

# SPECIAL DRAINAGE BOARD MEETING:-NEBO COMMONS

**January 9, 2015**

**President Clarence Hensley called the meeting to order. Roll call held. Present at the meeting were the following:**

Clarence Hensley, President  
Shannon Henry, Member  
William Whitehead, Member  
Phil Taylor, Surveyor  
Cindy Harty, Recording Secretary

**Mr. Hensley** opened the meeting by inviting all to participate in the pledge of allegiance.

## **NEBO COMMONS:**

**Mr. Hensley** stated the issue before the Board today is Nebo Commons and called for Mr. Taylor's input.

**Mr. Taylor** stated a meeting was previously held several weeks ago between the engineers, himself, and Mayor Tyler about Nebo Commons. Mr. Taylor stated they want to tie-in to the Hiatt Ditch and drain their retention pond into that ditch. Mr. Taylor stated that the only problem he has at this time is the flooding issue of the people located at the corner of County Road 500 West and Jackson Street. Mr. Taylor stated they have had some problems in that addition because there are three ponds within 20 or 25 feet of the county ditch at that location. Therefore, Mr. Taylor stated he wants to make sure that the people in that area are not flooded by this retention pond being installed in that area. Mr. Taylor stated they are speaking of Phase I only, and they would have to deal with Phase II when they get to that point. Mr. Taylor stated the engineers are present today, and they are from the firms of Miller and Associates and HWC. Furthermore, Mr. Taylor stated the Surveyor's engineer, Sheldon Dynes from Pritchett's, is also present. Mr. Taylor asked the engineers to speak.

**Mr. Hensley** asked each person to speak his or her name and address.

**Mr. Dick Weigel of HWC Engineering** stated that his firm has been working with the City of Muncie on the Nebo Commons project. Mr. Weigel stated that they have been working on the final plans of the development of the outfall pipe from this basin, the drainage study, and they looked at the overall development for the whole site. Mr. Weigel stated they sized the basin according to the county's ordinance, and went beyond the county's ordinance in that the post 100-year also exceeds what is required by the city ordinance. Mr. Weigel stated that Jason Miller with Miller and Associates would explain it in further detail.

Furthermore, Mr. Weigel stated the requirements and pre-development run-off from that area is about 40 CFS. He stated that this is going from the calculations that Miller had done and the city hired United Consulting to do an independent review of the project, which found the discharge to be less than 5 CFS. Mr. Weigel stated they have brought it to less than what is required by the ordinance. He stated some jurisdictions look at 100-year event down to tenure, but the 100-year is also less than 5 CFS as well. Mr. Weigel stated the overall drainage benefit they would see is a reduction in that peak flow at the discharge point. He stated that Phase II is the other larger development, which is not associated with Nebo Commons. Mr. Weigel stated there is no development there yet, but the work that Nebo Commons is doing is providing a great benefit to that area.

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**Mr. Hensley** stated when this was originally put in; some of the water went east of Nebo, and asked Mr. Weigel if this was true. Mr. Weigel stated that was true and there is a little bit of this that still goes other directions on the perimeter of the property. Mr. Weigel stated I forget the areas (**cannot pick up on recorder**), that goes to the north yet, there is a little bit that goes to the east I believe. Mr. Hensley asked if the water goes to the pond there in that farm field.

**Jason Miller** with Randall Miller & Associates approached and asked Mr. Hensley what his question was. Mr. Hensley stated that some of the water that runs from this project went under the road and wonders if it flows into that pond. Mr. Miller stated that all of the water from American Chevrolet would go to this proposed basin. Mr. Miller stated that there is some water along the road, but it is an INDOT right-of-way that still flows over to the basin, but that is not associated with this development. Mr. Miller stated everything from American Chevrolet and KIA, as well as anything in the approximate 70-acres of Nebo Commons would flow to the proposed pond. Mr. Hensley in looking at their proposed map, stated so any of the water going under the road will go down here. Mr. Miller stated that is correct.

**Mr. Hensley** asked if anyone else would like to speak on this subject. Mr. Taylor introduced Sheldon Dynes of Pritchett's and invited him to speak.

**Sheldon Dynes** approached and stated that he works with Pritchett's Backhoe Service in New Castle, and he is a retired civil engineer. Mr. Dynes stated that Mr. Taylor asked him to review the data that was presented to him, and they worked with everyone to come up with plans. Mr. Dynes stated a copy of those plans have been presented today. Mr. Dynes stated he did review their data that was pertinent to how much discharge was going to flow from this development in accordance with the ordinance that the county has in place. He stated that he and Mr. Taylor asked them to detain control of the discharge for 48-hours and explained that once you have a

storm event; it comes into the pond and would be discharged over a period of 48-hours. Mr. Dynes stated they have accomplished that in the set of plans. Furthermore, Mr. Dynes stated what they are wanting to do is present the Board with a set of plans that has the details in it.

**Mr. Dynes** explained that they would have a detention structure and they have an actual tile to gravity drain, which would go out of the detention structure into the Hiatt Ditch. He stated the inlet that controls the water which is going out of the detention structure is a 10-inch pipe and they did what we call a “flood routing”, which means that as the water runs in and starts to run out of the pipe and so on over time, it will build up into the detention pond to reach a certain elevation. He stated that those elevations were determined by doing the flood routing, and he stated that he looked at the storage curve and other items, and they have plenty of storage in there to do that. Furthermore, Mr. Dynes stated that there is some detail in there like all plans that may or may not apply to exactly what is going on with this project. He stated, therefore, there are some details in there that may or may not apply, but everything that we need is in there. Mr. Dynes suggested that once this detention structure is actually built which does not have a discharge pipe in it yet, but this plans show you how it is to be built by elevation and how the discharge pipe will be put in there, manholes and so forth, and it will be gravity down to Hiatt Ditch. Mr. Dynes stated that what he would suggest to the Board is that the plans would be there official document to approve or disapprove. He recommended that they look at the set of plans, because those will show what is going to happen, and once this is actually installed, Mr. Dynes suggested that the Board and/or Surveyor ask them to present them with an “as built” set of plans then the Board would have them on their record since there will be more development in that area. Mr. Dynes stated this would be an attempt to avoid having to go back and do a whole bunch of work next time they come in with the requests to outlet into the Hiatt Ditch. He stated that they have put those plans together for the Board, for them to review and approve or disapprove, but again suggested that the Board require a set of “as built” plans to file with the Board when the project is completed.

**Mr. Hensley** asked Mr. Dynes, if in his opinion would the project on those plans alleviate any problems in that area. Mr. Dynes stated that it would meet the ordinance in place now as far as detention time. He stated that as far as eliminating any problems in the Hiatt Ditch, he would not go that far. He stated that Mr. Taylor already has some issues in that area and he does not feel it is a big deal necessarily yet, but the more they develop Hiatt Ditch, it might become one. Mr. Dynes stated that is one reason they needed at least 48-hours of detention, which will do a good job of cutting down the peak flows, and that is the purpose. Mr. Dynes stated the only other alternative is to enlarge Hiatt Ditch, and with all the development along that area, it might be a good idea, but it would be expensive. Mr. Dynes stated the easy way is to do the detention now. Mr. Dynes informed the Board that he has worked on projects where they had underground detention below parking lots, and those projects were very expensive, and may kill some projects. Mr. Dynes stated that he thinks it is a good attempt to get ahead of the game, to get a viable project and control the discharge in accordance with the ordinance that he understands the county has. Mr. Dynes stated that would be his recommendation because they have done a good job in putting the plans together. Mr. Hensley stated that is what Mr. Taylor had in mind, was to look ahead to solve any problems. Furthermore, Mr. Dynes stated he has not seen any data as of yet, but he looked at the report on the drainage before the plans were put together. He stated he

does not know if the capacity of the ditch, as it is now, has actually been reviewed, but he did not see anything like that. Mr. Dynes stated as time goes by that may have to be done, because when you have trees growing in the ditch and what we call the “in-value”, which is a coefficient of flow, and the more obstructions you have, the higher that gets and less the capacity. He stated that there is a great need to keep that ditch in good shape to avoid bigger problems. He stated that is all he has unless the Board had some questions. Mr. Hensley thanked Mr. Dynes for his report.

**Mr. Hensley** asked if anyone had any questions.

**Mr. Whitehead** asked how much the detention pond could handle, if it was large enough. Mr. Dynes stated that actually the 100-year (**not picked up by recorder**). Mr. Dynes stated Phase I is what they are dealing with now. Mr. Dynes stated that is what it is designed for.

**Mr. Weigel** approached again and stated that it is the area outlined in yellow on the project map. He stated that is the original Nebo Commons Development, which the basin was sized to serve.

**Mr. Whitehead** asked what the situation on the Hiatt Ditch was, and its ability to handle the water.

**Mr. Taylor** stated that at this point if they do what they say they are going to do, and retains it for 48-hours, he feels it would be fine. Mr. Taylor stated that down the road when they get to Phase II, with the ditch not being very deep or wide, something would have to be done for any further development to hold the added water capacity. He stated that in 2014 the ditch that runs through the Elks had to be dredged, because of the silt running off of the farm ground coming from the acreage that these gentlemen are talking about. Furthermore, Mr. Taylor stated that if we can detain it, he thinks they will be okay for a while, but with Phase II, we are going to have to relook at the ditch. Mr. Taylor stated they could not afford to have the people who live in the addition, The Glen, being flooded. He stated that one house has already flooded, because the developer put the pond too close to the county’s ditch. Mr. Taylor informed the Board that there are a couple of ponds in that area, which are too close to the county’s ditch. Mr. Taylor stated he did not think there was enough room to go in there to deepen or widen the ditch without having to do something with the two ponds that are close to the ditch.

**Mr. Hensley** stated that it seems to him in the future there will be a lot of money spent on the Hiatt Ditch as this development goes on. Mr. Taylor stated that who would have thought way back when that it would ever develop to what it is now. Mr. Taylor stated it is a good situation, but they just have to figure out how to control the water, and stated that there might have to be another larger detention pond put in for Phase II at someone else’s expense. Mr. Taylor stated that they will have to visit the idea of doing something with the Hiatt Ditch, but he did not know at this point when that would be.

**Mr. Whitehead** asked if it is in their best interest to start a proposal to commence work on the Hiatt Ditch. Mr. Taylor stated that if it keeps developing the way it has been, that would be a good idea. Mr. Whitehead stated you always want a good outlet before you put anything in, and

if you don't have a good outlet, you flood everybody else. Mr. Taylor stated that was his main concern because of the problems they have had at Jackson Street and County Road 500. Mr. Whitehead stated that his daddy always said, "You want to be on the high end of the creek, instead of the low end", and he did not have an engineering degree.

**Mr. Taylor** asked if anyone else had further input. Mr. Taylor asked the engineers from HWC and Miller's, if they have been out to look at the Hiatt Ditch at Jackson Street and County Road 500, where it comes and goes into the Elks Club. **(Conversation from the audience, which cannot be picked up by the recorder)**. Mr. Taylor stated that it is not very deep and not very wide, so they have to do whatever it takes to detain that water because they cannot have anyone flooding in that area. Mr. Taylor stated that if they were to have problems, it will start right there at Jackson Street and go into Westbrook Addition, the addition which surrounds the Elks and is south of Jackson Street. Mr. Taylor stated that it could start at the Glen, which would cause problems at the Elks and Westbrook, and we cannot have that. Mr. Taylor stated that was his only concern. Furthermore, Mr. Taylor stated as far as what these guys are doing, he thought the ditch could handle the water if they build it like their plans, which would hold the water down, get it into the ditch slowly, and then flow into White River. He stated, if not, we are going to have big problems.

**Mr. Hensley** asked if anyone else would like to speak and there are no responses. Mr. Hensley asked if the Board should vote. Mr. Hensley entertains a motion on this project. Mr. Whitehead stated that he would move but questioned what he needs to put in the motion, and who would be responsible. Mr. Taylor stated exactly right, someone's feet need to be held to the fire on it because this Board and myself are going to be responsible for this is the flooding happens. Mr. Taylor stated that they need something to where if that happens, then you guys are going to have to be involved in this. Mr. Taylor stated we are only talking about Phase I at this time, but we still need somebody responsible because if we do not, then we will start having lawsuits and that will not be fun.

**Mr. Whitehead** questioned if Phase I is approved whom will be responsible, what name-frame? Mr. Taylor stated that he thinks everyone involved should be, the landowners, the engineers, but not the Surveyor, and stated that he feels this is fair because they have had problems in the past. He stated that would assure us that if there were a problem then everyone in this meeting would take some responsibility to that. Mr. Taylor asked if they had any comment.

**Dick Weigel** stated that he is not sure what Mr. Taylor is thinking of on responsibility if there are existing problems now and the development is going to put discharge in at a lesser rate. Mr. Weigel asked Mr. Taylor if he is referring to responsibility for the basin, the pipe, or if he was talking about the downstream area, because he stated it would be a hard thing to define. Mr. Weigel stated that when the development is built, the discharge would be less than what they are seeing presently. He stated that he is confused because he is not sure where Mr. Taylor is going on the responsibility issue.

**Mr. Taylor** stated that Nick Tokar is an attorney and might be able to answer about the responsibility issue, and Mr. Taylor stated that he would like to cover all bases on this.

**Nick Tokar, with Defur Voran** appeared and stated that he represents the developers, and he would be shocked if the developers would sign up to indemnify anyone for any flooding that happens down the road. Mr. Tokar stated because we have the report reviewed by an independent engineer that says what Dick Weigel said to the Board that the after developed rate of flow would be less into the county ditch. Mr. Tokar stated it is true it can handle it, but I do not think that is the right way to say it, but should be stated as follows: “You are going to be in better shape afterwards”. Furthermore, Mr. Tokar stated that does not mean if Nebo Commons did something illegal or was otherwise legally responsible that they would not be responsible for it, but to volunteer themselves ahead of time to cover people **(cannot pick up)** without having to prove that it was their fault. Furthermore, Mr. Tokar stated he did not think they would lie. Mr. Tokar stated simply all they want is approval to just tie-in and discharge into that ditch, and the question I guess for you is whether you believe the Engineering Reports that say you are going to have less water going in there after they tie-in **(cannot pick up)** according their plans or not. Mr. Tokar stated that if a landowner is affected and they can make a legal case, or if Nebo Commons does something illegal or Nebo Commons damaged them, the lawsuit would be between the landowner and Nebo Commons, which would be a civil matter.

**Mr. Weigel** stated that when the Plat Committee reviewed this subdivision they said they wanted to make sure that . . .

**Mr. Tokar** recommended and suggested a resolution be approved that the Drainage Plan is approved along with the new detention pond, which is an outlet into the regulated drain system, and have this Board grant approval for the new connection to the existing regulated drain.

**Mr. Taylor** asked if this was an order from the Plan Commission. Mr. Miller stated this was one of the requirements of the Plan Commission Plat Committee prior to them obtaining final plat approval from this Board. Mr. Weigel stated that the Plat Committee stated to get the County Drainage Board’s approval if applicable to build the pond and make that connection.

**Mr. Hensley** stated so any future lawsuits would be a civil matter and would not include the Board or it would be homeowner against landowner. Mr. Tokar stated he supposed that in theory a homeowner could say that the Drainage Board was negligent . . .

**Mr. Henry** stated that anybody can sue anyone, and that is what we face today. Mr. Henry stated that if Mr. Taylor feels the drain can handle the water in the way they say they are going to build it then he has no issue with it. Mr. Henry stated that is where he is at on the issue, and questioned Mr. Dynes with Pritchett’s with asking if he agreed that these plans would work. Mr. Dynes stated that in his opinion, it will do what the design requirements are, the ordinances that they have and I guess both parties here, the Drainage Board and the presenters, are trying to comply with that ordinance. Mr. Dynes stated that they might want to go back in time and say “We need to change our ordinance and make it some other **(cannot pick up by recorder)** requirement and that is fine, but at the present time, they are complying with what is on record now. He stated that he feels that both have done due diligent in both cases, if they comply and the Board feels they have complied with the requirement at this time. He stated that the Division



of Water changed criteria all of sudden, and would come back in and say you now **(cannot pick up by recorder)**, we built it 40-years ago, what do you mean, we cannot, topo not there, they do not care they changed the requirements. Therefore, that kind of throws you in a bad situation. All you can do is deal with the present requirements, and I think the Drainage Board would do that, but what is required in these plans, and you will have a record of it for the future, which right now that's a problem a lot of times, there are no records being kept.

**Mr. Henry** stated that he is okay with that and asked Mr. Taylor if there will be an inspector on site, or is he going to monitor the installation of that. Mr. Taylor stated that yes, and he would ask Mr. Dynes to help them on that. Mr. Dynes stated that is the reason he previously stated they need "as built", because they would not put their name on it unless they built it.

**Mr. Henry** stated he agreed with that, but would like a set of eyes there once in a while to make sure that the "as built" is correct in the way it was projected. Mr. Dynes stated that the "as built" would show items such as how the manholes were set, any changes in elevations, etc., and it may not mean that it was wrong, but that is the way it is built. Mr. Dynes stated that is what he would suggest is for them to present a viable set of "as built" plans when the project is completed for the Drainage Board and/or Surveyor's records, so there would no questions about it. Furthermore, Mr. Dynes stated the elevation would show how much storage is in there which is another reason to want the "as built". Mr. Dynes stated that he feels comfortable about this project, but the situation is we are trying to comply with an ordinance which is currently in place, and they are trying to comply also, and he stated he does not know what else the county would do if the ordinance has not be changed.

**Mr. Taylor** stated that after hearing Mr. Dynes' input and Mr. Tokar's input on the question of responsibility, he would recommend the Board go ahead and approve the project as submitted. Furthermore, Mr. Taylor stated that the engineers have done a good job and complied with what has been asked of them, and feels the project will be built as the specs state. Mr. Taylor assured Mr. Henry that he would be out keeping an eye on the project.

**Mr. Hensley** entertained a motion to approve the plans as presented to the Drainage Board. Mr. Whitehead moved and stated that as supervised by Surveyor Taylor. Mr. Henry seconded the motion. **Motion passes 3-0.**

## **ADJOURNMENT:**

The meeting adjourned.

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Clarence Hensley, President

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Shannon Henry, Member

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William Whitehead, Member

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Cindy Harty, Recording Secretary