussion in detail.

Commissioner Dan Saylor: Steve, since this primarily was caused by the Development, can the Developer have some kind of?

Steve Sherwood: We’ve never been able to make offsite improvements and all of these lots here when this was pastured before trees were removed, it all sheet flowed into the back yards of all of these lots that border Woodland Drive west of this gentleman. Now all of the other is caught by a berm along the north line and drains from west to east so that brings even more water to the corner than what used to be there. That’s the whole purpose of the design of the retention basin. To hold that water and channel it and let it go at a released rate but if we get storms that exceed the 50 year storm, you get an overflow condition and a deluge of water but it all drains away eventually but it may cause some erosion as he is eluding to and some other inconveniences. If you recall the gentleman directly behind him in this corner lot in the other development that butts his property was in about a year ago under similar circumstances.

August Nienaber: Yea, the fence was up there before and… I’m not sure. There is a lot of request here. I’ve got the orange fencing, which is unwelcome. But the grass is staying this tall that’s an issue, I don’t know if that’s really your concern but it’s a part of it and then the water.

Steve Sherwood: You’re talking about the grass in the retention basin?

August Nienaber: Yea, all of that. You can see it in there.

Steve Sherwood: Everything on Hillside Manor at the northeast corner is not being mowed is what you are saying?

August Nienaber: No. Right. Now the lots haven’t been sold either. The lots haven’t been sold. But I guess my, this is the drainage area that was built to deal with the problem but it hasn’t been maintained at all. Basically I’m just asking that somebody get out there and mow the grass. That’s it and then get rid of the orange fencing. That would really help.

Morrie Doll: You can’t get rid of the orange fencing. Not until the project is finished.

Steve Sherwood: Not until it is all been filed for an NOT. Notice of termination and released the state releases them from their erosion control obligations.

August Nienaber: ok.

Morrie Doll: That is a state law.

Commissioner Dan Saylor: Sir have you reached out to Reinbrecht at all?

August Nienaber: Yea, I called him. The guy or secretary said he was out. So, they weren’t helpful.

Commissioner Terry Phillippe: Does the weeds have rank vegetation constitute as a nuisance violation?

Steve Sherwood: and the property on the north side of this ditch where this gentleman lives and his neighbors east of Jeffries Lane. They are higher than the immediate property to the south and you have to be careful when you construct the ditch to channel the water. Some of this does run through the other gentleman’s back yard until it follows the north line of the southern sub and south line of his sub eastward until it gets an area drainage of Jeffries.

August Nienaber: Those railroad ties I put in, I guess that would be the easiest way to do it. I don’t necessarily overthink this but essentially that creates a ditch by default. It keeps the things between mine and Walt’s property and on down and somebody else can deal with it down there and that’s fine. That all works fine but again, ultimately I can buy more of them, they are not quite enough as we speak now but it’s on my nickel and before I go spending more money, at least I want to bring it to somebody’s attention that Reinbrecht is costing me money.

Commissioner Dan Saylor: So, let me ask you this. Is there another neighbor that has the same concern that you do about the tall grass and the rank vegetation around the retention basin?

August Nienaber: I would say the guy that came in here and spoke Walt. I can’t think of his last name. He’s actually in the business too. He’s an Engineer too. He lives right behind me and then Kevin Acre. He lives one house to the East of me on Woodland Drive.

Commissioner Dan Saylor: So, the County has what is called a nuisance ordinance and in that nuisance ordinance is a component for tall grass and rank vegetation, you know the trustee has a tall grass, they have a statutory authority on tall grass however, with our nuisance ordinance we have a tall grass and rank vegetation in our ordinance that we can address that with. We got to have 2 written complaints filed in our office. If you get that, then I can go out there and look at it. We can move forward with it. It’s not very fast. It’s not going to happen next week or the week after however, once that developer gets that and realizes hey we got a pretty strong case here, they normally without us going to court, they normally do what is being asked of them so and that’s just basically filling out, having some photographs, fill out a couple of sheets of paper and then I go out and do the inspection and then our office starts the process.

August Nienaber: So, 3 written complaints?

Commissioner Dan Saylor: 2.

August Nienaber: 1 by me or?

Commissioner Dan Saylor: and one of your neighbors.

August Nienaber: and bring them to who?

Commissioner Dan Saylor: To our office. It can be done online. You can get the forms on the, go to our website and pull the forms off of our website.

Commissioner Terry Phillippe: it would be just as easy to go right out there and take a left and get them right out there in that office.

Commissioner Dan Saylor: Yea. Susie can help you get them and then you can actually physically hand the packet, I say a packet but 2 sheets of paper, 3 sheets of paper to your neighbor and fill it out, get it back up to our office and that starts the process.

Morrie Doll: This picture, is that circumstance still the same today? I realize it only looks like this when it rains but nothing has been done to correct this flow of water on to you?

August Nienaber: No, there is umm nothing of substance has changed.

Morrie Doll: Do you have an estimate of what the cost would be to install a ditch on the other side? The black fence is approximately the property line?

August Nienaber: Yes sir, as far as I understand yes.

Morrie Doll: Have you got an estimate of what it would cost to install the ditch?

August Nienaber: No.

Morrie Doll: Umm, Indiana has a small claims statute. It’s now $8,000. You would have a right I think with this picture and an estimate of what the cost would be to build a ditch on the other side and he’s going to argue that he built it to code but obviously he didn’t or it’s not working. You can file a small claims yourself against the developer but you are going to need to have an estimate of what the cost is to correct this. The judge is Judge Aylsworth and he is going to want to know how much this is going to cost to fix this problem and you can file it in Superior 1 or Superior 2 and be assigned to small claims court. Now you know, be prepared the developer will probably hire Counsel to appear but the courts are designed for people to self-help themselves. You don’t need a lawyer. That’s a statement against my best interest. You don’t need a lawyer but you now can get up to $8,000 and your filing fee paid back to you if, I think it’s $75.00 if you win. So you might think about that. Sometimes, that is a better way to connect the dots to get the problem fixed than the County.

Commissioner Dan Saylor: So, Morrie, I have a question. Does he have to do it or just have an estimate?

Morrie Doll: Well, he wants to do it. It doesn’t do him any good to win the lawsuit, collect the money and then not fix the problem. You can only sue one time so the estimate would be your damages. What if it comes in at $9,000? You can waive it down to $8,000 for purposes of a small claim.

August Nienaber: Are you talking about litigation fees or?

Morrie Doll: No, correction fees. What’s it take to fix this?

August Nienaber: I imagine it’s going to take more than $8,000 to dig out this.

Morrie Doll: How do you know?

August Nienaber: Well Counselor I’m not sure.

Morrie Doll: I understand your opinion and this guy could probably tell you because he is an Engineer but until you talk to somebody in the business who would be interested in doing this kind of work, you don’t know how much it’s going to be. So, I am just giving you another option. You can walk out the door and say that’s a bunch of it, I’m not going to do that but you could bring a lawsuit against the developer behind you in small claims court in Warrick County in the Judicial Building across the street but you are going to need to know what you are asking for and the only way you are going to do that is if you get somebody to come out and say I could fix this for x. If it’s more than $8,000, you can still sue for 8. You can’t sue for anything more.

August Nienaber: Now are you going to have to have multiple bids or just one?

Morrie Doll: One. It’s your case. If you want multiple people to give you estimates, that is up to you. It’s not a government bid project. It’s a damage. How much damage have you endured here? What’s it going to cost to correct the damage? So you can self-help is what I am giving you a little bit of advice about ok? And you cut all of this out of the picture because technically he is in compliance?

Steve Sherwood: Within the perimeters of his property, yes he has Drainage Board approval for retention basin release rate and capacity. The problem is, which he has also corroborated is the neighbors through the years and you know the subdivision plat says you are not supposed to alter the drainage easement or improvements, well they’ve all altered it or just due to negligence or no maintenance through the years, plus there are encroachments within it. Sheds, Fences, I mean I have not surveyed the line, just from my observation looking from Jeffries back towards the northeast corner of this development, then the terrain slopes from north to south.

Morrie Doll: But Supreme Court says you can’t channel water off of your property onto the neighbors. Common enemy.

Commissioner Dan Saylor: And you’ve got a pretty good picture.

Morrie Doll: Yea, you understand your photographs have to be kept by the Board?

August Nienaber: That’s fine.

Morrie Doll: Can you print new ones for your?

August Nienaber: Absolutely.

Morrie Doll: Ok. It’s part of our record.

August Nienaber: Ok, so small claims court

Morrie Doll: That’s an option.

August Nienaber: That’s it. Go next door, get complaint forms, and get 2 complaints.

Commissioner Dan Saylor: That’s for the weeds and rank vegetation.

Steve Sherwood: It’s called a nuisance ordinance.

August Nienaber: Nuisance and that will take care of that and the fences stay up because that’s just by law they have to until the property is released.

Morrie Doll: Yea, the yellow or orange stuff has to stay. You’ll have more state officials down everybody’s throat if those disappear than you can imagine.

Steve Sherwood: The black and the orange fencing in the photograph is silt fencing so yes, it has to stay.

August Nienaber: ok. Well, that is it. I appreciate your time everybody. Thank you very much.

Morrie Doll: Best of luck.

August Nienaber: Thank you.

**CLAIMS:**

President Bob Johnson: Next we have claims for $739.68.

Commissioner Dan Saylor: I got a question about claims.

President Bob Johnson: Yea, I’ve got a question too. Mr. Baxter what’s this $201.00 down here?

Jason Baxter: Reimbursement for the camera card and case for the drone, zip ties and a couple of other things for it.

President Bob Johnson: ok. Does that answer your question?

Commissioner Dan Saylor: Yep. I make a motion to approve.

Commissioner Terry Phillippe: Second.

President Bob Johnson: All in favor. 3-0

**OTHER BUSINESS:**

President Bob Johnson: Anything else for Drainage Board?

Steve Sherwood: Just one item under other business. 3066 Trailwood Drive. I’ve been in communication with Gary Slanker, what shows as an open ditch on the drainage plan has been enclosed privately and they are asking us to do work on that and I have said we can’t work on private ditch enclosures but I don’t know if Gary has pushed the issue any further. I just want to make the Board aware of that inquiry has been made.

Commissioner Dan Saylor: Thank you for the heads up.

**STORM WATER DEPARTMENT**

Steve Sherwood: Under Storm Water, I only have 1 item and that’s just a report on the Fuquay/ Pleasant Ridge Drainage improvement project. It is underway. We did get the Chandler water line conflict resolved late last week. Ragle Construction has begun work on installing the drainage structures. We are still on schedule to be complete in early September.

President Bob Johnson: Good.

Commissioner Dan Saylor: Steve, can you tell me, or give me an idea of how long Fuquay is going to be closed?

Steve Sherwood: The contract calls for it to be closed periodically and reopen just for the 2 structures that have to be put in across it. Is it currently closed?

Commissioner Dan Saylor: Yes.

Steve Sherwood: I will make an inquiry and let you know when it planned to be reopened.

Commissioner Dan Saylor: Thank you.

Steve Sherwood: And then it will be closed again for one more crossing.

Commissioner Dan Saylor: ok. Thank you.

Steve Sherwood: The intention is to have all that work done before school starts and have the roadway open. All of the work won’t be completed but the road crossing enclosure should be completed prior to school being in. That’s all that I have Mr. President.

**MOTION TO ADJOURN/RECESS:**

Commissioner Terry Phillippe: I make a motion to adjourn.

Commissioner Dan Saylor: Second.

President Bob Johnson: All in favor. 3-0