**MINUTES**

**WARRICK COUNTY DRAINAGE BOARD**

**&**

**DEPARTMENT OF STORM WATER**

**SEPTEMBER 24, 2018**

Regular Session

Old Historic Courthouse

107 W. Locust St. Suite 303

Boonville, In 47601

812-897-6170

The Warrick County Drainage Board and Department of Storm Water met in regular session with Bob Johnson, President; Dan Saylor, Vice President; Marlin Weisheit, Secretary; Jason Baxter, Deputy Surveyor; Steve Sherwood, Director of Storm Water; Morrie Doll, Attorney; and Kim Lutton, Recording Secretary.

Present in the audience was Jim Morley Jr. and Bobby Howard.

**PLEDGE OF ALLEGIANCE:**

President Johnson opened the meeting of September 24, 2018 with the Pledge of Allegiance.

**APPROVAL OF MINUTES:**

President Johnson: First we have approval of the minutes for September 10, 2018.

Commissioner Weisheit: Motion to approve.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0.

**ROSEBUD LANE / PARKING LOT EXTENSION:**

President Johnson: First up we have Rosebud Lane / Parking lot extension / Morley and Associates.

Jim Morley Jr.: Jim Morley Jr. with Morley, Project Engineer. This project is in Interstate Office Park on Rosebud Lane. ESG used to have their corporate offices there. The new tenant at the same building is a company called Oak Bridge and they need some more parking spaces. We want to build a parking lot on the lot north of them but there is part of a lake that comes out there. Detention basin. We need to pour a sidewalk around the end of that pond and put some retaining wall and fence in. Identical to what we did for ESG. It won’t have a negative affect on the retention basin in any manor.

Steve Sherwood: So what you’re looking for is a Hold Harmless agreement for the Board to allow this to happen?

Morrie Doll: Actually, we wouldn’t hold him harmless. He just wants our approval.

Steve: To build a sidewalk in the retention easement outside of the basin.

Morrie: And this is a Morley owned property?

Jim: No. This is Delta Properties.

Morrie: I can’t see where we need a Hold Harmless on this. It isn’t going to change the functionality of the detention at all.

Jim: In this situation, the property owner is responsible for maintaining that basin. So it isn’t like the county would ever come in to maintain it.

Morrie: So long as the representation of the Board is, is that it’s not changing functionality. I don’t think you even need to modify the plat or deal with APC.

Commissioner Weisheit: I make a motion to approve.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0.

**WILLOW ESTATES / DRAINAGE PLAN AMENDMENT:**

President Johnson: Next up we have Willow Estates / Amendment to drainage plans / Morley and Associates.

Jim Morley Jr.: Jim Morley Jr. with Morley, Project Engineer. This project was originally developed by Allan Bosma and he sold all the remaining lots in that subdivision to Thompson Homes. When Thompson Homes took it over they found that the backyard swales had not been built and they were going to be difficult to build in accordance with the original plans so they asked us to update some elevations to improve the drainage in that neighborhood and to change the location of one of the swales to make a more functional system. We submitted a design that improved the drainage function, capacity, layout all the way around for the drainage swales in that neighborhood. One of them, the drainage swale along the east property, crosses a restricted public utility easement which, on the plat, it was called out that it would not be allowed to have drainage in it because of the sanitary sewers. So prior to coming to this meeting we went to the Newburgh Sewer Utility Board and got permission from them to put the swale inside of that easement. So they have signed off on that. Chris Wischer is the Sewer Utility lawyer and is in the process of creating that agreement to allow for the drainage to be in that easement. I don’t have that back yet but as soon as I get it back I’ll submit a copy to you. Unfortunately, the way the original design was, at least along the east property line, the ditch was going to be about 30-feet into the people’s backyards on the side of a hill. So now this is getting it back into the low ground on the property line where it should go. I also spoke in the Site Review meeting about what we were doing and I believe this will help the drainage of their neighbor to the east also. Their neighbor to the east had complained about some drainage issues and this will help them also.

Steve: This project is a direct result of the complaining party to the east, the adjoining property to the east. He says the water is being discharged on his property, which for the most part it was. Mr. Morley was contracted by Thompson Homes, in part, to resolve this issue and I guess the rest of the drainage issues. This was a Bill Bivins designed subdivision and I believe it’s being amended by Mr. Morley at this point. I discussed briefly with Jason this morning, my only comments are; on sheet C101, you have the two 36-inch RCP’s upstream of two 24-inches. They are 36-inches according to the original plans.

Jim: Yes. I told him to double check that.

Steve: Bobby and I thought that the existing pipes out, as they exist today, are too short in the radiuses. You’ll see that they probably need to be extended to give an appropriate shoulder behind the cover. Your C101 plan needs to revise and reflect the proper size pipes and then the detail for the concrete ribbon; you show a 16-inch wide by an 8-inch thick concrete ribbon. Again, if you could make that a concave ribbon where it has a depression in the top to form a minor channel and detail that and revise the ribbon detail. And, as you already admitted to the Board about the Town of Newburgh allowing this drainage to be in their exclusive sanitary sewer easement, I would like for the Board to have a copy of that and on file with the Drainage Board. Morrie, would it appropriate for that document to be recorded and tied into the plats?

Morrie: It would.

Steve: Based upon those three things, unless Jason has any other comments, I would ask the Board to grant approval, subject to those aforementioned items.

Jim: I do have a question on the ribbon.

Steve: I think you were able to make a concave one, I can’t remember which project it was.

Jim: We can do the concave on the north and the east. I can tell you that the contractor has already poured the concrete ribbon along the west boundary and in the middle. So that one is already replaced but the one that’s not paved, which is the most important one, we can make that one concave.

Steve: The one on the west has a grade of .67%, is that correct?

Jim: Yes.

Steve: Just so the Board understands, he’s putting a level, 16-inch piece of concrete for the thread of the bottom of the ditch. I always like to give a bit of a depression so water follows the thread. It’s illustrated on paper to be perfectly level but when they pour it in the field it may not be and water may vary from one edge to the other and eventually wear the dirt away where it boarders the concrete. He’s asking for a minimum of .25% on the bulk of the channel so if he says the one already exists on the west side, I would ask that the remaining ones they’re building be built………

Jim: The concrete ribbon, while not required by Warrick County Drainage standards, we feel like it’s a good engineering practice and they’re Genesis, it’s something that’s brought over from the Vanderburgh County code and the idea is that; whenever your slopes get really flat, if you get a dirt clot in there, it’s easy to backup water. So a concrete ribbon allows a homeowner to go out with a shovel and scoop out their ditch down to the controlled grade so that it can be maintained over time and have a continuous slope. In addition to that, water flows across flat concrete better than it does across grass or dirt or mud. A policy we use is anything below .8% slope, which is roughly 8-inches, 9-inches of fall in a 100-feet, we typically put concrete ribbon in even though it’s not required by Warrick County code, we feel like it’s a good design practice.

Steve: As Jim stated, it gives a fixed slope for the water to drain. As you know that can easily change with accumulation of silt or grass.

Morrie: So subject to these comments, what do you need from us today?

Jim: Just approval of the amended plan.

Morrie: Subject to you filing with us, the agreement.

Steve: With Jason’s office, subject to those items sited.

Morrie: Subject to the items and subject to the signed agreement from the Town of Newburgh.

Steve: I would ask if Bobby has any additional comments?

(Bobby Howard is speaking but not at the podium. Inaudible.)

Steve: To Bobby’s point, the APC has already told us to bank file the letter of credit for the amount on retainer.

Jim: For what it was last time?

Steve: Yes. Not for the lower amount. That’s what Bobby and I were referring to.

Morrie: We need a motion conditioned upon compliance with the discussion between the engineers on modifications and conditioned upon receipt of the signed agreement for the City of Newburgh Sanitary District which will be referenced in the approved plat.

Commissioner Weisheit: I make a motion to approve as counsel stated.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0.

Commissioner Saylor: I have a question. This man is an engineer and he referred to “best business practices”. My question is; what if this property wasn’t sold? What if Allan Bosma didn’t get out of business? This project wouldn’t have been developed and probably not engineered correctly. How does that happen? I think this is the reason why this Board deals with things that are 10, 15, 20-years old that we allowed to happen. Why is this happening? Is it the engineer? Because if it’s the engineer, if one guy is doing all this, then we need to look at not letting him engineer projects. You do things right. Every project that I’ve been involved with you, I’ve never once felt like you shorted anything. Now he’s here trying to do it right. If this property wasn’t sold, would this have been developed in a wrong way?

President Johnson: Maybe some of our ordinances and regulations need to be looked at.

Steve: Mr. Bivins ditch did not have any concrete in it. He had grades that, on paper, appeared sufficient when, in fact, they did not after they did a topographic study.

Bobby: In the past we did have a crack in the drainage ordinance that was worked on. I can get you a copy of that. We had some things we looked at. It was a pretty thick book and it never got off the ground. There are some things in that ordinance that we looked at trying to put in place that would prevent a lot of these issues.

(Bobby, Commissioner Saylor, Jim and Morrie are talking but there is construction in the background in the next room. Inaudible.)

Jim: Right now Warrick County has pretty minimal drainage guidelines. The other side of it is if you go to a book of ordinances………

Commissioner Saylor: What we deal with on an everyday basis, drainage is the biggest complaint. ‘Why was this done this way?’. ‘Well because we didn’t have any rules or regulations in place to dictate what was being done’. Again, guys like Jim Morley, you do it right, but there’s other people that don’t do it right. If Allan Bosma had not sold it, somebody would’ve been dealing with this problem 10, 15, 20-years down the road because it wasn’t done right in the first place. You mentioned ‘best business practice’. That’s all I’m looking for. If there’s a standard that is ‘best business practice’, should we not be looking at that? Not trying to be overbearing to developers.

Bobby: What we’ve done in the past is bring in developers and engineers and sit and go over each topic and come up with a happy medium.

Commissioner Saylor: And I want guys like this on the board. I want our engineers involved in it and developers.

Jim: I’m always happy to serve on it and I served on the Drainage Board years back. Maybe the thing to do is to ask, ‘what are your repeat problems?’ and maybe just start there by addressing repeat problems first versus going all the way to a big book. Start small and work our way up.

Commissioner Saylor: We don’t have to look too far. It seems like we deal with it almost on a daily basis. I’m just trying to make this situation better for future. Let’s do it right the first time so we don’t have to redo it 10 or 15-years from now.

Jim: I’m happy to help however I can. I appreciate the opportunity of serving on a committee if you have one.

Commissioner Saylor: I’d love for you to serve on the committee.

Jim: Thank you.

President Johnson: Thank you.

**OTHER BUSINESS**

**ALLEN DITCH**

Morrie: I have three things. I was previously asked to research the question about annexation and a regulated drain. Allen Ditch on the west side of the Town of Newburgh is now in annexed territory to the town by Casey’s. A subdivision is going in to the south. Both sides of the road north of 662 and the east side of the road south of 662 are now annexed territory. That’s the state statute dealing with how we can give up authority over the regulated ditch within the annexed territory. But as you’ll notice, it’s a “may” clause. You may give it up or you may not and it’s if the town accepts jurisdiction. I reached out to Chris Wischer, the town attorney and his email is attached to that handout. He is going to speak to the town about their willingness to accept that jurisdiction and get back to me. I told him, because we have an inquiry that was a request by Casey’s that went to the Town of Newburgh about some maintenance work to be done in Allen Ditch, I told Mr. Wisher we would not be doing any work in Allen Ditch until we have an answer from the Town of Newburgh about their acceptance. If they come back and say no, we’ll have to have a talk about that because I don’t know how they can have the benefit of annexing territory and claim the taxes.

**SKYWAY TOWERS / HOLD HARMLESS:**

Secondly, Skyway Towers, I spoke with them about the hold harmless agreement on their access across a regulated drain. The attorneys were going to go back to their client and talk to them. I told them we did not want to get into the question of who caused what harm to the crossing. We felt like that had to be dealt with by them in their lease agreement with the farmer. Don’t drag us into that mess. All we know is the regulated drain, if it’s been damaged, needs to be fixed.

**MR. PRUITT LAWSUIT:**

Thirdly, you’re aware that counsel for the insurance carrier has gotten into the lawsuit brought by Mr. Pruitt. I have spoken with Mr. Lowe about it. Jeff tells me that their intention…….Mr. Martin first filed a tort claim notice for $30,000.00, then he came back and modified it to $2,500.00. Mr. Lowe is going to reach out to Mr. Martin on behalf of Mr. Pruitt to see if they can’t handle this in Small Claims Court. If they handle it in Small Claims Court that doesn’t give us the ability to intervene to seek recovery of our cost for making the repairs in Mr. Pruitt’s property area. I told Mr. Lowe we would wait to see what his answer is before we take steps to intervene in that lawsuit to recover the expenses. But that is subject to your instructions. If you disagree with me then we’ll go from there. Right now I was trying to play nice with the county’s insurance carrier.

President Johnson: Thank you. Next up we have claims.

**CLAIMS:**

Commissioner Weisheit: Make a motion to pay the claims.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0.

**OTHER BUSINESS CONT.**

**ASHBURY PARKE:**

Steve: One other item while we have Drainage Board convened. I think Jason had some more information from Ashbury Parke. Last I heard is that they will not be at the meeting today. Jason, do you have anything further to add to that?

Jason Baxter: Last I spoke to them about it is that their looking into making it a dry basin. Basically looking into the engineering cost.

**MR. WHETSTINE:**

Steve: To follow up on the Whetstine issue from the last meeting; I guess two days after the meeting Commissioner Saylor, Mr. Howard and myself were out there. He was installing the proposed Bivins plan. We showed back up after the fact. It isn’t in exactly per plan. They didn’t put in the j-box. It’s a 24-inch vertical plastic pipe with a dirt bottom. But there are two 12-inch pipes. They did find the existing one buried and they did turn it 90 degrees and put in a 12-inch HDPE pipe draining to Telephone Road but it does not have positive drainage. It is about 2 ½-inches in the opposite direction and drains back to the box at some point. But it will drain the roadway. The roadway drains are dry now and will remain dry in the road right-of-way. We did shoot grade to verify that.

Commissioner Saylor: What about that not being a concrete bottom?

Steve: It does have a dirt floor so it will drain into the substrata over time. But it won’t backup to the street. It will come out of the pipe into Telephone Road.

President Johnson: Go ahead and take over Stormwater.

**DEPARTMENT OF STORMWATER**

**LOCHMUELLER CONTRACT:**

Steve: First item I have is the Lochmueller contract. Assuming this is the contract based upon our approval for the study for $37,100.00 approved last meeting. I would ask if Morrie will review that and get back with the Board.

Morrie: I can have it reviewed by tomorrow. When were they going to start?

Steve: I don’t have a definite timetable. But it should reflect what the Board approved at the last meeting.

Commissioner Weisheit: Do you still want to go with that Steve?

Steve: Yes.

Commissioner Weisheit: I don’t mind making a motion that we approve the study as long as it meets our legal counsel’s approval. The contract. That way you can start on it. So I’ll make that motion.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0. (Phil Baxter was absent from this meeting.)

**MS4 ORDINANCE:**

Steve: Next item I have; our current MS4 ordinances are dated 2006. IDEM would like us to update those no later than every 5-years. That being said, the original ones from 2006 have not been updated since. Marlin sat in as the MS4 Operator this morning. We had an IDEM audit on the post construction services portion of our MS4 this morning. It went well. They sited several things and we’ll be getting the report back. One of them was that we need to update our ordinance. We will be getting with Morrie to discuss how to do that. We have a contract with Wessler. That would probably be appropriate for me to contact them to see what they would be charging us to possibly update our ordinance. To get a proposal to that effect and bring that back to the Board. If the Board would like me to continue with pursuing that, I will.

Commissioner Weisheit: After sitting through that audit this morning I know we need to get that done.

Steve: Last item I have to report; the Wessler invoice that was approved to submit and update our MS4 permit and renewal was a figure not to exceed $2,000.00. I will report back to the Board that the cost came in at $1,286.25. So we got that done. That’s all the business I have.

**MOTION TO ADJOURN:**

Commissioner Weisheit: Motion to adjourn.

Commissioner Saylor: Second.

President Johnson: All in favor? 3-0.