BOARD OF COMMISSIONERS
OF CLARK COUNTY, INDIANA

AN ORDINANCE DESIGNATING AND AUTHORIZING FUNCTIONS AND DUTIES TO CLARK COUNTY DRAINAGE BOARD

ORDINANCE NO. 13 -2007

WHEREAS, the Board of Commissioners of Clark County ("Board") is the County Executive under I. C. 36-2-2-2 and also functions as the County legislative body under I. C. 36-1-2-9(1);

WHEREAS, a need exists to better identify the scope of designated duties to the Clark County Drainage Board ("Drainage Board") in a manner that serves the best interests of Clark County citizens;

WHEREAS, a further need exists to authorize the Drainage Board to perform duties of inquiry, within the parameters and limitations of law, to evaluate reported "drainage problems" in the County, place them in proper context, and refer them to the appropriate agency (if any) for addressing or curing a situation when it is the responsibility of the County, distinguished from the responsibility of private landowners or other contractors or developers;

NOW, THEREFORE, BE IT ORDAINED by the Board as follows:

1. That each and every recital set forth hereinabove is made a part of this Ordinance;

2. The scope of functions of the Clark County, Indiana Drainage Board ("Drainage Board"), as an agency of County Government created by this Board is hereby designated to include the following additional duties and responsibilities:

(a) To perform inquiries into reports of drainage defects, incidents or drainage problems in the unincorporated County that is not within any remaining two-mile fringe jurisdiction of any city or town in Clark County, Indiana, regardless of when the reported event or problem arose;

(b) To make reasonable businesslike inquiry into situations described within subparagraph (a) above, without limitation by the date upon which the Drainage Board was formally created.

(c) To engage and authorize any professional persons under contract with the Drainage Board (in a contract approved by the Board of Commissioners) to render written reports of inquiries made concerning the subject matter of subparagraph (a) above.

(d) To take official action of referral to any agency that has/had legal supervisory authority over persons, contractors or circumstances in the area where the drainage defect, drainage incident or drainage problem has been reported and has been made the subject of the written report referenced above.

(e) To render all technical and professional assistance, as is reasonable and necessary, to the agency subject to the above referral, that is dedicated to the goal of reasonably and efficiently remediating the situation under inquiry to the extent it is within the legal jurisdiction of Clark County, Indiana government, and its Drainage Board pursuant to this Ordinance.

3. Nothing contained in this Ordinance shall authorize any agent, member or representative of the Drainage Board to perform official government acts, or actions, upon private property owned by private individuals or in relation to private contracts made by private individuals. This Ordinance does not, and cannot, authorize members, agents or retained experts of the Drainage Board to interfere with covenants that run with the land ("CRWL") of any private subdivision, when such CRWL are subject to private enforcement by developers of such subdivisions and/or by the residents thereof;

4. To the extent, after inquiry and after the written report described above issues to the Drainage Board, that such Board identifies the real estate described in the inquiry as within public ways or public right-of-ways in unincorporated Clark County, Indiana, and when another agency is not responsible for oversight of any party or circumstances that may have contributed to the drainage problem, incident, or defect, the Drainage Board is authorized to develop and adopt an efficient action plan for remediation to the extent of its available funding for such purposes.

5. In circumstances when the Drainage Board is in need of funds, or funding, for purposes of this Ordinance, the duly appointed officers of the Drainage Board, after an approval vote of its membership in a public meeting, may file the requisite documentation before the Auditor of Clark County and the Clark County Council to seek appropriations or additional appropriations from the General Fund of the County for expenses connected with performing the functions authorized by this Ordinance;

6. Notwithstanding any other provision or section hereof, the Drainage Board is directed and ordered to deliver a written report of its activities within the scope of this Ordinance, at least on a quarterly basis, to the Board, with the first such report being due and delivered to the offices of the Board of Commissioners on or before December 31, 2007;

7. The Board retains the jurisdiction and authorization to review, amend or revoke any provisions of this Ordinance from time-to-time as this Board deems necessary and appropriate to meet the public interest.

SO ORDAINED THIS 18 DAY OF OCTOBER, 2007.

Members voting Aye:

M. Edward Meyer

Ralph W. Guthrie

Members voting Nay:

(1 COMMR ABSENT)

ATTEST:

Barbara Haas

Auditor of Clark County