**MINUTES**

**WARRICK COUNTY DRAINAGE BOARD**

**&**

**DEPARTMENT OF STORM WATER**

**SEPTEMBER 25, 2017**

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; Phillip H. Baxter, Surveyor; Jason Baxter, Deputy Surveyor; Steve Sherwood, Director of Storm Water; Morrie Doll, Attorney; and Kim Lutton, Recording Secretary.

Present in the audience was Joe Grassman and Nick Cassala.

**PLEDGE OF ALLEGIANCE:**

President Johnson opened the meeting of September 25, 2017 with the Pledge of Allegiance.

**APPROVAL OF MINUTES:**

President Johnson: First up we have the approval of minutes for September 11, 2017.

Commissioner Saylor: I make a motion to approve.

President Johnson: Second. All in favor? 2-0.

**VICTORIA / HINES DITCH:**

President Johnson: Next up we have Victoria / Hines Ditch for discussion.

Morrie: Since we met earlier this summer, I’ve met with Roslin Partners and we’ve exchanged ideas about language to improve a draft resolution for your consideration. You have a copy of that resolution. On page 3, subsection E, you might want to read that paragraph. What we were trying to find was language that would say that the parcel owner has the obligation to maintain the ditch should it lose its efficiencies. But there’s some facts beyond their control that might interfere with their ability to actually come in and be able to clean up a log jam, for example. And so we were trying to find language that removed the discretion from the parcel owner’s shoulders. They absolutely have the duty to maintain it should you adopt this resolution to deregulate Hines Ditch but it also recognizes that there may be at least three different reasons that they are delayed in doing that or have some difficulties in doing that which would be proper approvals, permits and authorizations from regulatory agencies which could be state or federal. As you know, we fall within the twilight zone of double jurisdiction on some of our drains between the Army Corps of Engineers and the state of Indiana. If we have someone who just refuses to let us get to the drain to do the work, that could be an issue that they would have to deal with. And to a degree, number 3 is somewhat similar to number 2. It’s the cooperation of the affected landowners. While the parcel owner would be one of those affected landowners, they’re not the only one. So I think that’s acceptable language. Other than that, they have the absolute burden of keeping the drain as efficient as it is now and I recommend the language for consideration by the Board. I don’t know if you have a different comment on behalf of Roslin Partners or not?

Nick Cassala: No, I do not. To the point you made, I think we collaborated on the language and it’s acceptable to us.

Steve: Just for the record, your name please?

Nick: Nick Cassala, I’m with Greenlife Development, representing Roslin Partners. I really don’t have anything else to offer beyond that, Mr. Doll.

Morrie: What I did was mail a copy with a letter to Mr. Wood and anyone else who previously appeared and sent to them a copy of this draft resolution and advised him that today, on the 25th, we would be hearing this matter at this meeting at 2:30 here in the Commissioners meeting room so that Mr. Wood, who previously attended a public hearing on this and asked some important questions, would have a right to see in advance what we were going to be discussing today and he could be present to ask any questions if he felt so inclined.

President Johnson: So what are we wanting to do today?

Morrie: Well I take it that Roslin is still requesting the deregulation of Hines Ditch. I’ve not heard to the contrary. And this is important to the development of the residential area next to Victoria.

Nick: Yes, if you recall, the primary reason that we were doing this is it allows us a mechanism in dealing with the other agencies to include this area as well as the areas adjacent to it, the 40-50 acres adjacent to it, to be part of an overall conservation and preservation strategy and solution for mitigation to the man-made wetland that we are going to impact on the site. That’s why we came to this Board when we did and laid out the plan and the program and we feel that we’ve reached a resolution that’s acceptable to us and we would like to move forward. I did place a call to Mr. Wood sometime last week and attempted to have a conversation with him to make sure he found this acceptable, we did not connect. He did call me back just before the weekend and didn’t indicate that there was a need to meet and I sort of got the impression that he was not going to be here today.

Commissioner Saylor: Counsel, you have not heard from him?

Morrie: I have not. And I asked our surveyor if he had heard from him and he hasn’t either. And this went to him in the mail on the 11th.

Commissioner Saylor: So should we assume no news is good news?

Morrie: I think you can assume no news is good news. Whether you want to put it to the end of today’s agenda or you want to go ahead and operate and deal with the question right now. Makes no difference but I would presume that Mr. Wood would be here so I think it’s appropriate to be considered by the Board at this time.

Commissioner Saylor: If this area becomes part of your mitigation; counsel, does that create issues of clearing it out?

Morrie: It does and that’s why I think Nick and I wrestled with the right language in sub-paragraph E. If he’s going to go in and change the efficiency of the drain, remove blockages etc., he at least has to notify the Corps of Engineers as well as DNR to get their consent to do it. In effect to get their proper permits and authorizations and approvals. So there is this balance. They will want to know how he’s going to do it. Are you going to go below the flow line of the ditch or not? Are you going to go below the bottom of the drain or not? As we all know in Warrick County, one cannot touch the bottom of the drain. So those types of restrictions will always be in place and it will be the responsible party’s duty to get those appropriate permits before they jump in and just start ripping vegetation debris out of the drain. The other goal is to keep it more of a wetland than a channeled drain. Now you can’t impose this on Mr. Wood, that’s not what can be done but if you’ll look at the drawing or the map it’s a meandering event. As you can see, there’s a vegetation wooded area towards the right side of the map, that drain meanders through.

Nick: The area adjacent to Mr. Wood’s property would not be encumbered by any conservation easements. It deals more with the same type of jurisdiction or permitting issues that you all would have to deal with today. In addition to the removal process that the Corps and DNR would be interested in from us would be what kind of equipment. And since it’s our intent to leave the natural preservation, the conservation area preserved and a preserved state as much as possible, we have a mutual interest in impacting as little as possible if there is a problem on the drain.

President Johnson: Do you have any issues?

Phil: No.

Commissioner Saylor: I make a motion to approve the resolution, deregulating Hines Ditch.

President Johnson: I’ll second it. All in favor? 2-0.

Morrie: If we could sign one copy and give it to Kim. Kim, if you could keep my notification letter to Mr. Wood with it, that way we have proof that we did give Mr. Wood advance notice of today’s hearing if he wanted to be here.

**BENTON E. DAY BRIDGE:**

President Johnson: Next up we have the Benton E. Day Bridge log jam. Jason, you want to lead us off on that please?

Jason Baxter: At the last meeting we opened bids on this particular project. I would like to take the second bid and approve it for this project.

President Johnson: Who was that second bid, Jason?

Jason: Tom Naas. Naas Homes.

President Johnson: And, I don’t recall the numbers.

Jason: The low bid was $19,520.00. Naas came in second with $22,500.00, making about a $3,000.00 difference. We’re splitting that cost with Spencer County. They’re splitting the total project with us so it would be an extra $1,490.00 for us as a county.

Morrie: You might want to make a little bit of a record about why you’re recommending something other than the lowest bid.

Jason: I had just gotten out of a project with the lowest bidder and it has been just short of a nightmare with communication and his willingness to comply with several written and verbal and illustrated instruction. Then I went out and did a lot of the work per the way that I was asking them to do it because after the first and second time that he called and told me that he was completed, it was still not done so I just took it upon myself to complete it as instructed.

Morrie: Will there be a request coming from the surveyor’s office to not pay the full price on the first project?

Phil: We did the work for the Highway Department.

Jason: It’s actually Bobby’s project that I was trying to handle for him.

Morrie: Was this bid let through the surveyor’s office or through the Highway Department?

Jason: It was through the surveyor’s department.

Morrie: So if there was going to be a dispute on pay, that would have to come through the surveyor’s department?

Jason: Correct. We received his invoice, I received it at my desk this morning for the full amount.

President Johnson: Has it been paid?

Jason: It has not been paid. I gave it to Bobby this morning. I laid it in his office.

Morrie: May I ask; how much time did you have to work on finishing this project?

Jason: Roughly, one full day with me and Dylan using my tools.

Morrie: The bid required them to saw level with the ground, the trees that they removed.

Jason: Correct.

Morrie: And they did not do that. And the tree stumps were protruding above the level of the ground how far?

Jason: I have up to 10-inches on one. A good estimate would be 3 ½ to 4-inches.

Morrie: And some of these tree stumps were pretty large in diameter?

Jason: No. They’re mostly very small. I guessed at 100 that I cut and the contractor said that I was incorrect, that it was only 78.

Morrie: It would be something that you could bring to the Board from the surveyor’s office if you choose to do so. We don’t have to pay the invoice. We can dispute it if we don’t think they completed the work, if you feel so inclined.

Phil: It’s up to the Bobby and the commissioners because it’s their fund.

Jason: My opinion, I would just wash my hands of it.

Morrie: That’s a slippery slope. You start that then it sort of becomes the way everybody expects to be able to do business with Warrick County and then you have a problem.

President Johnson: Mr. Saylor, you went out and saw the site didn’t you?

Commissioner Saylor: Yes, I was actually on-site on a couple of different occasions and the contractor and I had conversation about what is considered ground level. He said he could cut a stump on one side and then on the other side of the stump would be 2 or 3-inches above the ground and I said we’re going to have to agree to disagree because if it’s ground level on one side and not on the other side, it’s not ground level. I felt like the right equipment wasn’t used in this process and I questioned that. I still to this day don’t think the right equipment was used but I’m not the contractor and I’m not the guy with the equipment. I have felt Jason’s frustration on this particular project. I’m personally not satisfied with it, the time that its taking and that we still have issues down there with that project.

Morrie: At any time before the county pays, we could dispute it if you choose to do so. But it should be brought before the Board if we’re going to do that.

Commissioner Saylor: I do know Jason contacted the contractor and they came out and spent some additional time out there.

President Johnson: So, Jason, are you satisfied with the work now?

Jason: No. I’m not satisfied with it. I can only explain woody material; I can only describe what a stick looks like so many times. I have written him several times what my frustrations were, sent images and an illustration.

President Johnson: Are you okay with the project as it stands today?

Jason: It’s not terrible now.

Commissioner Saylor: I think when Jason wrote the specs, he wrote “ground level and all woody materials”. Would that be correct Jason?

Jason: Yes.

Commissioner Saylor: I think this is where the confusion is with the contractor. Ground level in my opinion means ground level, woody material is anything that’s woody material and should be removed. Because he was using a flail mower………

Jason: In the pre-bid I had all the contractors there and told them what we were wanting to do then he mentioned “could we come in with a flail mower and do it?”. I specifically told him that I don’t care how it’s done but at the end I don’t want a bunch of sticks, shredded material that the flail mower is going to leave.

Commissioner Saylor: When I spoke to the contractor I made reference to this area, we contacted Wal-Mart to be maintained and I mentioned this area is going to be mowed with zero turns. His response was that he had to go by the bid specs, that he had to refer back to that. I said “yes you do Jerry”.

Steve: Because they’re going to be mowed by Wal-Marts normal mowing staff.

Morrie: That’s not relevant precisely to the Benton E. Day Bridge agenda items before the Board today but it’s having a bearing on this because of the recommendation being made by the surveyor’s office not to award it to the lowest bidder who is the same bidder that we were having this prior difficulty with. So I think we’ve made a record as to why you’re recommending the second lowest bidder and that probably gives enough record to the Board that they can make this decision who to award the Benton E. Day Bridge contract to. Secondarily, if the surveyor’s office wishes to bring it or if the Board wants to hear it, before we pay that particular previous bid statement, then it can be brought back before that Board and we can review it and decide if you want to discount it.

President Johnson: I’ll leave that up to you and Bobby.

Jason: I’ll talk to Bobby about it.

President Johnson: Ok, on this particular item here, are we ready to go with the second bidder? I’ll make a motion that we go with the second lowest bidder.

Morrie: Naas Homes?

President Johnson: Yes.

Commissioner Saylor: Second.

President Johnson: All in favor? 2-0.

Jason: Thank you.

**CLAIMS:**

President Johnson: Claims. We have claims of $76.47.

Commissioner Saylor: I make a motion to approve the claims.

President Johnson: Second. All in favor? 2-0. Other business? Let’s move on to Stormwater.

**DEPARTMENT OF STORMWATER**

**SQUIRE ESTATES / MANCHESTER BLVD:**

Steve: Thank you, Mr. President. First item I have to report on the Manchester BLVD / Squire Estates Drainage Improvement Project; the final asphalt layer has been completed since the last meeting, therefore the project has been completed. I’ve sent out notices to the three landowners saying the future watering of the sod or grassed, seeded and strawed areas will be their obligation. With that, I believe the project is now closed.

**ANDERSON ROAD:**

Steve: Anderson Road Drainage Improvement Project; just an update. O’Risky is the contractor. The project is mostly completed. They are building a concrete headwall. All the structures have been installed. The asphalt roadway has been patched. They have some minor grading, seeding and rip rap to put in at the upstream in where the headwall is and then that project will be completed.

**WATERFRONT AT OLD HICKORY:**

Steve: Just to update you on the Waterfront at Old Hickory project that was discussed at the last meeting; the county’s portion of the project, the structure and inlets across Clearview Drive that we will be replacing, have been ordered. As soon as I have a tentative delivery date, I will draft a project to bid out the installation of that structure.

**STREET SWEEPING:**

Steve: Street sweeping is to begin soon, at the end of this month or beginning of October. We’re working with the Highway Department on supplying an operator for cleaning the Telephone Road ditches. About half the crop has come out as of today along that project. If you’ll recall, that has a 4-foot concrete bottom on most of the ditches. We’re going to try and clean that from the field side and put the deposits into the field, let them dry and level them so that the farmers can retain the material that has eroded into the ditch.

**HYDRO-EXCAVATOR:**

Steve: Joe is working on bidding out the hydro-excavator for the Highway and Stormwater Department. Again, the one unit of the proper size that we’ve demoed and specked and Joe’s working on putting those bid specs together to get out for bid yet this fall. Joe, did you have anything to add to that?

Joe Grassman: Not right now.

Steve: That’s all that I have to report unless the Board has any questions or comments.

Commissioner Saylor: On your street sweeping, that’s more of a gutter sweeping, what’s your schedule going to be or where are you starting at?

Steve: We have a map of all the mainline roads. We don’t intend to get into the subdivisions unless we have issues that need to be dealt with but mostly these will be the mainline county roads where they have concrete curb and gutter. We are working at the Highway Department to create a place to dump these materials and contain space so we can then properly load them into a yarder and have them hauled off to a landfill.

President Johnson: Anything else?

**MOTION TO ADJOURN:**

Commissioner Saylor: Motion to adjourn.

Phil: Second.

President Johnson: All in favor? 3-0.