



CITY OF FORT WAYNE
BOARD OF STORMWATER MANAGEMENT
MINUTES • JUNE 18, 2019

Present: Matthew Wirtz, Shan Gunawardena, Mike Avila, Michelle Fulk, Michelle Nelson, Mike Kiester, Ron Sheppard DeWayne Nodine, Jessica Bucher, Brandon Almas, Anne Marie Smrcek, Eric Steinman, Patrick Zaharako, Joshua Hendricks, John Hasch, Kay & Mohammed Advany, Alison Podlaski, Jason Minich, Kyle Chestnut and Wayne Ballentine.

1. Approval of the Stormwater Management Minutes for the week of June 18, 2019.
Shan Gunawardena moved to approve item #1. Motion carried.

PUBLIC HEARING MINUTES

Resolution #106-6-18-19-1, Partial Vacation of the Heidbrink Drain for Drain #08-33-800

**BOARD OF STORMWATER MANAGEMENT
ROOM 035 –COUNCIL CHAMBERS
MEETING HELD AT 12:19 P.M.**

**MATTHEW WIRTZ, CHAIR
SHAN GUNAWARDENA, MEMBER
MIKE AVLIA, MEMBER
MICHELLE FULK-VONDRAN, CLERK**

Matthew Wirtz: Good afternoon, we will call to order the Board of Stormwater Management meeting for June 18, 2019. My name is Matthew Wirtz Chair to the Stormwater Board. To my right is members Shan Gunawardena and Mike Avila and to my left is Clerk to the Board Michelle Fulk. First item is the approval of the Stormwater Management Minutes for the week of February 26, 2019.

Matthew Wirtz: Before we begin I would like to ask that all attendees please sign-in for the Public hearing. We will call to order the Public hearing for resolution #106-6-18-19-1, Partial Vacation of the Heidbrink Drain for Drain #08-33-800 on June 18, 2019.

Anne Marie Smrcek: Afternoon Board, Anne Marie Smrcek with City Utilities. One of the projectors is not working, if you are here to for the public hearing you may need to move to see the presentation. I would like to present a little back ground on the Heidbrink Drain and why we are asking for a partial vacation of the drain. In December 2018 the Board of Stormwater Management acquired jurisdiction of the Heidbrink Drain

from the Allen County Drainage Board. Under Indiana Code the Board has the right to vacate a legal drain if it does not perform the function for which it was designed or has become inadequate to properly drain areas. The expense of reconstruction outweighs benefits of reconstruction; and the vacation will not be detrimental to public welfare. The Heidbrink Drain is located within the Pearson Drain #2 north portion of the watershed. In 1909 Lewis Heidbrink and some of his neighbors got together a petition that this regulated drain be created. At the time the drain was to be 7400 linear foot of tile, it cost about \$1,700.00 to install. It was 6" to 20" tile; there was catch basin and one head wall installed. It rain through the low line areas of the farm fields. There is a distinct low path that runs from the Southeast towards Maplecrest and up towards Trier; we believe that is the path of the original drain. As the area developed we found following aerial photography is that the drain itself disappears from the mapping. The drain where it was located is now under many of the roads out there. There is some evidence within the files that the drain was intended to be vacated. A map shown during the presentation indicated the approximate location of the drain. When we first began looking into this and to potentially vacate this drain the first thing we looked at what existing storm sewers are out there. A map shown indicated the existing public storm sewers within the area. The development files indicated intent to vacate this drain, the county surveyor office has notes as does the developer, however no formal drain vacation was ever petition to the Drainage Board. Both City and County staff have been out in the field and spent extensive time walking through the area looking for evidence of the drain, going through files, public hearing records, trying to find any evidence of the drain existing in its presence state today or to find any vacation requests and have found none. One of the things that come with a legal drain is right of way. In 1909 when the drain was installed there was a right of way or easement that goes with it; from the center of the pipe 75 feet out either direction. The map shown indicated a number of homes and businesses that are within that easement, leading to that a portion of the drain was intended to be vacated. The Heidbrink Drain does not currently have an active maintenance fund, public storm sewers were designed to replace the existing 6" to 8" tile up in the upper end of the drain. By vacating it we remove the potential for future drain assessment. Again we have performed a number of investigations and talked to property owners about this drain. We are looking to coordinate some future projects with Public Works for street and drainage improvement to address some of the flooding complaints that are out in the neighborhood. We sent notice of this hearing out to over 250 people; we received a number of letters, emails and phone calls. While we talk about what the drain vacation means, a lot of our time was spend listening to what the drainage issues are out in the neighborhood and getting those imputed into our 311 system. A number of concerns have been forwarded to 311 and I know that our maintenance crews are looking into investigating those. The partial drain vacation does remove the legal drain right of way of which several homes and businesses are currently located in. This is important because any permeant structure or installment within the easement would require board action and approval prior to anything happening. By vacating this portion we would remove that and remove the Board action that is needed. Again we are seeking to vacate just between Maplecrest and Terminus we are not looking east of

Maplecrest into the Blackhawk addition. Resolutions #106-6-18-19-1, Partial vacation of the Heidbrink Drain, from Maplecrest Rd to its terminus point, I would be happy to answer any questions.

Matthew Wirtz: What did we receive for submittals?

Anne Marie Smrcek: We received two written letters, which we responded to, both wanted clarification of the drain location. We received several emails, primarily with information about flooding complaints which have been forwarded to 311 and assigned tracking numbers that we are following up on and there is also a copy of the call log that I have.

Matthew Wirtz: We would like to open up for public comment. If you would like to speak on this resolution please come up to the microphone. Please introduce yourself, your name, address and share your comments. We do ask that you keep your comments to a 2-3minutes, as a reminder we are only hearing comments.

Kyle Chestnut: Good afternoon Board my name is Kyle Chestnut, I live at 3805 Oakhurst Drive, on the corner of Oakhurst and Trier. It's a very bad spot for the rain water build up over the last few weeks, to the point where cars were dying in front of my home as they drive around the corner. We had to push some of them out of the street to make sure they were okay. I have been in my home for about 5 years now, and I know that my neighbor that is here today has been in the area a lot longer and have been dealing with this quite a while. Some of my questions are; when I bought my parcel of land it was not under flood hazard status at all, I do not have flood water insurance and nor will they cover rain water flooding right. So a big concern for my home specifically, I am sure his is similar. I guess my question is I can understand the need for the vacation of said drain, my question is how do we do that, what does that mean, how do we fix the current flooding problem in the area? I realize there are budget constraints and things we have to. I am well aware, I am a unit record buyer for Meijer and I have a budget I have to work to every year alright so I know how that goes. But what does vacated mean, what does vacation mean and how do we fix the flooding in my area?

Matthew Wirtz: Very good, afterwards as questions come up if it is a board response or we will have our engineer Anne Marie will come back up and respond to those.

Mohammed Advany: I am Mohammed Advany, 3808 Oakhurst Dr and right across from there. We moved in 1992, every year Oakhurst and Trier has floods, we have no clue what is going on. So we also saw right across from us Walden, they do not have any floods, why are we getting the floods and not them? I am sure there is a logical reason for it but I am not here for learning the logic. Our addition became part of the City of Fort Wayne, they doubled up our taxes. Guess what they did not

do anything for our flooding. One year the water got so close that we could see water in the vents in the house, guess what it scared me. So now I am paying \$400.00 every year for flood insurance even though I am not in a flood zone. So instead of talking about vacating and wasting money, my preference is do something about cleaning the drains so the water will not get stuck. This last time was the worse one yet since 1992 and this was just a few days ago. Thank you.

Matthew Wirtz: Thank you.

John Hasch: Good afternoon board, my name is John Hasch, I live at 3815 Darwood Ct, which is just around the corner from the two gentlemen who have previously spoken. The ditch as you have seen on the presentation runs along Trier Rd and then curves north to go through the Oakhurst area. But in actuality the surface water runs immediately through my back yard. Each and every spring time when the rains come I am dealing with surface water problem, which is a runoff from said ditch when waters that are not underground in a tile situation. My neighbors have spoken about the water at the corner where they live and the water that proceeds around the corner ends in my back yard. This year has been especially problematic because of the excess rains. I have been able to mow my grass twice and because of the standing water problem being so severe the grass has grown to levels that would certainly exceed City code and where a person desire to come with a violation notice they certainly would have had cause. I am not proud of that, I am just stating that is a fact that I could not mow because the surface water made the area so wet. The drain is a little different on the surface compared to the way the water actually flows from Trier Rd it flows north directly through the back yards of myself and my neighbors and we have a channel. I am concerned what it means to vacate a drain because if you do nothing to halt or alter the path of all waters that are running down that drain that you are vacating, then I am going to continue to experience the problems which I have just discussed. So I asking the Board does drain vacating mean any kind of dikeage (berm) or other surface addressing of an issue so that water in a vacated area does not continue to flow from one neighbor over in Blackhawk up into my back yard in the Oakhurst addition. The neighbor in Blackhawk apparently doesn't have to deal with the problem the same as I do, but I assure you this year was especially problematic as I was on crutches and having to tend to this as I saw it existing in my own back yard. As it existing each and every year, this year was especially difficult but it does happen every year with the rains that are much more less substantial than what we experienced this year.

Matthew Wirtz: Thank you.

Alison Podlaski: Hello I am Alison Podlaski with Barrett McNagny. I am speaking on behalf our client; she is a property owner of 5928 Trier Rd. This issue first came to our attention when our client was looking at trying to sell off a portion of their property. So we had the survey done that showed this legal drain running the

property including a large gym facility that was located there. Obviously when you are trying to sell off a portion of property having a drain running through creates an encumbrance that creates some issues. At that point we contacted the Allen County surveyor's office to look into this and see was there really a drain here. Looking through all the historical documents we saw that in 1970's when the Walden area was developed there was a separate sewage and sanitary water system put in place and at that point the drain should have been vacated but just never formally done. Looking into it further we also found out that the City had acquired jurisdiction over the drain at that point we brought it to the attention of City Utilities Stormwater department. So working with them to kind of obviously Anne Marie has done a lot of investigation to see what is going on, if this drain is in use, so it really kind of confirmed that there is no evidence on the surface that it is being used. It sounds like there are issues relating to surface and Stormwater in the area which further confirms that this historical drain was supposed to be vacated decades ago isn't actually being used. However as you also saw on the map it does run through not only our client's property and his business creates an encumbrance there but also for the surrounding property owners, which as Anne Marie pointed out requires anytime they would want to construct anything they would need to get approval for this drain that really doesn't have any use or purpose. Also in terms of buying and selling it creates issues as well. So that is kind of what brought it to our attention and for those reasons we feel it is in the best interest of everybody to have this legal drain vacated. One of the questions we kept hearing from the property owners who spoke was what does it mean when it is vacated, and I am sure Anne Marie can speak in more detail on that, but the vacation of this drain isn't going to impact their Stormwater issues. It seems like this drain obviously isn't clearly equipped to deal with anyways. As a point of clarification, so in conclusion we believe this would be in the best interest and would certainly do more good than harm to have it vacated at this point. Thank you very much.

Matthew Wirtz: Thank you. Is there anyone else that would like to present to the Board? It would be appropriate for Anne Marie to come back and speak again and explain drain vacation and what it is your asking the Board to do.

Anne Marie Smrcek: The drain vacation itself is primarily administrative today. There is no plugging or digging up of pipes or things like that. We believe that has already occurred with the development of the area. So this is really just the administrative side of things to remove the legal drain status of this drain. Should we find anything in the future as we go through obviously we will address it at that point. This is to remove the encumbrances of the properties.

Matthew Wirtz: You spoke earlier that the surveyor office long ago removed any maintenance funds off the drain. It's administratively recognized as not functioning.

Anne Marie Smrchek: Correct, basically it's on paper only at this point, the surveyor's office did not have any funds. And again going through the files it appears that was the intention all along to vacate. I don't think it was necessarily uncommon not to formally vacate during the time period that construction and development of the neighborhood was occurring.

Matthew Wirtz: Ok, We had 3 property owners with real Stormwater issues, so with the existing Stormwater utility and some of the owner have lived there a period of time and have had problems for years, do we have a long maintenance history of Stormwater complaints for this area?

Anne Marie Smrchek: We don't. We do have some complaints particularly along Oakhurst drive and within the Oakhurst addition itself. That has been an area we have targeted as we know we want to do future storm improvements there. The specifics of Oakhurst and Trier that intersection we actually have some residents who live in Walden that reported that one to us also. And we are working with folks off of Oakhurst, Darwood and Wilshire courts those are the big areas of back yard flooding that we are looking into and trying to investigate. We have had maintenance out there and will continue to have them out looking at that. We have been meeting with different property owners who have provided us with photos of what is happening out there. And again trying to catch those during rain events to see what the best way to address those, is it putting a storm sewer all the way up the back or is it dropping one over, so we are looking at all of those options.

Matthew Wirtz: To explain, I know there was some interest in how maintenance history would help you identify a problem. You can site the statistic of how many miles of pipe. We have a large system and so we usually aren't aware until we see it or someone calls us.

Anne Marie Smrchek: Right and what I found during the conversations with the folks it that maybe it was called in once or twice years ago. Now with new staff and new systems some of that may not have come through. But also we do track where Public Works is going to, and where are they looking at future projects so those are great opportunities to take a look at neighborhoods also. Complaints really drive our program.

Matthew Wirtz: That is not to somehow push the fault back on the people who were not calling; it is just to explain that is how we usually come to know. Now we have solid information.

Anne Marie Smrchek: We do, we have a lot of information, and I took all the contact info of everyone here today so that we can make sure that they are logged in and follow up appropriately. Again we have identified Oakhurst as an area for a future project. So we will continue to work through that.

Matthew Wirtz: We have a fixed amount of revenue that we can use towards capital projects in the Stormwater utility and that is prioritized by; how far the project is in development and the prioritization after investigation. Anne Marie will be able to follow up and give you a conceptual scope, cost, and when we might be able to move that project forward. Typical project flooding associated with public water, back yard flooding if it is not involving public water is a lower priority, just in terms sometimes that is a private issue. Sounds like this is public related so it would be Stormwater that coming out of public right of ways or flow paths that were originally intended to move Stormwater. Questions from you Board?

Shan Gunawardena: How many properties are located within the footprint of this 150 foot portion of the vacation easement?

Anne Marie Smrcek: I did not count, but I would say a couple dozen homes and businesses are located within that area.

Shan Gunawardena: So if this vacation does not go through what are the impacts of those property owners that are within that footprint? What can and cant they do legally?

Anne Marie Smrcek: Again, placement of any permanent structure, the homes fences would come before the Board for approval moving forward should that stay. Any kind of improvement to the property that requires any permanent structure or improvement would have to come before the Board. For approval it goes through the Stormwater Department for review and a recommendation is made from there to the Board.

Shan Gunawardena: I know one property owner speaker suggest this, and I am not sure if you confirmed this or not, when those subdivision where platted was there intent to vacate this?

Anne Marie Smrcek: There is not a smoking gun so to speak of the intention is to vacate. However when you do look at the design, notes and drawings that are there it really does point to vacating the drain.

Matthew Wirtz: Typically we would not allow a house to be constructed in or any substantial permanent structure without the vacation.

Anne Marie Smrcek: Correct, homes at that time would have required approval of the count drainage board, if the intention hadn't been to vacate.

Shan Gunawardena: So with the way it is the property owner would not be able to sell their property with that easement in place?

Anne Marie Smrcek: They can sell it; the easement will just remain in place.

Matthew Wirtz: Any other questions? Mike?

Mike Avila: No.

Matthew Wirtz: Hearing and seeing no more public comment, we will close the public comment period.

Mohammed Advany: Can I make one more comment?

Matthew Wirtz: If you would like to step forward sure.

Mohammed Advany: Just a real quick comment, like I said I already know what the problem is and we have already fixed it by buying insurance but it's not just us. It's like someone said it's a couple of houses at the corner of Trier. That's not the case, everyone that goes through when this flood, like the last time we had a flood we had this young girl 18 year or 17 year old that we had to allow her to come into our house and she is scared to death that she is going into a strange house. So we see all sorts of people impacted living in the whole addition not just in the corner house. Thank you.

Matthew Wirtz: Yep, we appreciate the passion and the concerns of the Stormwater drainage issue and our need to follow up on that as far as utility staff. I am looking for a motion to close the hearing?

Shan Gunawardena: So moved

Mike Avila: seconded.

Matthew Wirtz: Second. All those in favor?

Shan Gunawardena & Mike Avila: Aye.

Matthew Wirtz: We have discussed the project are there any more questions for Anne Marie or any other questions in general on the process? From what I have heard I think we have some serious Stormwater drainage responses but the vacation administratively itself stands alone. I will look for a motion to move forward with the vacation.

Shan Gunawardena: I make a motion to move forward with the partial vacation of the Heidbrink drain.

Mike Avila: seconded.

Matthew Wirtz: Second. All those in favor?

Shan Gunawardena & Mike Avila: Aye.

Matthew Wirtz: Thank you Anne Marie, and thank you all for coming to the public hearing for resolution #106-6-18-19-1, Partial vacation of the Heidbrink Drain for Drain #08-33-800. We will now move on to the items on the Agenda.

2. Approval of Professional Services Agreement between the City of Fort Wayne and A&Z Engineering for the Stormwater Engineering On-Call. Compensation for services performed shall be a not to exceed price of \$30,000.00.

Discussion by Eric Steinman.

Shan Gunawardena moved to approve item #2. Motion carried.

3. Approval of Professional Services Agreement between the City of Fort Wayne and Jones & Henry Engineers for the Stormwater Engineering On-Call. Compensation for services performed shall be a not-to-exceed price of \$30,000.00.

Discussion by Eric Steinman.

Shan Gunawardena moved to approve item #3. Motion carried.

4. Approval of Professional Services Agreement between the City of Fort Wayne and American Structurepoint for the Stormwater Engineering On-Call. Compensation for services performed shall be a not-to-exceed price of \$30,000.00.

Discussion by Eric Steinman.

Shan Gunawardena moved to approve item #4. Motion carried.

5. Approval of Stormwater Drainage Contract #2018-ST-0273, 6300 Illinois Road, between the City of Fort Wayne and Kelley Auto Real Estate to construct a local stormwater drainage system. This project is privately funded and located inside the City.

Discussion by DeWayne Nodine.

Shan Gunawardena moved to approve item #5. Motion carried.

6. Approval of recommendation from City Utilities Engineering to award Resolution #83605 Plymouth Road Drainage Improvements to Bercot in the amount of \$651,044.00.

Shan Gunawardena moved to approve item #6. Motion carried.

- 7. Approval of Escrow Agreement between the City of Fort Wayne and Geiger Excavating for Resolution #83622, Schoppman Drain Improvements.
Shan Gunawardena moved to approve item #7. Motion carried.

Matthew A. Wirtz, Chair

Shan Gunawardena, Member

Mike Avila, Member

ATTEST: _____
Michelle Fulk-Vondran, Clerk

Date: _____