**MINUTES**

**WARRICK COUNTY DRAINAGE BOARD**

**&**

**DEPARTMENT OF STORM WATER**

**March 28, 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; Jason Baxter, Deputy Surveyor and Dana Upton, Recording Secretary

Present in the audience: Gerald “Jerry” Beard and Jay Wilbur, Barbi Shelton

**PLEDGE OF ALLEGIANCE:**

President Bob Johnson opened the meeting of March 28, 2022 with the Pledge of Allegiance.

**APPROVAL OF MINUTES**

President Bob Johnson: First up we have approval of minutes for the March 14, 2022

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

Commissioner Dan Saylor: Second that

President Bob Johnson: All in favor 3-0

**Jerry Beard -7144 Walden Dr.- Drainage Easement**

President Bob Johnson: Next, we have Mr. Jerry Beard and Lisa Beard, 7144 Walden Dr. Drainage Easement. Please state your name for the Board Sir.

Jerry Beard: Gerald Beard is my actual name. Do I need to sign this?

President Bob Johnson: Please.

Commissioner Dan Saylor: while he’s signing that, to the other two Commissioners, I think I’ve told you guys that I’ve been out to this property along with Jason.

Jerry Beard: So, I don’t know if you made copies of what I sent you Dan, but I have

Commissioner Dan Saylor: Yea, we got it up here.

Jerry Beard: So do you start or do I?

President Bob Johnson: You go ahead and start Sir.

Jerry Beard: ok so you guys I think maybe have a copy of my complaint here and it’s rather detailed all the way back to when my house was built in 1973 and then there was a Subdivision built behind me. That Rolling Hills Subdivision. The Subdivision that was laid out, there was a 20 foot Drainage Easement along the back. Did I not include that?

Commissioner Dan Saylor: You did. Right here.

Jerry Beard: ok. So there was a 20 foot Drainage Easement on the South property, South border of that property which is the North border of my property and my neighbor had a swimming pool, he bought the house with a pool and it would come a big rain and he would get mud in his swimming pool and that’s not desirable and he had the bright idea of building that property up and putting a pipe in. He did that and I’m a little unclear of when he got the Engineering help for that but I can tell you after he did that there came a big rain and he flooded the neighbor. His neighbor. So I know that he got an Engineering study then and that’s when Bivens came out and he says “you got to get a permit for that” so then he goes to the APC down here and gets a permit after the County Commissioners saw the thing from Bivens and the County Commissioners approved for that 20 foot Drainage Easement to be reduced to 42 inches so that’s a big problem. So he put a pipe in there that’s undersized supposedly lining up with his neighbor which I think the neighbor, I think when you look at the neighbors pipe, I don’t think it’s in the Drainage Easement. You know that 24 inch pipe. I tried to find the boundaries yesterday and I wasn’t successful. But, the problem is the water comes from a couple of different directions. It comes from the South, it comes from the East and that pipe does not collect any of the water that comes from the South and the guy has built the ground up this high. So the water comes rushing down through there and hits that, you can see the, he’s built railroad ties, he has raised the ground and he’s put a railroad tie wall in and then put a fence on top of it so it hits that railroad tie, it heads West, it’s expected to make a 90 degree corner and everybody here knows what happens when you try to get water to make a 90 degree corner and dirt. The next thing you know, we got a spot as big as this room here and that’s exactly what has happened. So, that’s undermined the um.

Commissioner Dan Saylor: Watch your step

Morrie Doll: Please be careful with that step.

Commissioner Dan Saylor: Is this recording? You need to

Dana Upton: Yes it is.

Jerry Beard: So the problem I have is the, for generations I was told that you can’t put water on anybody else and that’s exactly what happened here. The County signed off on it and I started this last year with Mr. Sherwood. He’s here somewhere. Is that the one over there shaking his head? He wrote me a letter and he provided a lot of this documentation. So the problem is we put water onto my back property and I’ve had to move my fence twice because it erodes and the problem is, it erodes under the fence. There’s a safety issue there. So, if you get it back into the drainage you can see up under my fence where the property is going. It’s a mosquito haven, its water ways in there, it doesn’t drain the way it was intended to and it killed a great big beautiful Oak tree that I had. It’s caused me a whole bunch of work so far. So, I don’t know what the answer is. You were at my house and we both sat there and shook our heads and I don’t know what the answer is. But I am looking to the County to figure something out.

Commissioner Dan Saylor: Like I said, I went there and walked through the property and I didn’t have any good answers so that’s why I just advised him the best thing to do was contact Jason and then come to the Board meeting and see if there is anything you know that can be done or any good advice or whatever.

President Bob Johnson: Mr. Sherwood, do you have any advice here?

Steve Sherwood: Yes, Mr. Beard stated I wrote him a report on September 7th of last year 2021 outlining all of the information that has happened. You seen in those copies that were handed down to you from Morrie that is basically the cover letter of Mr. Bivens July 3, 2008 when he came before the Drainage Board. He put in 120 foot of a 24 inch pipe as Mr. Beard stated, it doesn’t all go into the 24 inch pipe. It will reach a certain elevation and the rest will hit the 42 inch bypass swale. There’s still a 20 foot Easement there but it’s been filled in several feet by Mr. Haisley. The lot owner of Lot 28 and over the years the overflow continues to see more and more water. Mr. Haisley raised up his rear yard to make sure no water would enter into his lot. Whatever doesn’t go through the pipe goes around behind his property and I don’t know exactly where the property line is but as you can see Mr. Beard is losing what he is saying is a portion of his property. He’s had to relocate his cyclone fence, I think a couple of times and the water does make a couple of right angle turns. The next lot downstream which has a 24 inch pipe in it. That ditch enclosure occurred with no approval, no meeting, and no information by the County. I think it was just done privately and Mr. Haisley did what we call a private ditch enclosure. He just supplied the information by his Engineer saying that this is how it should work. As you can see by the sketch and the highlighted information I gave you on page 1 & 2 and 1 photo on page 3 that shows how the water basically goes around the South side of the 24 inch pipe when it gets a storm larger than the 24 inch can handle. Mr. Bivens show you on his sketch that there is a center line of the swale that’s supposed to be on his property that is probably in question. We’re not surveying it obviously and Mr. Beard may have a better understanding where his property line is in relation to the swale but as it reaches the Western edge of the highlighted centerline swale, you can see there is basically 2 right angle turns and that’s causing Mr. Beard a lot of grief and a lot of erosion. Not to mention what happens before it even gets to the right angle turn.

Jerry Beard: So you can see in this photo that you guys have. You can see the bottom right hand corner. The water that comes from the South doesn’t have any chance to get in the pipe. None, whatsoever. Over time that is silted and silted and we just have water that stands there. I mean, there was water. There is still water standing there today from the last rain we had. And I know exactly where my property line is. It’s at the corner of the fence and this photo you can see how the water makes the turn. It hits the wall. It misses the pipe and then it goes through the swale and you know the 42 inch swale. It’s not a big deal until it gets down here and makes that first turn then all of a sudden that 42 inch swale has moved to the South and that’s where it starts getting into my property and it’s just going to continue that vortex there. This photograph here I did a little homework and then I stopped at the Area Planning Commission and Molly about lost her mind when I asked her about the permit for this thing. You guys have dealt with Molly before, I’m sure. She got out her little scale and she put over there where the Drainage Easement is and this really tells a pretty good story of how much of the Drainage, you guys don’t have this other than a small photo. But you guys can see

Morrie Doll: Is a building.

Jerry Beard: It’s really taken up

Commissioner Dan Saylor: It’s a fence. Oh and the building is even in there.

Morrie Doll: The building is in there.

Jerry Beard: Well and that’s where she lost her mind because the building is not supposed to be in the Drainage Easement.

Morrie Doll: What is the building?

Jerry Beard: It’s a Pool House. A Really nice one. But you know. You know Chris, my neighbor. He didn’t set out to do anything wrong. I know that. And you guys see it all the time. People don’t set out to do something wrong. They just do the wrong thing. And I’m sure he figured since he raised it up and got permission from the County he was free to build the building on top of it. Not quite what the drawing says from the Plan Commission but Molly gave me that.

Steve Sherwood: As you can see from Bivens sketch, there is no mention of a building. No mention of filling up or raising the Easement. So, all Drainage Board gave him permission was to put a 24 inch pipe at basically as I recorded in my report Mr. Beard in September of 2021, it’s basically a civil issue between 2 property owners. Mr. Beard expressed in his report to you that since the county approved this in 2008 we have some obligation to it but this is typical of an encroachment of Drainage Easements which we’ve dealt with time and time again. We do not have a Hold Harmless Agreement in this particular case on file.

President Bob Johnson: But all that was approved was the 24 inch pipe.

Steve Sherwood: Correct

President Bob Johnson: And that’s not what, the 24 inch pipe is not what’s creating this issue is it?

Steve Sherwood: well, it doesn’t ever run full as Mr. Beard will tell you because before it gets full, it bypasses and runs around Southside of the railroad ties in the overflow ditch, which Mr. Bivens says in his report 2008 that it will act as an overflow in the event or to handle anything that 24 inch pipe fails to handle.

Jerry Beard: Well, I took it whenever Bivens report. He said Mr. Haisley has also filled in his back yard and constructed the 42 inch swale. I mean, I would take that. I’m making the leap there that that tells you he raised the yard up when he filled the yard in. In the minutes of the meeting, they do talk about you know, there’s a fence on top of it and water can’t get underneath it. I mean there’s, some artistic license there on taking an oath but it

Commissioner Dan Saylor: Steve, I got a question. Is this or Jason, whoever, is this a legal or certified drain?

Jason Baxter: It is not.

Steve Sherwood: It’s just a platted, 20 foot Easement in a subdivision and Mr. Beard’s lot is not a platted Subdivision lot. It is a metes and bounds description which most of his neighbors to the East and West of him are not in a platted Subdivision. But he is correct in saying this water was natural drainage that always came down through that area. The problem is it may catch most of the natural drainage from the East but as Mr. Beard says, and his property is quite high in elevation to the South. It all drains down to the back of the Haisley property but it doesn’t go into the pipe. Anything that drains in beyond the mouth of the pipe goes downstream to the West.

Commissioner Dan Saylor: Is there anything that this Board can seek from the owner to the North of Mr. Beard that they should do or can do or are our hands tied on that?

Morrie Doll: You mean Mr. Haisley?

Commissioner Dan Saylor: Is that directly to the North of you? Yea, Mr. Haisley.

Jerry Beard: So I know, let me. I can’t speak for Chris but I can tell you what we have discussed and he knows that in order to fix this, he’s going to have to give up that one corner of his property there on the West side. What really happens is. One of the other things that Chris did whenever he built that swale in there. He cut down a tree that was right in the middle of the swale and as soon as it hits that tree stump, that condenses the water even more too about a 12 inch and when you were there, I don’t even know if we could see the tree stump because the water was flowing and that increases the velocity.

Commissioner Dan Saylor: Jerry, where is that tree stump at in the relationship to the, I don’t remember.

President Bob Johnson: I thought I saw a picture of it.

Steve Sherwood: There are several tree stumps

Commissioner Dan Saylor: Well, no. That’s one he just cut down. You’re talking about something in here?

Jerry Beard: It’s in, its right there. And that’s where the erosion really starts. When it hits that tree stump.

Commissioner Dan Saylor: See where it’s working around it. Ok so that’s. Oh there it is right there. I see it.

Steve Sherwood: Now is that tree stump on your property or his property?

Jerry Beard: It’s in the swale so that would have to be on his property. He got my permission to cut it down whenever he did that so he really owns like that area to the north or to the northwest. He knows he’s going to have to cut a corner of his property off right there and then what that will do is that will keep that from being a 90 degree corner and that can be a 45. You know, get that water back around there. He knows he’s going to have to sacrifice some of his yard to get that done and that’s a good solution. He’s tried a few things, you know he’s put landscape block up, he’s concreted and you guys know what happens when the water hits those kinds of things, and it just goes around them.

Commissioner Dan Saylor: This is what he’s referring to. It’s eating this out around this corner. He put up some concrete stuff it looks like.

Jerry Beard: That erosion there. Its 6 feet deep. It’s this tall from the bank.

Morrie Doll: Steve, direction of water flow?

Commissioner Dan Saylor: East to West

Steve Sherwood: So water doesn’t come in here.

Morrie Doll: yea, so it goes this way?

Steve Sherwood: yes

President Bob Johnson: Steve, do you see a solution here to this because

Steve Sherwood: Mr. Haisley wouldn’t like my solution, since he created the problem.

President Bob Johnson: Well, here’s my thing. He was given permission to put in a pipe. Within that, we’ve also got now a fence, a retaining wall a Cabana.

Steve Sherwood: If you go back to what I handed you from 2008 was proved by Mr. Bivens none of that stuff shows up.

President Bob Johnson: It’s not in there. And Mr. Beard is correct that

Steve Sherwood: Mr. Haisley initially created the problem.

Jerry Beard: Well the fence was there and the wall was there. I mean I think that the Engineering study didn’t represent the situation a 100 percent. I think that’s

Morrie Doll: So you’re saying your current neighbor didn’t build the fence?

Jerry Beard: No, he built the fence.

Morrie Doll: ok.

Jerry Beard: He didn’t build the pool.

Morrie Doll: What about the retaining wall?

Jerry Beard: He built everything.

Morrie Doll: ok. Did he build the pool house?

Jerry Beard: Yep, the pool house came last.

Steve Sherwood: Everything you see there in terms of improvements, retaining wall, and fence is on Mr. Haisley’s property within the 20 foot Easement.

President Bob Johnson: So, in my mind he’s going to have to do whatever it takes to keep the water from coming onto Mr. Beard’s property.

Steve Sherwood: I mean, yes. That’s why I keep coming back to it’s really a civil issue.

President Bob Johnson: Anything to add Jason?

Jason Baxter: No

President Bob Johnson: Counselor?

Morrie Doll: Well, you’ve got a private remedy. I mean Mr. Beard has legal recourse. But this case may have public responsibility too in that we approved the pipe, the pipe isn’t functioning as represented, and it’s far greater. The burden is far greater. I mean, there’s so much more stuff involved now. Mr. Decker the water entering the open end of the pipe comes off of you is that right?

Steve Sherwood: Mr. Beard

Morrie Doll: Mr. Beard, I’m sorry

Jerry Beard: Not much of it. Some does.

Morrie Doll: Does it come down the hill behind you?

Jerry Beard: It comes down the property to the East of me.

Morrie Doll: Yea

Jerry Beard: Even on across Walden Road. All of that falls that way. A great deal of the water that crosses me goes on the other side of my driveway and into my lake. There’s a 40 foot ditch that runs North and South. It all ends up.

Morrie Doll: Well, I’d need to know whether an Engineering Solution is and I don’t know what that is and I’m not sure. It’s a whole lot better if you remove the railroad tie wall and this and that. Is it drain any better?

Steve Sherwood: If the original 20 foot wide Public Utility and Drainage Easement was, as it was originally intended to be as an open ditch.

Morrie Doll: Topography

Steve Sherwood: We wouldn’t be standing here today having this discussion.

Morrie Doll: How long have you lived there?

Jerry Beard: Since 99’

Morrie Doll: And all of this has occurred since 99’?

Jerry Beard: 2008

Morrie Doll: When did your drainage problems arise?

Jerry Beard: oh you know, it depends who you ask. My wife complains about it a lot more than when I started taking it serious if you can imagine.

Morrie Doll: Earlier?

Jerry Beard: The last 5-6, 8 years it’s been pretty bad. And that’s whenever Haisley, he’s taken a few measurers of his own and it’s like well I’ve talked to a landscape guy and if we just build a retaining wall, that will put, water will go around it so he tried that and I’ve ignored it and those kinds of things but it’s been, it’s been ongoing for quite some time.

Morrie Doll: I mean, I think Mr. Haisley needs to be here to participate in the conversation.

Commissioner Dan Saylor: I think so, this is. I don’t think this is all on Jerry at all. I think we or this Board given approval to put a pipe in but then it’s like ok then everything else went on top of it and it really just changed the whole dynamics of the ditch.

Morrie Doll: He’s got a pool house in our public right-of-way. I mean, this is not a Minor. It isn’t a rose bush or two, it’s a pool house.

Steve Sherwood: Bear in mind, the Easement was never vacated. Its still is in effect.

Morrie Doll: Yea, as a 20 foot Easement

Steve Sherwood: Public Utility and Drainage Easement.

Morrie Doll: And apparently there is at least telephone or is that cable. Its cable isn’t it?

Commissioner Dan Saylor: That looks like a telephone box or no, that’s a cable box.

Steve Sherwood: Those are the utilities that are within the 20 foot public utility drainage easement.

Morrie Doll: Do you know where your electric line is?

Jerry Beard: Mine is on Walden Rd. I was told that he moved those utilities or he paid to have them moved but I don’t know where he moved them to.

Morrie Doll: When did he move into this house do you know?

Jerry Beard: yea, it’s there on the

Morrie Doll: first page?

Jerry Beard: yea. He uh, well did I put that on there?

Morrie Doll: ok

President Bob Johnson: why was this pipe put in in 2008? What was the purpose of it?

Morrie Doll: to give him more usable back yard I suspect.

Jerry Beard: It’s cause when he got a big rain

Commissioner Dan Saylor: to keep the mud out of the pool

Jerry Beard: yea, to keep the mud out of his pool

President Bob Johnson: to keep the mud out of the pool?

Steve Sherwood: Here you can see Commissioners on the inside of his fence between the fence and the pool you can see the slope of the yard goes up towards the fence in his efforts to build up enough embankment to keep the water from going into his yard and into the pool.

President Bob Johnson: sure. So I think that we need to have Mr. Haisley here.

Morrie Doll: I agree

President Bob Johnson: to come up with type of plan on what he’s going to do to take care of this situation.

Steve Sherwood: that he created.

Commissioner Dan Saylor: It isn’t going to be a good meeting for Mr. Haisley, I can tell you that right now.

Jerry Beard: Well, how do you get Chris here?

Morrie Doll: we send him an invitation. He shouldn’t refuse.

Commissioner Dan Saylor: Especially when he’s got a building in our Easement.

Jerry Beard: Well he’s hiding from me right now. And I told him. I told him what the narrative is. I told him I said hey in my opinion the county is culpable here because they approved it.

President Bob Johnson: We approved a pipe.

Morrie Doll: We didn’t approve this.

Jerry Beard: It’s just what us civilians do. You know.

Morrie Doll: Yea.

President Bob Johnson: Well sometimes the civilian has to pay for it.

Jerry Beard: I mean, I’m being realistic and that’s the narrative he sticks with. Hey I’m just some dumb guy that started doing something and the county said it was fine.

Morrie Doll: His address is 28188 Eaglewood Drive?

Jerry Beard: I guess.

Morrie Doll: That’s what you’ve got on here or that’s what Mr. Bivens has on there.

Jerry Beard: yea. Ok. That’s it.

Steve Sherwood: He was Mr. Bivens client for that 2008 report.

Morrie Doll: yea

President Bob Johnson: So, Counselor?

Morrie Doll: We send him a notice and ask him to attend a meeting to address the flooding across the rear of his property and it would be nice if you would attend also because.

Jerry Beard: so I’m, I’m on very good terms with him I mean we don’t have any kind of rage war or anything so I’ll tell him about this because he knows I’m here today and I’ll tell him what the possibilities are.

Morrie Doll: My recommendation is that he fixes it first and if he fails to fix it then we have to decide whether we are going to seek to compel it and to remove obstacles in the platted drainage way.

Jerry Beard: Well I’m going to encourage him to hire an Engineering firm to look at it and come up with a solution. That’s what I am going to do.

Steve Sherwood: The Engineer who prepared this no longer operates as an Engineer.

Morrie Doll: He’s in a nursing home.

Jerry Beard: that’s fine with me.

Steve Sherwood: He’s had health issues and is no longer able to function.

President Bob Johnson: So, do we need to do anything?

Morrie Doll: Yea, a motion to bring Mr. Haisley before the Board to address his solutions and pick a meeting and I’ll write him a letter.

President Bob Johnson: ok how much time do we want to give him guys?

Jerry Beard: You can invite me too

Commissioner Dan Saylor: I don’t know.

President Bob Johnson: Next meeting or?

Commissioner Dan Saylor: Yea, April 11th. Let’s not, I mean does that give you enough time Counselor?

Morrie Doll: Yea, I can write the letter.

Commissioner Dan Saylor: I make a motion for our legal Counsel to draft an invitation for Mr. Haisley and Mr. Beard who is here with us today to appear before this Board to discuss drainage issues behind his property.

Commissioner Terry Phillippe: I’ll second the motion.

President Bob Johnson: All in favor? 3-0

Commissioner Dan Saylor: and that was on the April 11th 2022.

Morrie Doll: Mr. Beard your address is 7144 Walden Rd?

Jerry Beard: Yea.

Morrie Doll: thank you

Jerry Beard: what time is that meeting?

President Bob Johnson: Same as this one.

Morrie Doll: 2:30 PM.

Jerry Beard: There was a County Commissioner that told me these start at 1:30, not to mention any names but.

Morrie Doll: Well, that might have been before the time change.

Commissioner Dan Saylor: yea, you didn’t say Eastern Time or Central time

Morrie Doll: So we will do it on the 11th at 2:30 in this same room. I will send letters to both of you. 1 letter addressed to both of you to appear and answer questions concerning problems or drainage on the rear of the property.

Jerry Beard: Appreciate it. Thank you very much.

Commissioner Dan Saylor: I didn’t want you to be late

Jerry Beard: Pardon me?

Commissioner Dan Saylor: I didn’t want you to be late

Jerry Beard: yea I wasn’t.

Commissioner Dan Saylor: I don’t know where I got 1:30 at.

**Jay & Jane Wilbur- Crescent Heights- Lot 16**

President Bob Johnson: Next up we have Jay and Jane Wilbur, Crescent Heights, Lot 16 Draining Flooding on 4 properties.

Jay Wilbur: Yea um

President Bob Johnson: Could you please state your name?

Jay Wilbur: You want my legal name or just what I go by? Jay Wilbur and I live at 6799 Crescent Drive. I live on lot 16. First of all, I want to say I appreciate and thank the County. About 10 years ago you guys tried to remedy the water issue that I have on my property by putting a drain in across the back part of my property at 18 foot double wall drain and a drain pipe. A pipe and bring it around in the swale area if you look at the water standing between the 2 houses in the back. Another drain there to try to drain the water in an enclosed drain between the houses out the front. You guys did that work. I appreciate it. But it’s not solving the problem where the water is coming from. There is a drainage pipe across the road at Old Plank and Russell Road where those 2 intersections come together. It was installed in 1988 after the houses were built and redirected the water from draining towards the front of the properties and down the front along the drainage easement along the road and it now dumps into the back yard. The issue has increased in problems over the years because now there is a subdivision across the road. There is a huge pole barn across the road and a large parking lot there, gravel parking lot. There are duplexes that are draining and more water is going into that ditch and coming across the road into the back yards. It’s not so much causing any issues as far as you know any obstacles or any problems. The water comes and goes across the tops of the yards, comes into my yard which is the lowest spot and accumulates. I also have some pictures of and I meant to give them to you before. I apologize. I have some pictures of my yard barn. I’ve got 3 pictures of my yard barn. There’s a yard barn, there is some roots from a big tree and behind that picture there, there is a 50 foot tree that I wanted to show you that.

Steve Sherwood: watch your step please.

Jay Wilbur: yes. I’m right here with these. There’s the yard barn showing the tree. The amount of water that comes across through that pipe is so strong that it is just, it has no place to go. Our property and the neighbor’s property are the lowest points where it comes down this way and this way. That’s the reason why the County tried to solve the problem by putting drainage pipes and a pipe in there to help collect the water and drain it to the front of the house. That back yard is lower than it is between the two houses. It builds up so much, even with that 18 inch drain. It builds up so much that that water ends up coming up, rising up so high it still goes over flow in the property around the front. The issue is not the landscaping of the properties. The issue is the amount of water coming across the road in a county pipe and dumping it in the back yards. It’s rotting my yard barn doors because it gets up so high. It’s washing out under my yard barn. And all of that is inside my property. Not a part of the easement. My garage gets water in it. Our neighbor’s barn gets water in it. There are sinkholes in the property because the amount of water that’s coming across there. There were sinkholes in my property. That’s part of the reason why you guys came out and did all that drainage work under the Stormwater drainage resolution and I appreciate that but it’s still just coming in and these last couple of rains have just exacerbated the problem. The only solution I see is if there is the possibility of doing something about that pipe that you have the picture of. The amount of water that rushes through that, that pours into that back yard. Now we do have drainage coming off the grass and the field behind us but it’s nothing compared to what’s coming through the back yard. When it’s down pour it’s a lake running from that pipe across 3 properties, across my property into the back yard into that swale area going in and it gets within 3-4 feet of our house. I’ve had to put a sump pump underneath my house because there’s water coming in there and our neighbor, I can’t say that’s the issue but the amount of water there, they have had an Engineer and a company come out and raise their corners of their house up because their foundation is settling. Now I can’t say that’s a direct result of it but there’s a lot of water that’s in that. I have not had my property survey but I can tell you it’s within 2-3 feet sometimes of the back corner of my house and the ground is sinking around the foundation of my house. It’s not due to anything other than the amount of water that comes across that road. And it’s been an issue for years. You guys did try to do something about it.

President Bob Johnson: when we came in and did that, did it get better for a while?

Jay Wilbur: It helped, it helped but since, in the last 10 years, those condos or those duplexes have been built along Old Plank. That yard, or that big pole barn has been built. There. There’s been additions put there. It helped, it didn’t get rid of it.

Commissioner Dan Saylor: There used to be a big, where these 2 houses are built on Jenner Road, used to be a retention basin or a pond that probably caught quite a bit a water, did it not? Right there where this house is, they filled up a pond. Careful. Which there was a pond here because we looked at this house and there was a big pond there and I think the builder filled that in and built that house.

Jay Wilbur: It could be. Years ago, that could’ve been. I mean, our house has been built since 87’.

Commissioner Dan Saylor: So you live here?

Jay Wilbur: No, I live, well wait a second. I live right here, yes.

Commissioner Dan Saylor: Is one of your neighbors Kevin Harris?

Jay Wilbur: He used to be. He sold. The people that live next door bought the house from Kevin Harris and they’ve had $6,000 worth of foundation work done to their house but again, I am not claiming that that water has any problem but when we bought these houses, that drain pipe was not there.

Commissioner Dan Saylor: ok, where is the drain pipe. Right here?

Jay Wilbur: yes, it crosses, there is this property right here, crosses in and drains a ditch here and it also goes where Mr. Gores house used to be which is someplace right around here on the other side of Russell or Old Plank and those 2 pipes were directed toward the front. Actually the 1 pipe in that V shaped property, it wasn’t there it was actually coming across the road right where Crescent Drive and Russell Road is and then the other pipe was expanded. Those were smaller pipes then it was a bigger pipe and it was expanded which dumped the larger volume of water onto the property. Now you guys did come in about 10 years ago and you put, in the back quarter as you go up the hill in the back quarter there you put a huge drain, you put an 18 inch pipe in and then between this house and my house you also put another drain in to help catch the water because there’s no place for that water to go until it gets so high it goes over the top. So you put that drain in again, it did help.

Commissioner Dan Saylor: Where’s that drain to?

Jay Wilbur: It drains to the front of the property where there’s a drain that goes underneath the road to a ditch that goes behind.

Commissioner Dan Saylor: So, is your water coming from the West or is it going?

Jay Wilbur: It’s going this way.

Commissioner Dan Saylor: ok.

Jay Wilbur: My house is the lowest spot. These 2 houses here are the lowest spot.

Commissioner Dan Saylor: So it’s coming from the East?

Jay Wilbur: yea, it’s coming from the East. So, the problem we have is, it just doesn’t have any place to go when it builds up. If the drains that were in my back property in a normal day, it will fill up with you know the lower part there will fill up with water but then that 18 inch pipe drains it really fast. But the problem is in a really torrential downpour and if it rains all day long, there’s just no.

President Bob Johnson: You’re saturated already?

Jay Wilbur: It’s already saturated. Now, the yards did originally swale a little bit in the back but not much. The first property did try to put a pipe in with an open basin to try to catch the water. It doesn’t catch it. It’s just too much coming across there. The neighbor tried to do, connect it to his to try to help a little bit but the issue was whether it was an open drain or the yards were raised up, it didn’t matter.

Steve Sherwood: Mr. Wilbur, where do those 2 big open drains drain to? We cannot find anything that shows those large open grates. The ones you’re referring to, these up in your neighbor’s yard, where do they?

Jay Wilbur: they drain to, they drain into a pipe.

Steve Sherwood: we can’t find anything as what collects these 2 open grates and where they drain to. They don’t connect to your system.

Jay Wilbur: No, they don’t connect to mine. It was just a pipe that the neighbor put in. It comes and there’s a pop off drain and it doesn’t. Oh ok. You guys, there was a pipe that came across his property and my neighbor’s property that you took and connected to that 18 inch drain.

Steve Sherwood: did we?

Jay Wilbur: Yes you guys connected that.

Steve Sherwood: I don’t have anything on it and I wasn’t with the county when that was.

Jay Wilbur: No, No, No, but you guys took it and came to my property. I originally had, I originally tried to connect to it but it just wasn’t enough to do anything so right here. It should have but they brought in an 8 inch pipe and brought it back and connected it to the drain pipe here. They eventually on the other side of my garage connected it to the 18 inch pipe that’s here.

Steve Sherwood: They did or the County did?

Jay Wilbur: the County did. You guys did.

Steve Sherwood: As you see, there is no drainage swale to really collect water.

Jay Wilbur: Well, yea but the amount of water in the drainage swale would’ve only helped those first 2 houses, it wouldn’t have helped me.

Steve Sherwood: Right that pipe right is this here and then this ones over on the other side.

Jay Wilbur: yes

Steve Sherwood: Where does this pipe go from here to here?

Jay Wilbur: a Pipe and then you put an angle in it and brought it up to here.

Steve Sherwood: is there?

Jay Wilbur: No, there’s no drainage, there’s just an elbow

Steve Sherwood: just an elbow that’s buried.

Jay Wilbur: yes an elbow and then it comes to that drain and you guys connected into the drain that comes across the road here.

Morrie Doll: How long ago did Warrick County do this?

Jay Wilbur: I’m thinking around 10 years ago. Do you have any records on?

Steve Sherwood: I do not, but I wasn’t with the County when the County came out. Bobby recalls it being the.

Jay Wilbur: Bobby, he came out and did it because we had sink holes right here where it was hollowing out so about, the pipe that was here and here. There was a pipe that I had just came out into the yard cause I had a swale where it was lower here and It just came out into the yard to try to gradually flow into the drain here so when he put this pipe in here the county did here and here, you guys tied it in right behind this shed.

Morrie Doll: Do you know if the County Representative that worked on this project was name Jack Gore?

Jay Wilbur: The original?

Morrie Doll: 10 years ago.

Jay Wilbur: No, well I don’t know that. It was just, Bobby was the one that came out and approved it and looked at it and said something needed to be done and you guys came out and did the work. I have no idea.

Morrie Doll: And there was no surveying or easement given for the work that the County did?

Commissioner Dan Saylor: Temporary Right-of-way?

Jay Wilbur: Well that is an easement there.

Steve Sherwood: There is a platted Easement here and a platted Easement there.

Morrie Doll: There’s a platted easement or a?

Commissioner Dan Saylor: You’re getting this all on recording right?

Steve Sherwood: right here, you’ll see it here and you’ll see it there as Mr. Wilbur saying, it’s all within that Easement. Now, it doesn’t say it’s a drainage Easement but this is an older Subdivision where this is just a Utility Easement. There are no drainage structures on the approved Street and Drainage plans for this development in this area. Mr. Wilbur says there is a 24 inch pipe across the road here, into an unknown structure. A 15 inch across Russell into an unknown structure. How those connect to Mr. Wilbur’s structure starts here and then there’s another drain here, apparently there’s a buried 90 degree turn and then it all drains down to this underground structure you see here.

Morrie Doll: which crosses the road

Steve Sherwood: And then keeps going down the hill, down Crescent Court.

Commissioner Dan Saylor: So, it doesn’t run behind all of those houses on Crescent?

Steve Sherwood: Part of it does

Jay Wilbur: not, but again, when the pipe coming across was put in, there was no grate in the neighbor’s property, there was no pipe back here. When the water started coming across it started just washing the yards out as a matter of fact, it was so bad that it came around to my property when it was first put in and it washed a 6 foot wide 4 foot deep, took the whole side yard between the two houses and washed it all the way out into the street. The neighbor in order to try to keep his yard from washing out just built 2 concrete basin drains and put a pipe in to try to catch as much as possible under normal rain. If that wasn’t there, those 2 drains wasn’t there and that pipe wasn’t there, you’d still have a ton of water coming into my back yard, you’d still have a ton of water coming across. So, those, I appreciate what you’re saying but those 2 pipes really are not the issue. It’s the amount of water that’s coming into the back yard. It’s not any different than you saying I’ve got a leaky faucet and depending on how many 2 inch drain pipes I put in the sink to drain at different directions, it still doesn’t stop the fact that the faucet won’t keep gushing water into the sink and it’s the drain pipes going across the road that’s gushing into the back yard regardless of where it goes.

Commissioner Dan Saylor: Mr. Wilbur, where is this grate in relationship to your house?

Jay Wilbur: It’s the very first house 2 lots up.

Steve Sherwood: 2 lots to the East.

Jay Wilbur: So if my house is right here, it’s 2 lots up and that again is just there to catch the overflow.

Commissioner Dan Saylor: So, that’s a problem there, I mean half of it is covered up.

Steve Sherwood: It stays filled with mud and debris.

Jay Wilbur: Yea

Morrie Doll: But that’s a private

President Bob Johnson: That’s just a French Drain isn’t it?

Morrie Doll: That’s a private drain isn’t it?

Jay Wilbur: Yea, it’s just a private drain. It’s just trying to drain some of the water that’s coming across the road.

Commissioner Dan Saylor: This is a private drain?

Jay Wilbur: Yea, that’s a private drain.

Steve Sherwood: We have no record of where those drain to or what they are built of.

Jay Wilbur: That’s the only drain there. That’s 2 concrete drain basins. There’s an 8 inch pipe that goes across his property and the second houses property and came into my property which you guys connected that pipe to the one you guys installed, the 18 inch pipe. Just for it to go someplace. But the amount of water that’s coming across the road up there at the intersection of Old Plank and Russell is what’s causing the amount of problem and the, our drains can’t even stay unclogged because the amount of, because there is wood and debris and all that that come across.

Commissioner Dan Saylor: that’s the wrong kind of lid, shouldn’t that be a stool or milkstool

Morrie Doll: Milkstool

Jay Wilbur: I do have one on that but the other one does have a dome in it that’s between the 2 houses in the back

Steve Sherwood: But that still gets covered up too

Jay Wilbur: that still gets covered up too but the amount of water and yea, that’s the dome one. And that

Commissioner Dan Saylor: That’s the dome one?

Jay Wilbur: and I keep it clean but that’s within an hour or two of the rain starting and you can see the amount of water and what we tried to do. That’s the dome one. It just doesn’t stay and I’ve tried to rake the yards and all that. You know, we are just looking for help. I mean in a normal, if it’s not really bad, it’s not too bad but it does get up enough now. My biggest concern is that tree right here as the water comes across the yard, it’s going underneath that yard barn and it’s eroding the yard and I’m afraid that those roots are going to get soft and you can see how the water comes up between the 2 houses and goes down too so the amount of water that’s coming into those back yards even that drain that you guys put in isn’t handling the amount of volume.

Steve Sherwood: And those large trees are more or less within the platted. The existing easement doesn’t function as a Utility Easement, there’s no swale along their common back yards to direct the water. Their back yards are relatively flat to Mr. Wilbur’s point, the water just spreads out and doesn’t get collected when it sees any sizable amount of water what so ever.

Jay Wilbur: Now this, which tree are you talking about inside the plat?

Steve Sherwood: Both of those here and here

Jay Wilbur: oh the

Steve Sherwood: the one by the drain.

Jay Wilbur: ok is that my property?

Steve Sherwood: No, yours is this one.

Jay Wilbur: ok, ok yea. Those 2 are

Steve Sherwood: and we got a letter from 1 of your 2 neighbors.

Jay Wilbur: Yea, it’s this one right here.

Steve Sherwood: Are all 3 in agreement that something needs to be done?

Jay Wilbur: Well this guy hasn’t been there for quite a while because he’s taking care of his mom. He doesn’t even know this is going on but he does agree.

Steve Sherwood: and then you said 4 lots. That’s the 4th?

Jay Wilbur: that’s the 4th

Steve Sherwood: that causes the water come from the West back this way.

Jay Wilbur: yea, in addition to what comes this way. I mean, it collects right here.

Steve Sherwood: It all collects right there.

Jay Wilbur: It all collects right here.

Steve Sherwood: that’s the low point

Jay Wilbur: That’s the low point and so I guess, my thought is if we could do something about what’s coming across the road.

Steve Sherwood: See that’s what’s coming out of your neighbor to the West.

Jay Wilbur: Yea, yea. If we can do something that’s coming across Russell Road and Old Plank and at least slow that down and redirect that water and do something like that, it wouldn’t be so bad.

Steve Sherwood: So, Mr. Wilbur’s point, the County built something here and here but it never got connected to where the water originates at the intersection of Old Plank and Russell.

Commissioner Dan Saylor: Steve, where you’re drawing your pencil, is that an Easement?

Steve Sherwood: Yes, there’s a 15 foot, 10 or 15 foot Easement.

President Bob Johnson: That’s our Easement?

Morrie Doll: It’s not a dedicated drainage easement.

Steve Sherwood: It’s a public utility

Morrie Doll: It’s a public utility easement.

Steve Sherwood: The nature of the subdivision is so old right here is the platted easement across the rear of these 3 lots in this section. So, you either got to collect it this way to take it where it’s flowing now or collect it and take it down the street.

Jay Wilbur: I personally think if you put a larger pipe and a collection right there where it comes across the road and put it underneath and connect it to the 18 inch pipe that you guys put there and then maybe raise or do a little bit of a swale in the back part, might do it. You know, I’m just asking for help. I mean, I just don’t want to lose.

President Bob Johnson: I understand but we also have to have all the people that are connecting the area as well.

Jay Wilbur: Well the neighbor, I can get ahold of the other one or we can try to get ahold of the others.

President Bob Johnson: It’s something that we’d have to send Steve out to take a look at and maybe get some Engineer out to help us out.

Jay Wilbur: The amount of volume that’s coming across the road that’s really causing the problem.

President Bob Johnson: Got it. Got it.

Jay Wilbur: How you want to collect it, whether you want to take it the front is up to you.

President Bob Johnson: I just wish it would quit raining.

Jay Wilbur: I do too. Now one of the things you also did was I had sink holes across the front of the property here and the County did put an 18 inch pipe across the very front part of my property where my driveway is here. It flows naturally across the yards but we had sink holes here and in order to fix the sinkholes, the open ditch would’ve been too deep so Bobby had the County put an 18 inch pipe across there to connect to that drain and it collects openly on the other side of my garage or I mean, the other side of my driveway. So, you don’t see that either do you? But it is across there and it is in the Easement.

President Bob Johnson: Well, let’s let Steve and Bobby go back out and take a look at it and see what we can do, maybe come up with some type of solution.

Jay Wilbur: I appreciate it and like I said I know you guys have tried and I appreciate that, it’s just that it’s getting to the point now where I don’t want to have any more water in my garage, I don’t want to lose my shed and I don’t want to lose that tree because if that tree uproots because of a strong wind because that yard is eroding. That tree is going to fall through my house.

President Bob Johnson: alright.

Jay Wilbur: I need to sign this.

President Bob Johnson: Thank you very much.

Commissioner Dan Saylor: Thank you Jay.

**CLAIMS:**

President Bob Johnson: Next up, we got claims for $209.78

Commissioner Dan Saylor: I make a motion to pay the claim

Commissioner Terry Phillippe: Second

President Bob Johnson: All in favor 3-0

**OTHER BUSINESS**:

President Bob Johnson: And then we have the case file for the Pruett vs Warrick County.

Morrie Doll: That is a Stormwater matter.

President Bob Johnson: that is?

Morrie Doll: Yes, No, Yes it is. Stormwater matter.

President Bob Johnson: Ok, any other business for Drainage Board?

Jason Baxter: No Sir.

**STORM WATER DEPARTMENT**

President Bob Johnson: Steve

Steve Sherwood: Thank you Mr. President. I’ll lead off with Morrie on the Pruett issue.

Morrie Doll: We negotiated the Pruett issue in mediation as ordered by the Court. There is 6 copies. There is a privacy clause actually for the benefit of the County among others so it’s not to have an avalanche of similar claims it would be read to yourselves. There is an original that requires a signature. We need to make a motion to approve the settlement and then we will file a generic dismissal of the lawsuits, or cross law suits will be dismissed generically. So the terms are supposed to be private.

President Bob Johnson: Ok.

Morrie Doll: And we built in protections against future, to the best of our ability against future actions by Mr. Pruett that would be dangerous or destructive of our improvements at that location.

President Bob Johnson: Want to make a motion?

Commissioner Dan Saylor: Yea, I didn’t know if you was ready for it or not. I make a motion to agree to sign the settlement issue or the settlement on the Pruett issue in reference to drainage.

Morrie Doll: we’re not paying anything

Commissioner Terry Phillippe: I’ll second the motion.

President Bob Johnson: All in favor 3-0

Commissioner Dan Saylor: I might say, I just want to recognize Morrie and his guidance on this. I thought he did an excellent job on the advice of which direction to go or what to settle with. Basically long story short, I think we had a little bit of exposure with some.

Morrie Doll: I don’t think the, the argument was statute of limitations.

Commissioner Dan Saylor: Well that, and we furnished some dirt so there was always some question whether we had a little bit of ownership in this but with Morrie’s advice, we got it settled and it didn’t cost us anything. You know.

Morrie Doll: The Highway Superintendent delivered, or I’m sorry, not the Highway Superintendent

Commissioner Dan Saylor: The Foreman

Morrie Doll: The Foreman delivered the soil to Mr. Pruett that he raised our drain with.

President Bob Johnson: the same guy that made that ditch? Where do I sign this at Sir?

Morrie Doll: There’s one line left. Yes Sir.

President Bob Johnson: Do I need to sign all 6 Sir?

Morrie Doll: No, just 1. The others were for members to read today

President Bob Johnson: Ok, here’s your original. So anything else Mr. Sherwood?

Steve Sherwood: Yes Sir, I discussed with Morrie the status of the change of ownership on a property in the Stonegate/Yorkridge, the Offermans who have started the original design or original complaint leading to the design of a solution for the Yorkridge/Stonegate drainage improvement project have sold the property and therefore they no longer have ownership of the easement and advice of legal counsel. We are going to meet, Barbi and I with the new owner of the Offerman property which is the Bittners to explain to them why we need an easement dedicated. The irony is that their property controls this as it was the original property owner being the Offermans started the complaint and initiated this whole project then they moved out before we could require an easement. So they have agreed to meet Friday. I am hoping that we will, Morrie will change the paper ownership names to the correct names and we hope to get it signed but we will at least start by explaining to the new owners what we need. The next item I have is on the Fuquay Tanglewood project by consensus I addressed the Board last week. Our Consultant said due to the Indiana Bat law, we had to drop all trees 3 inches or greater in diameter by March 31st the end of that date. I solicited 3 quotes from 3 tree services. S&S Tree Master was $13,350.00 and American Eagle Tree Service was $29,350.00, Uebelhor Tree service was $34,283.00. By consensus I went ahead and awarded it to the low bidder last Wednesday, they are currently engaged in removing the trees by the deadline.

Commissioner Dan Saylor: Who was that again Steve? Tree Masters?

Steve Sherwood: S&S Tree Masters. $13,350.00 even was the low bidder.

Morrie Doll: Kevin Scott.

Commissioner Terry Phillippe: Same folks that flew the drone to put the flag back right?

Commissioner Dan Saylor: Really?

Jason Baxter: No, that was Alan.

Commissioner Terry Phillippe: oh, I’m sorry.

Steve Sherwood: So, if the Board would for the record for the Auditor for me to pay the bill if you would officially approve the low bid of $13,350.00 to S&S Tree Service, I would appreciate it.

Commissioner Dan Saylor: I will make that motion.

Commissioner Terry Phillippe: Second.

President Bob Johnson: all in favor 3-0

Steve Sherwood: Next item I have is informational only. You were copied an email. A 42 page report on Williams Landing, ownership of the Developer was by Chris Combs who sold all of the lots to Jagoe back in last July, Mr. Chris Combs said to quit sending him the erosion control reports that he no longer controls the Development. Officially he has not secured the proper paper work to release a notice of termination in the eyes of Indiana Department of Environmental Management. I’ve put out a report to both Jagoe and Mr. Combs that if you’re going to exterminate your ownership of the property, it needs to be done legally so that him and Jagoe both understand who is responsible for what. There is no erosion control significant amount of erosion control being performed to date which I felt I needed to at least start the paperwork and bring this on board as a verbal warning and make the board aware that this is the first step in the process of getting some erosion control performed. I’m hoping that between both parties they will work it out amongst themselves but we do have brown silty water leaving the site going directly to the Ohio River.

Morrie Doll: And that would trigger Army Corps of Engineers involvement which is...

Steve Sherwood: So I want to report that to the Board and get it into the record. Last item I have is I have again by consensus I had sent a report to the Board, Lochmueller Group greatly reduced their cost to us to do a PER from $28,500 down to $15,000 just to get these 2 projects being Fuquay/Tanglewood project and the North Green Springs Valley project to get a PER in the hands of Warrick County so I can get that to Debbie Bennett-Stearman to accompany our quest to try to obtain a grant or SRS State Revolving Funds for either of these projects. We have to have a PER to accompany our application and I have by consensus by the Board to proceed I just need to bring that before the Board for an official approval.

Morrie Doll: Motion

Commissioner Terry Phillippe: I make a motion to approve the reduction funds for the PER.

Commissioner Dan Saylor: Second.

President Bob Johnson: All in favor, 3-0

Steve Sherwood: I’ll have that for your signatures before you leave. Just to bring the Board up to speed on the North Green Springs Valley project. I am asking Lochmueller Group to appear before you next month to present their findings from the Drainage Study. They’ll let you know what’s all involved to make that project going forward a reality. It is estimated that between, there’s a million dollars of mitigation fees and the cost of construction is 1.6 to 2.1 depending on, that’s millions of dollars depending on which option we choose to move forward.

Morrie Doll: Which project? Tanglewood?

Steve Sherwood: No, the North Springs Green Valley. The Tanglewood Fuquay project is moving forward to precast as we awarded last meeting is being made and we’ll have a bid prepared by Lochmueller Group to go out yet in late April for a bid leading in May for a June Construction. That’s still on the schedule.

Commissioner Dan Saylor: So, Steve, we’re getting hammered by the Green Springs Valley residents and I know Bob just got an email here and I just copied on an email that is requesting some paving done in there so Bobby, you guys are both, know what’s going on and we’re not going to pave the street that we’ve got to dig up or?

Steve Sherwood: Our project will replace 2 of the Bridges on the roadway in question that cover or go over these drains in question. This project if it goes forward will bear the cost of that.

Commissioner Dan Saylor: ok

Morrie Doll: And you hope to get grant or government or state money?

Steve Sherwood: We’re hoping. We don’t stand a snowballs chance without moving forward with a PER so I do appreciate the Boards approval of that and we did officially approve that is that correct?

President Bob Johnson: Yes.

Steve Sherwood: That’s all that I have Mr. President.

**MOTION TO ADJOURN:**

President Bob Johnson: Terry you’re up.

Commissioner Terry Phillippe: I make a motion to adjourn.

Commissioner Dan Saylor: Second.

President Bob Johnson: All in favor, 3-0