**MINUTES**

**WARRICK COUNTY DRAINAGE BOARD**

**&**

**DEPARTMENT OF STORM WATER**

**June 8, 2020**

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, Jason Baxter, Deputy Surveyor; Steve Sherwood, Director of Storm Water; Jennifer Curry, Recording Secretary.

Present in the audience: Joe Grassman, Bobby Howard, Glen Meritt, Jim Morley Jr, Ruth Edgerton, Adam DeHart, Tim Mosbey

**PLEDGE OF ALLEGIANCE:**

President Johnson opened the meeting of June 8, 2020 with the Pledge of Allegiance.

**APPROVAL OF MINUTES**

President Bob Johnson: First up we have the approval of minutes from May 26, 2020

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

Commissioner Dan Saylor: I will second.

President Bob Johnson: I have a first and second, all in favor. 3-0

**GATEWAY PLACE SUBDIVISION-GRIMM ROAD- GLEN MERITT-CASH WAGNER & ASSOCIATES**

President Bob Johnson: Next we have Gateway Place Subdivision Grimm Road Glen Meritt with Cash Wagner & Associates.

Glen Meritt: Glen Meritt with Cash Wagner, I am the engineer on the project, this was turned in a long time ago we have been waiting around for construction to happen on this lot 3 that is at the south west quadrant of Lloyd Expressway and Grimm Road there, that lot there is discussion going on about putting a C-Store in that lot and say we came back and also got a traffic study that had been going on for a year and a half and got it resolved and Warrick County wanted the road widened to 40 feet instead of the typical 30, so we revisited some of our numbers, raised the road a little bit based off correspondence with the buyer’s engineer and that is the reason we are coming back today. Basically, drainage plan very minor modifications, just some elevations on the storm sewers that have been turned in, I cant really remember its been about a year and a half or two years possibly when we came back here the first time.

Commissioner Dan Saylor: Glen, you made reference to a road, what road are you saying?

Glen Meritt: Orthopedic Drive, it’s the only road that is in that development.

Steve Sherwood: This would be Orthopedic Drive as we know it when and if it comes through the west side of Grimm Road, it already exists on the east side of Epworth, this would be the leg to bring it in and somehow connect in the middle eventually is the game plan.

President Bob Johnson: Jason, do you have anything to add?

Jason Baxter: No, it’s all good.

President Bob Johnson: Steve?

Steve Sherwood: Yes, Glen has made all the corrections I asked for in a punch list and I believe we are in order.

President Bob Johnson: Commissioner’s?

Commissioner Dan Saylor: If it is order, its in order.

President Bob Johnson: I would entertain a motion.

Commissioner Dan Saylor: I make a motion to approve the drainage for the Gateway Place Subdivision on Grimm Road.

Commissioner Terry Phillippe: I will second the motion.

President Bob Johnson: All in favor. 3-0

Glen Meritt: Thank you.

**OHA REALTY SUBDIVISION LOT 1& 2- PRIMARY PLAT STAHL ROAD / 3699 EPWORTH ROAD, NEWBURGH, IN**

President Bob Johnson: Next we have OHA Realty Subdivision Lot 1& 2 Primary plat Stahl Road, please state your name.

Adam DeHart: Good Afternoon Gentleman, my name is Adam DeHart I am the project manager with Keller-Webb Associates our offices are located at 486 Gradle Drive, Carmel, IN. We are here today to request Drainage Board approval for the Oncology and Hematology Associates at the North/East corner of Stahl Road and Epworth Road, this is an unusual situation for a plat in that the doctor’s office wants to get out of the property ownership business and be in the lease business so he has somebody that wants to buy the office building and parking lot parcel, which on the plat is depicted as lot 2, lot 2 will be immediately sold for financial purposes, the business will still operate there, you are not going to see any change they are still going to keep on doing everything they do about taking care of people and the public and operating the same way it is just a change of ownership of the property of lot 2. Along with that, Dr. Fox would like to retain lot 1 which is about 3.5-acres on the west side of the parcel which is currently vacant, he has no current plans to develop that property he just wants to own it and continue to maintain it and keep it in decent condition for whatever future use comes along. With that, we would be available for any questions you might have.

Jason Baxter: Yeah, he is just splitting the lot and we aren’t going to ask for any drainage at the moment, when construction happens following on this we will ask for drainage plans at that time.

Steve Sherwood: As Jason says, the western parcel is undeveloped and we will look at that when they come in to develop at that time, the existing eastern parcel has a small dry retention area along the south side near the south/west corner of that lot along the north side of Stahl Road and that would be sufficient with what was originally approved.

Commissioner Dan Saylor: That currently is in place now?

Steve Sherwood: Yes.

Commissioner Dan Saylor: Is that being maintained?

Steve Sherwood: Yes, it is a mowed dry basin, very shallow. You wouldn’t notice it except there is a little wall on the south/west corner of the lot.

Adam DeHart: There is a couple of those, I did have a question and maybe this is for after the meeting, the County Commissioner’s just obtained a drainage easement earlier this year along Stahl Road there at the corner?

Steve Sherwood: For the intersection improvement at Stahl and Epworth

Adam DeHart: Oh, so that is a coming project?

Steve Sherwood: That bid happens this evening I believe at 4 o’clock for the traffic signal improvement.

Adam DeHart: Okay, I will find out more then, great I wont take up your time now with that I will listen in on that.

President Bob Johnson: Any questions?

Commissioner Terry Phillippe: I make a motion to approve.

Commissioner Dan Saylor: Second.

President Bob Johnson: All in favor. 3-0 Thank you.

Adam DeHart: Thank you, see you at 4.

**CASTLE RIDGE- GLEN MERITT- CASH WAGNER & ASSOCIATES**

President Bob Johnson: Castle Ridge, Mr. Meritt.

Ruth Edgerton: I have a question about the drainage on that.

President Bob Johnson: Ma’am, hold on one second on that, Mr. Meritt.

Glen Meritt: Glen Meritt with Cash Wagner, this is the development on Coal Mine Road just south of Gourley Place, I believe we turned it in in March and with the meetings getting cancelled this is the first time we are able to come before you. We went back and forth with Steve and Jason, submitted revised plans last week to them and I think all is in order, if anybody has any questions I will be happy to answer them.

Jason Baxter: There was a couple or erosion specs, and Steve can address those.

Steve Sherwood: Yeah, they are in my review back with Glen, I believe he submitted everything except for I did see a note on there in regard to the other drainage swales, we talked about putting some type of vegetation or erosion control blanket statement to cover those that weren’t being rip rapped, and then the other one was an unspecified amount of revetment riprap where it was needed specifically around the mouth of the 4x3 box where the road crosses and then you may need some energy dispersal at the end of some of those slopes. Other than that if the Board will consider approval subject to those two items, and of course before we vote we have an administrator that would like to speak.

Glen Meritt: I have one question, I know we talked about that Steve before, with our CORP permit and IDM permit for the box culvert structure, I mean we did not show any kind of rip rap energy dissipation along that…

Steve Sherwood: That was a question I had in my comments was you might be under a CORP requirement about that…

Glen Meritt: I mean, unless we go back and modify it, which is going to cause our mitigation plan and everything to be revised and I don’t want to alter that…

Steve Sherwood: You and I discussed my concern was the erosion against the roadway.

Glen Meritt: Part of the deal with the CORP and IDM when we sized that box culvert, I mean, it’s half a foot or 8-inches imbedded into the bottom channel that is there, it is oversized so it can sink down into the existing channel basically silt itself in. I do not want to do anything to alter that, we went back and forth with IDM and Army Corp for nine months to get those permits that got issues late April and early May..

Steve Sherwood: Perhaps, you’d be able to treat them with some type of vegetation once you get the box..

Glen Meritt: It will be vegetated, yes, but as far a permit of rip rap..

Steve Sherwood: Within the riprap as an energy dissipater at the end of some of the structures outside the CORP’s jurisdiction I think if you just put subject to those two notes on there it would be at satisfactory with Jason and I.

Glen Meritt: Okay, that’s fine.

President Bob Johnson: Okay, Ma’am, come up and please speak in the microphone so we can understand this, your name please.

Ruth Edgerton: Ruth Edgerton, I would own the property 23A on the map there, it is next to Brockman Minor’s section of what is going to be housing development, it hits me on my north/east corner at about a quarter of an acre south of that north line. I have a major reentrant gully going down, and the Brockman property is up-hill and if the ground water drainage isn’t right, it is going to leave what amounts to a mud hole on the west side of my property as that major reentrant comes down to the bottom of it. I call it a gully or a reentrant, and I am wanting to know if the ground water drainage is going to be good enough that there wont be anymore of a problem then there already is. It’s not a major problem now, but if there is enough runoff from a heavy rain coming up hill from me, it could turn into a major problem.

President Bob Johnson: Okay, thank you.

Glen Meritt: Ma’am, could you point on the exhibit where exactly you are located?

Ruth Edgerton: Number 23.

Glen Meritt: So, you are south of us?

Ruth Edgerton: Yes, now if you are here I am south of you, but the Brockman property is being included in that..

Glen Meritt: Okay, I just wanted to make sure I knew where you were located at.

Ruth Edgerton: Okay, are you going to deal with the drainage there?

Glen Meritt: I have not walked that specific area, but I mean everything south of us is draining towards our property, we are capturing everything to the south, that is why that detention basin is so large, there is a significant waterway that, there is two of them that drain through this property and they both collect in that detention basin just to the north side of Gourley, I mean right on the north side of our property line it dumps into Gourley and it’s a legal drain waterway maintained by Warrick County Drainage Board, or the Surveyor’s Office. It is a significant waterway, I think it has about 80-100 acre watershed to the south, we are not going to disturb anything on her property, everything that is coming to us is going to continue down through those existing ditches, the majority of those ditches are not being disturbed due to the Corp and IDM permitting that I discussed earlier, we are just putting culvert’s in the ditches to cross the road ways and the rest of them are going to be open channel undisturbed waterways. So, I don’t understand how we could be affecting anything on her property, the tension basin is oversized there I looked at it before I came here and there is almost 143 CFS that is draining to the detention basin for the 50 year storm and we have a 30-inch pipe releasing out to Gourley and the maximum flow rate is 43 so we are holding back 100 CFS of water from the adjoining properties, I know that isn’t necessary helping her, but we’re not going to be pushing any water. That is probably about 40-foot elevation on where her lot is, there is significant elevation difference from the south property line to the north property line out here. I don’t see how any way how we are going to have a negative impact on her lot that far up stream, the majority of those lots on the south side of those properties are draining from south to north, they are not your typical half of the back yard is going to the back and half going to the front, they are sloped so drastically that they are all having to be graded the back sides of the houses so, I just don’t see how we are going to cause any problems on the south of the perimeter.

Steve Sherwood: Just so I understand for Mrs. Edgerton’s point of view, you are worried about water backing up from their property into your property?

Ruth Edgerton: Basically, about heavy rain storm, water coming onto my property and going down and creating a mud hole, and like he says my property is mostly south and the Brockman property, which is actually butting up against my east corner, is part of that housing development or will be eventually. If you are draining the Brockman property north into your retention lake then it shouldn’t cause any problem, I think its Brockman Minor parcel 3, Brockman Minor, it butts up against my east line. Basically one acre of my east line, my property goes up further.

\**Glen Meritt and Ruth Edgerton conversing away from microphone—can not dictate*\*

Steve Sherwood: I think as long as she understands that they cant cross the property line, and her concern is that water can drain freely downhill it should be fine.

Commissioner Dan Saylor: Is this Ken Favor project?

Steve Sherwood: No, this is a Chris Combs and Donnie Denton

Commissioner Dan Saylor: Oh, okay.

Steve Sherwood: Castle Ridge. The one you are describing is The Enclave.

Commissioner Terry Phillippe: Same one with Union Drive?

Steve Sherwood: Pardon?

Commissioner Terry Phillippe: This is the same one with Union Drive in it, correct?

Steve Sherwood: Yes, I am sure you saw the emails. I hope Jen is getting all of this…

President Bob Johnson: Okay.

Morrie Doll: Yeah this is, they need to go…we have everyone else waiting.

President Bob Johnson: Mr. Meritt, can we move on please?

Steve Sherwood: Ma’am, did he answer your questions?

Ruth Edgerton: He answered, it looks like there is not going to be much of a problem if most of his drainage is going is going into that retention lake, if it is going that way instead of that way then he answered my question.

Steve Sherwood: Thank you.

President Bob Johnson: Anything else? Any other questions? Entertain a motion.

Commissioner Terry Phillippe: I make a motion to approve Castle Ridge drainage approval.

Commissioner Dan Saylor: Second.

President Bob Johnson: All in favor. 3-0.

Glen Meritt: Thank you.

**CASTLE ORCHARD ESTATES No.2—JIM MORLEY JR---MORLEY ASSOCIATES**

President Bob Johnson: Next we have Castle Orchard Estates, Jim Morley Jr.

Jim Morley Jr: Hey, everybody. Jim Morley Jr. project engineer, I think this is a rehitter right?

Steve Sherwood: Previously approved.

Jim Morley Jr.: Yeah, it was approved at the last meeting I believe, but it was approved out of order with the Plan Commission it just has to be reapproved today.

Jason Baxter: The following on the agenda is the same.

President Bob Johnson: Any issues? Jason? Steve?

Jason Baxter: I’m good.

Steve Sherwood: No, Sir.

Commissioner Dan Saylor: I make a motion to approve Castle Orchard Estates No. 2.

Commissioner Terry Phillippe: Second.

President Bob Johnson: All in favor 3-0

**WARRICK RESEARCH & INDUSTRIAL CENTER EAST-JIM MORLEY JR-MORLEY ASSOCIATES**

President Bob Johnson: Warrick Research & Industrial Center East, same thing reformed drainage approval.

Jason Baxter: Same, it’s already been approved.

President Bob Johnson: Mr. Sherwood?

Steve Sherwood: Same as before, we’ve previously approved it and no other additional comments.

Commissioner Terry Phillippe: I make a motion to approve Warrick Research & Industrial Center East.

Commissioner Dan Saylor: Second.

President Bob Johnson: All in favor. 3-0

Jim Morley Jr: Thank you all!

**TIMOTHY MOSBEY-1410 N. STATE STREET CHANDLER, IN 47610**

President Bob Johnson: Mr. Mosbey, how are you doing Sir?

Tim Mosbey: Oh I am wonderful, so good to see ya’ll brings back good memories, bad memories sometimes. I was just curious, on February 24th your Drainage Board meeting you met with Town of Chandler, and I read through the minutes and just kind of curious, I guess I am looking for an update, did anything…nothing got resolved?

Morrie Doll: They never came back.

Tim Mosbey: I mean, it’s really disappointing as a tax payer, you pay your county taxes and the county provides these services, then you get annexed and lose all these services that you are accustomed to having, that is why I don’t understand about the Town of Chandler, of course you don’t either. I don’t know where to turn, it’s frustrating, it is a public hazard, if anyone wants to drive down McCool Road I mean in a pickup truck, I’m not talking farm tractors or combines, it’s dangerous being overgrown and Heim Road is the same thing. From what I understand they annexed you know, Inderrieden all the way out to..

Steve Sherwood: About Mallard Lake.

Tim Mosbey: To Mallard Lake, except for that one house.

Steve Sherwood: That one section.

Tim Mosbey: Yes, Mr. Fisher tried to tell me they didn’t annex the property that I own on Heim Road, and I said well that’s funny because I pay my taxes I pay Town of Chandler taxes because they screwed the ditch up and they wont even dig the ditch out, so…

Commissioner Dan Saylor: Tim, have you addressed the town on this?

Tim Mosbey: No, but I am going to have the opportunity, unfortunately my school board meetings are on the same night as town board meetings, but as of this month we have changed those school board meetings so I am going to start going to town board meetings I guess, I am not really looking forward to it. I just don’t understand what they think..

Morrie Doll: We went through the whole process with the town’s attorney’s, explained everything I think there was a rep from the town also with them, Tim. We, they, somebody suggested they would go back and look at everything and get back to us and from my perspective it’s crickets.

Tim Mosbey: Well, it sounded like to me from the minutes it is strictly the Storm Water money, which doesn’t amount up to $4,000 I think every parcel involved.

Morrie Doll: I think you’re right.

Tim Mosbey: They don’t have a Highway Department, they don’t even have highway street department employees. I just don’t understand how they can operate.

Morrie Doll: Of course, unless the vegetation is growing in a ditch it wouldn’t be subject to Storm Water anyway, if it is just in the right of way…

Tim Mosbey: It’s in the right of way.

Morrie Doll: Yeah, see that’s not our Storm Water…

Tim Mosbey: It’s the tree limbs and the weeds growing, I mean just turn off the highway and go down McCool and it’s getting really bad, but okay I was just curious I thought this would be the best way to find out.

Steve Sherwood: I explained to Mr. Mosbey, Chandler’s definition on how they use storm water funds is totally different than how Warrick County does theirs.

Tim Mosbey: Totally different to the County, I know. Which is legal…maybe not.

Commissioner Terry Phillippe: If you wouldn’t mind, for my reeducation, explain what is different with their annexation from the norm?

Morrie Doll: They didn’t annex to the edge of the right of way for the road, or the center of the road, which is frowned upon now, they annexed in an area now where they have the jurisdiction over the drainage around the road, but the rest of the lot which has the improvements like the houses etc. remained in the County. So, the question gets to be, they basically didn’t follow property parcel lines when they annexed it, and…

Tim Mosbey: They annexed the road and you might have a farm field on this side, they didn’t annex the farm field they just wanted the houses, so they took the road which tells me they are responsible for 15-30-feet of the center of the road, but they say they’re not because they are not receiving Storm Water money for that side of the road.

Steve Sherwood: As Tim explains, they annexed say the south side of the road where most of the parcels are, and all of the road right of way to the north…

Commissioner Dan Saylor: Isn’t storm water monies tied to parcels?

Morrie Doll: Yes.

Steve Sherwood: That is their argument is that, say on the north side of the road where they didn’t annex the parcel we collect it as storm water…

Tim Mosbey: The county gets the storm water money

Steve Sherwood: But, in the road right of way they obviously took it in say 60-feet of road right of way 30 on either side of the center line and most of these issues we are talking about are in the road right of way, and Chandler decides to use their money for maintenance in road right of way or storm water we do not.

Tim Mosbey: What is really frustrating, and I hate to get my own attorney, about 4 or 5 years ago, if you ever been on McCool Road there are these “s” curves, well the trees were overgrowing and I stopped and talked to Mr. Coghill(?) and I asked if there was there something they could do, they hired Halter Tree Service and came in and cleaned that whole area. That tells me right there they accepted responsibility, but now they say they aren’t responsible. I’m just getting frustrated, real frustrated.

President Bob Johnson: Councilor, is there any common sense approach that we can take to remedy this situation?

Morrie Doll: I will say this carefully, we have a difficult relationship with Chandler. Their method of operation is vastly different than anything else that I have been familiar with, to give you a similar point in controversy is the financial responsibilities for improvements as subdivisions. They annexed a subdivision that has a bond or certified check, bank irrevocable letter of credit on file with Warrick County for I think $50,000 of yet to be installed improvements. They have annexed the subdivision, so we no longer have jurisdiction over it, but they want nothing to do with the $50,000 letter of credit which we are holding, and we cant…

Commissioner Dan Saylor: Do they not understand?

Morrie Doll: Well, if the developer doesn’t build those improvements, a unit of government and now that would be Chandler, has to install those improvements and we have the $50,000 and they don’t want anything to do with it.

Tim Mosbey: Because they don’t want the responsibility of fixing it.

Morrie Doll: I cant explain it Commissioner.

Tim Mosbey: Well thank you, I just wanted an update.

Morrie Doll: I would be happy to meet with Tim after he has had a chance to talk to the town, and report to the Board what he has found out and what maybe we can figure out a way to convince them to…

President Bob Johnson: Could this be a type of nuisance violation…

Morrie Doll: Nuisance is defined by the State of Indiana by the state statue, I don’t think…

President Bob Johnson: It doesn’t fall with the ordinances?

Morrie Doll: Well, we don’t have jurisdiction over that because your County Nuisance Act….

Steve Sherwood: The problem Tim is describing falls within the right of way, but they have taken it.

Morrie Doll: Because they have done that, it is not subject to your nuisance statue ordinance anymore.

Commissioner Terry Phillippe: I would like to find a way to help there..

Morrie Doll: It is really a frustrating experience.

**CLAIMS**

President Bob Johnson: Any claims?

Jennifer Curry: No.

**OTHER BUSINESS:**

President Bob Johnson: Any other business?

Jason Baxter: No, Sir.

President Bob Johnson: Mr. Sherwood.

**STORM WATER DEPARTMENT**

Steve Sherwood: Thank you Mr. President, I have some handouts that I will get into here in a minute I just want them in your hands, these previously I believe one or not both were emailed and if you would just hold those for a minute I will get into those in a little bit for discussion. First item I have is I had a photo of Pollack Avenue where we hired MCF Construction before the Board I just want to give an update, they were quoted for 10 helical piles looks like we are only going to have to do nine (9), but the cost savings on not doing the 10th one we are going to have to go deeper on the other nine (9) so there is probably going to be a net increase, I don’t have a firm dollar amount but I know it will be between $3,000-$5,000 on the net price on the project.

Morrie Doll: So, there will be a change?

Steve Sherwood: Yes, I will bring that to you but I wanted to report to you we are into it that far and we cannot solve the problem unless we go further so I will have some of that before the Board at a future date. Next item I have, I asked Morrie before the meeting if he had an update for us on the ordinance or ordinances he wants to prepare for us for us to collect fees for the penalties and/or have to hold money.

Morrie Doll: There is really two questions here, you remember what we did for Combs concerning the $7,500 deposit, and that is a financial responsibility like a performance or letter of credit used to guarantee a future installation of a required public improvement that is one thing, and the Area Plan Commission has an ordinance that allows that to be done, the money flows to the Auditor, the Auditor puts it in a special account, it is there and if the County ever has to put in the improvements like road ways or sewers or sidewalks the money is there to do it. What Steve is also talking about is an addition to that is a second component which is a penalty component, which in fact somebody fails to remedy a problem, the ordinance allows us to inforce the penalty, and the penalty can go into this fund which I don’t know what the County Council’s position would be, I could guess what the County Council’s position would be, much like your nuisance fund as opposed to the general fund the County Council will have a similar point of view I think. We would have to authorize the collection of the penalty and then dedicate a fund into which that can go and the County Council will have to agree with that I think about where we are going to put it and what purposes it could be used for when we go there. That is different than the Area Plan Commission has ever done, and so one of them is pretty easy to do the first one, the second one is going to take more work. Steve and I have had a conversation about the fact that this is really two accounts today instead of one, so I could bring it to you in pieces, bring it to you all for one, or same time. Do we have a specific dollar amount for the penalties in the current ordinance Steve?

Steve Sherwood: They are subject to up to $2,500 per day maximum per occurrence by ordinance, we just haven’t gotten to the point where we levied a fine or penalty on anyone.

Morrie Doll: We’ve just never done that, ever and frankly we didn’t have a place where we could put the money and so that is what Steve is asking me to bring to you and I can do that.

Commissioner Terry Phillippe: Do you have a recommendation? One or two?

Morrie Doll: Two, two I don’t want to call mingled purposes so that there is no confusion about that.

Commissioner Dan Saylor: I agree.

Morrie Doll: I will bring them to you, I will probably bring you the performance bond money first, I call it a bond it is not a bond it is a irrevocable letter of credit cashiers check, I will bring that to the Board first then I will bring the other one following that.

Steve Sherwood: Next item I have is another complaint filed, started with Roger’s office, Commissioner’s Office about sub pump discharges, we get these every once and a while Morrie and I have had some discussion. In the Storm Water Ordinance, I believe there is an exemption for crawl space sub pumps, but as Morrie and I discussed prior to the start of the meeting it is basically not a contaminated water, anything that is contaminated or black water would be a violation, a Health Department violation. We are getting more and more of these calls regarding sub pump discharges in the street, they will drain in the curb and gutter for several hundred feet, some start to cause and grow green algae and more specifically and dangerous in the winter time ice. Some of these discharges cease in the winter time, but we still have some of these situations.

Commissioner Dan Saylor: Steve, you have that with thousands with gutters, so to me it’s the only place you can drain it.

Steve Sherwood: There are some places where they can pump to the back yard if there was a proper drainage ditch or whatever the drainage plan would designate, but for a lot of them for convenience and shorter distance they would just pump the water to the street.

Commissioner Dan Saylor: I looked at it, and to me it was not offensive, yes there was a little bit of a green film, nothing a hose and a couple cups of bleach thrown on there that would probably kill it and rinse it away.

Steve Sherwood: And it is more seasonal as you say, dead of summer it really doesn’t happen it dries up quicker than it is created, I just wanted to bring it up before the Board, Morrie was asked to comment from Roger I believe that was sent to his office.

Morrie Doll: That is correct.

Steve Sherwood: The two handouts I gave you, the lighter one on top it is titled “Lot 23 Cypress Acres No. 2 Subdivision” Morrie and I had some preliminary discussion, if you would go into that handout about six pages, you will see this sketch here looks like this, now in yellow was the approved drainage system in the 70’s…

Morrie Doll: The right of way.

Steve Sherwood: In the right of way where it leaves and goes to the rear yard easement, in red shows you the actual track where it was actually build outside the road right of way and outside of any type of easement. There is a hole in this red line close to the road right of way where it runs horizontal left to right before it goes west or to the bottom of your page and they are asking us to fix it and my problem is it is not an approved drain in any approved drainage plan. As I said, this was done in the 70’s..

Morrie Doll: 44 years ago.

Steve Sherwood: I asked Morrie legally we had to work on this and if we do fix the hole, am I opening a can of worms?

Morrie Doll: Well, we have no legal right to work outside of an easement of right of way, so we would have to acquire an easement during across the properties in question before we could fix this problem in place, or you know we could try to figure out a way to compel the construction within the platted right of way in the easement, and abandon in place what has been there for 44 years. The problem is, Steve when it gets to the rear property line with the adjoining lots it has to turn to the east.

Steve Sherwood: If you would, flip to the next page Morrie, and now we are talking about the blue line vs. black line.

Morrie Doll: Yeah, so at some point it attempts to do that as built, but is even with the right of way there?

Steve Sherwood: Yeah, and it shows on the street plan a 50-foot drainage easement in fact there was only a 10-foot platted easement that you see there in red on that page. So, I cant guarantee if the last downstream portion even exists in a platted easement, there will have to be a lot of surveying go on to create new easements if we were to say take this over and at some point the whole line will have to be replaced. We video taped as far as we could to the turn and we could not video tape any further because the pipe takes a turn and goes down hill and we couldn’t retrieve our camera if we were trying to send it down.

Commissioner Dan Saylor: So, Steve are there two holes?

Steve Sherwood: Currently there is two, the only one I got a report on is the one near Magnolia Drive, when I walked it I discovered a hole closer to the downstream end, the discharge you are referring to.

Morrie Doll: Lot 24

Steve Sherwood: Yes.

Commissioner Dan Saylor: So, what is going on with the hole?

Morrie Doll: Failure.

Commissioner Dan Saylor: Is it open? Is there a pipe underneath that hole there?

Steve Sherwood: The photo attached at the last page shows the hole up near the right of way that I depicted and it is a good 5-6-feet in diameter and about 3-4-feet or more..

Commissioner Dan Saylor: What is causing the hole?

Steve Sherwood: Disjointed concrete pipe, the joint went bad. I assume it is a similar issue with the smaller hole near the downstream end.

Morrie Doll: That is a worry about liability?

Steve Sherwood: Well, that’s what I’m getting to, the people who live here rent this house I have not heard from the owner I have had a complaint last year and this year on the same hole that it is getting bigger what are we going to do about it? I have not generated an official response yet because we are studying this and now I need to bring it to the Board’s attention to what we found. It is a system that exists but does not follow the approved drainage plans from the 70’s.

Commissioner Dan Saylor: Morrie, if somebody fell in this hole are we going to be sued?

Morrie Doll: We will probably be sued, now whether they could ever collect against the County I have my doubts they could ever collect.

Commissioner Dan Saylor: Let me rephrase that, would we be liable in a lawsuit for showing negligence?

Morrie Doll: I don’t think so, it is out of the right of way, out of the approved easement apparently constructed although 44 years ago maybe it was put in incorrectly, but something has failed.

Commissioner Dan Saylor: Can we send a letter to the land owner, property owner to say get it fixed?

Morrie Doll: Yes, I think under the opposes of the Storm Water Department we can send a letter to them and tell them they have a duty to restore it, but I doubt there were drainage plans in 1976 or approval of drainage plans for subdivisions in Warrick County.

Steve Sherwood: There were not, I looked in the Surveyor’s Office there was nothing other than the street and drainage plans you see in the copies enclosed.

Morrie Doll: So, we didn’t approve this but there it is, so I would think we can write a letter to the property owner on record on behalf of the Storm Water district and tell them this has to be remedied and give them a period of time to do so. The problem is, what if they don’t do that, what if they don’t remedy this problem, because I doubt this is going to be an inexpensive remedy.

Steve Sherwood: Probably not.

Morrie Doll: Even if they repair it in place which is out of the right of way.

Commissioner Dan Saylor: Can we legally fix this?

Morrie Doll: No, not without an easement, because it’s private property we cant enter on the property, but it is a public health hazard.

President Bob Johnson: The property owners lease this property?

Steve Sherwood: Yes, the complaint is from someone who rents the property the name does not match up with the owner of the property.

Commissioner Dan Saylor: So, don’t you think we have an obligation to send them a letter at least requesting that they get it fixed since it has been brought to our attention?

Morrie Doll: Yes, and I would also think the County Health Department could intercede with this as well because I think this is probably a health hazard, that’s a big hole that could swallow a child. I will work with Steve on behalf of the Storm Water District we will send a demand letter for them to fix this, but may I ask does Commissioner also want us to address lot 24 for the other hole?

Commissioner Terry Phillippe: How big is the other hole?

Steve Sherwood: Not near the size of this one, but I haven’t been down to that one since 2019 or a year ago when I was out there for the first problem, it is about the size of a bucket.

Morrie Doll: We better be consistent.

President Bob Johnson: So, what do you do? Just fill it in?

Morrie Doll: No, Sir that is a drain, water is coming up from…

Steve Sherwood: Typically you would dig down and seal the top of the pipe or whatever is causing the hole and then fill it back in with clean dirt and grow grass, but the problem I get when I talk to these people it is *your* water why should *I* have to fix it..

President Bob Johnson: Its our water……

Steve Sherwood: Because it crosses the road right-of-way and takes in a certain amount of road drainage.

Commissioner Dan Saylor: That’s my point, if it is our responsibility then we need to deal with it and fix it, but if it is not our responsibility…

Steve Sherwood: I can get a temporary right of entry from the owner of the property and patch the hole, but the insinuation will be once we do that we own it for the rest of it’s life.

Commissioner Terry Phillippe: I don’t think….because we are at the leading edge of where it enters their property it’s not always our water because it came from somewhere else.

Morrie Doll: If you look at the colored pictured at the back where the two red lines Steve’s’ drawn intersect, you can see a collector, so that is where, we don’t have drop boxes in the road way or curbs or any of those type of collections, the water just flows to the road and everywhere else across the surface into that collector and falls into that pipe along with other water and then that’s the way it goes.

Commissioner Dan Saylor: So, this is the farthest back of the property line…

Steve Sherwood: Just a guestimate or representation. The reason why the “milk stool” type inlet casting as you see sitting back farther it used to be a road right of way that got vacated some time after the plans were approved.

Morrie Doll: I’m sorry, say that again.

Steve Sherwood: If you look at the plat at the very last page, there was a road right of way heading to the west that is highlighted there in yellow, this road never got build and we have records on file in the APC that that right of way was vacated and it is owned with the owner of parcel #23 and then they built across it essentially. Willow Lane does not exist, it was vacated and we do have that documentation. So, it’s not a simple issue, it’s a compilation of a couple things that went on, street plans got approved then a year or two later it was vacated and then the facilities were constructed some across the right of way and the other ones I’ve illustrated outside the right of way and outside of an easement. We find these oddities time to time..

Morrie Doll: So, would you like for us to write the two property owners in question and give them a reasonable period of time to address this problem?

Commissioner Dan Saylor: I think we have to don’t you?

Morrie Doll: Yeah, I think we have to, I will get with Steve and have it done by next meeting.

Steve Sherwood: The last item I have is the thicker package of the two that I handed out, it is titled “Lot 283 Lake Ridge Crossing” I have had some discussion with Morrie and showed him the video tape and also with Jim Morley Jr who is the designer of the pipe that leads into this pipe. Long story short this pipe here, and I don’t know if you can get to this page in your packet that shows easement that is highlighted in yellow, it is about 9-10 pages in, you will see the platted easement starts on one side of the property line for the most part and is on the other side of the lot #293

Morrie Doll: It is sort of at an angle, the easement is.

Steve Sherwood: Where it hits Blue Lake, this pipe that runs in this easement was an existing pipe in the approved drainage plans by Morley and for Lake Ridge Section G in 1996 and they label it as an existing pipe, the problem with the existing pipe it takes in majority of the retention basin above it and this retention basin has another retention basin up stream and it all comes out this outlet devise and an 18-inch pipe which flows in the manhole of the street. From the manhole to Blue Lake through the easement I just described is a 24-inch plastic pipe, it shows as a straight line on the street plans, but it is anything but a straight line neither vertical or horizontal capacity.

Morrie Doll: In addition if you will see there is a driveway depicted.

Steve Sherwood: Within the platted 30-foot easement I have all kinds of encroachments; driveways, basketball courts…

Morrie Doll: The driveway is over the top of the pipe..

Steve Sherwood:..fence lines, partial pool, putting green, modular block walls…

Commissioner Dan Saylor: Putting green?

Morrie Doll: Yes, Sir.

Commissioner Dan Saylor: What is Bobby looking at in this picture?

Steve Sherwood: That is the outlet structure, which AT&T boarded through this about 40-feet behind them which I am still trying to fix.

Morrie Doll: The problem with the pipe is it is failing.

Steve Sherwood: Problem with the pipe is the bulk of these photographs you see at the very last, it’s crushed, split, has bad joints, utility running through, rebar drove through it, bad joints, and pipe is split. This runs between two houses in an excess of half of a million dollar each, and they are getting very nervous, I made contact…

Morrie Doll: It would be a law student’s worst nightmare…

Steve Sherwood: I have made contact with a pipe lining company, they think this is something they could tackle..

Commissioner Dan Saylor: Hydromax?

Steve Sherwood: No, a pipe lining is a “Insituform” type of pipe lining, which has done some work for Warrick County in the past.

Commissioner Dan Saylor: What kind of pipe is it now? Corrugated?

Steve Sherwood: 24-inch plastic high density polyurethane

Commissioner Dan Saylor: Okay, and why is it failing?

Morrie Doll: If you look next to the water, it is eating back into the yard and failing at the end.

Steve Sherwood: I don’t believe it was put in in a straight grade or alignment. It curves, drops, it rivals a roller-coaster ride at Holiday World.

Commissioner Dan Saylor: Who developed this subdivision?

Steve Sherwood: Ron McGillam and Mike Talbert , Ron is the only surviving partner and when I ask him about his records he no longer has any records for the construction. Jim Morley Jr when I asked him how he designed this he said I was just told to connect to the existing pipe.

Morrie Doll: This is the only drain for the upper way, let alone surface water.

Steve Sherwood: So, it is important.

Morrie Doll: It drains the upper lake into Blue Lake?

Steve Sherwood: Yes, it takes two retention basins and Lake Ridge Crossing Section F and G into Blue Lake

Morrie Doll: This wont be cheap, I don’t know what the estimate would be you don’t have an estimate for a liner.

Steve Sherwood: I got a ball park that they think they can get it done for around $50,000, but they have to come out here and see and I am waiting for them to come out here and see.

Commissioner Dan Saylor: Steve, is that something where we can get a couple bids from, from different companies?

Steve Sherwood: Possibly.

Commissioner Terry Phillippe: Can we request proposals…I mean we have a liner idea to dig it up and replace it ideas…

Steve Sherwood: There is only so many people that would do it, it would have to be more than just a small lining it would probably have to be something thick and substantial to keep this from further collapsing.

Morrie Doll: Plus we have to get AT&T?

Steve Sherwood: I am working on them where they boar through the AT&T…

Morrie Doll: They boar through the development.

Commissioner Dan Saylor: Is that what caused the problem?

Steve Sherwood: It did not cause this problem, but it is another problem in the 18-inch portion of this line. My point is to bring it before the Board, Morrie and I decided that the Board needs to be aware of this, I am trying to forecast where this is going to head, I will bring more information to you I just need the Board to be aware of it in this point in time because it may be a sizable repair. Worst case scenario, it starts there…

Commissioner Dan Saylor: So it starts there, that is a manhole cover and it starts there…

Steve Sherwood: Yes, it goes about 5-feet below that.

Morrie Doll: It runs through that driveway in that picture towards Blue Lake.

Steve Sherwood: Yes, worst case scenario we have to dig and replace this in between two houses with all the encroachments which wont be fun.

Morrie Doll: Our insurance company will hate that.

Steve Sherwood: Lining it would be a much more plausible option than replacing that.

Morrie Doll: Is the stone retaining walls, ornamental fencing, exposed aggregate colored driveways, putting green, and a swimming pool.

Steve Sherwood: One land owner made us aware of this, and that land owner says the other land owner has no knowledge of this at this point in time, the last time I spoke with her. I will keep you apprise as this moves forward.

Commissioner Dan Saylor: With this issue it is our responsibility.

Steve Sherwood: I don’t see how we cannot, it is on the approve drainage plans.

Morrie Doll: Contrary to the last issue, which there was no approved drainage plans in 1976.

Steve Sherwood: Last item I have, is Joe do you have any business for us?

Joe Grassman: I have nothing.

Steve Sherwood: With that, I am done unless you have any questions.

Morrie Doll: The only thought that crossed my mind is whether or not the Home Owners Association would be convinced to share in the expense perhaps? It impacts many home owners.

Steve Sherwood: The HOA representative contacts Bobby on a regular basis about getting roads repaired out there, I doubt they want to spend any money…we have other drainage issues in Lake Ridge that some of these people have built these 2x2 brick pillars on top of these pipes as they run down their yard, we find fence posts driven through them occasionally and other issues we’ve had to fix. Nobody respects the easement, and that is the problem here for the encroachments in that 30-foot platted easement, which I have several more projects with easements that have been encroached with fence posts driven through pipes etcetera, etcetera.

Commissioner Dan Saylor: You know, it just seems like we would have something that when a new home is purchased, are you aware of the easements on your property or you need to sign off on this or something, a full disclosure that you know? Now, if you have a rotten board you know about you have to disclose that, this is worse than a rotting board.

Morrie Doll: Well, the common law says that if you are aware of an encroachment you are supposed to disclose it, the only other way it will be found would be if it is visible and have what is called an “Indiana Minimum Standard Survey” which is a measured drawing of each improvement located on a lot, and it is tied to a known marker. So, you could tell there was an encroachment, there are homes all over Warrick County where the driveways aren’t on the lot that they live on and there are drainage pipes just running through peoples back yards that nobody even knew were there.

Steve Sherwood: Morrie will tell you on every subdivision plat that goes through the APC there is language on there that says you are not supposed to encroach your easement, what can go on in an easement and what cannot, but people put their fences to their property line whether knowingly or not knowingly. Fence companies make them sign a disclosure if you want the property line across the easement so they absolve themselves, Plan Commission used to say that they used to come before Drainage Board for release if they want to build a fence in the easement and we stopped doing that at one point in time I am told.

Morrie Doll: We did.

Steve Sherwood: So, that’s if they know, like the lady that came before here a couple meetings ago down on Pollack, she asked to fence across the PUE and drainage easement and we said we cant fence in the drainage easement and Morrie advised her about the PUE.

Morrie Doll: The problem with it was very few people were coming before the Drainage Board and asking before they did it, they just did it and hoped for forgiveness if they every got in trouble. We actually did away with permits from the Area Plan Commission for fences to be built for the same reason because almost no one did it.

Steve Sherwood: And now we are suffering the other end of that, it’s their property they fence it you cant stop me, but then we have to repair a drainage structure and its landscaped over, modular wall or something..

Morrie Doll: We recently had that situation where there was a drain and two white fences on the opposing sides of the property line, and there was this narrow green path between them, it was a mess.

Steve Sherwood: I have several in Old Hickory right not that fit this scenario.

Morrie Doll: Commissioner, I don’t know the answer to that, there isn’t a ready answer in Indiana law about it other than the fact if they encroach they are liable, whoever has the right to use it can take the encroachment out at their own expense and they have no liability to repay the homeowner of the removal of the encroachment.

Steve Sherwood: When I run across these now in the field, and if they are the ones calling wanting the pipe fixed I tell them they have to remove the fence out of the easement, we will do the work, but then they always come right back and put the fence back in. If the easement is encroached, I show them the language that the easement is encroached, says in the plat they aren’t supposed to do this, and they pull the fence out…I don’t want to get into a situation where the County has to start pulling fences out and then restoring them, but it is a big problem and persists, continues to persist.

Commissioner Terry Phillippe: So, the encroachments in this case are just from two property owners, correct?

Steve Sherwood: Yes.

Morrie Doll: But, they are big, costly.

Commissioner Terry Phillippe: Right.

Steve Sherwood: And they probably have no idea there is a pipe there, to some extent.

Morrie Doll: I don’t know about that, you go to Blue Lake you can see a pipe, go to the edge and there is visible evidence there is a drainage pipe.

President Bob Johnson: It’s on the edge of their property.

Morrie Doll: Yeah, it doesn’t just come vertically at the center of the Earth, it comes from somewhere.

Commissioner Dan Saylor: Can this Board create a resolution, make a resolution that requires the local real estate organizations to submit a letter with information with drainage and about their property, improvements…

Morrie Doll: It would be really difficult to inforce, what if you have someone who is non-compliant what is our enforcement mechanism for it?

Commissioner Dan Saylor: Well, what I want is that they are notified that they are taking on some liability, its just like the Magnolia Place when they buy a piece of property in there they are assuming some liability for an underground storage system, right?

Morrie Doll: At least in those few lots, yes. We are all charged with imputed knowledge of everything that is in the County Recorder’s Office, dealing with our property, therefore the plat which has the language Steve talked about, about cant build in the right of ways, is a recorded document, so when we all buy our homes that knowledge is imputed to us because it is public record.

Commissioner Dan Saylor: Wouldn’t you say 90% of the people don’t know that?

Morrie Doll: No, I think 98% of the people don’t know that…

Commissioner Dan Saylor: And the other 3% is attorney’s and the engineers probably.

Morrie Doll: Ignorance is bliss, there is a pin out there, that is my property line and I want to go build a fence, I want to put it as close to that property line to maximize my enjoyment.

Steve Sherwood: It’s just like the lady that was in here from River Ridge, or whatever it was on Pollack she wants to maximize her back yard even though half of it is in easements.

Commissioner Terry Phillippe: I am with Dan, bottom line is people don’t know and you want them to have a better way to know.

Commissioner Dan Saylor: That is all I want to do is inform the general public what their..

President Bob Johnson: They need to do their due diligence…

Commissioner Dan Saylor: Liability, because obviously our realtors are not doing it.

Steve Sherwood: You would think the realtor would take a copy of the plat and point all that out, but then…

President Bob Johnson: No, they want to sell the home.

Morrie Doll: They want to sell the home, they don’t want to discourage the purchase.

Commissioner Dan Saylor: I don’t want to discourage the purchase either, but I also think people have a right to know.

President Bob Johnson: As a homeowner I want to know what I am buying, that is why I do my diligence.

Commissioner Dan Saylor: Right, it’s like if your garage door is not operational you have to disclose that, if you have a wiring issue you have to disclose that. To me there should be a disclosure…

Steve Sherwood: Or you hope your house inspection shows that.

**MOTION TO ADJOURN**

Commissioner Dan Saylor: I make a motion to adjourn.

Commissioner Terry Phillippe: Second.

President Bob Johnson: All in favor 3-0