

CERTIFIED COPY OF ORDER

STATE OF MISSOURI }
County of Boone } ea.

October Session of the October Adjourned

Term. 20 12

In the County Commission of said county, on the 2nd day of October 20 12

the following, among other proceedings, were had, viz:

Now on this day the County Commission of the County of Boone does hereby **approve** the petition by the Edgewater / Waters Edge Recreational Association to vacate and re-plat lot 99 of Waters Edge Estates Plat IV as shown in Plat Book 14 Page 30 of Boone County Records.

Said vacation is not to take place until the re-plat is approved.

Done this 2nd day of October, 2012.

ATTEST:

Wendy S. Noren cc
Wendy S. Noren
Clerk of the County Commission



Daniel K. Atwill
Presiding Commissioner



Karen M. Miller
District I Commissioner



Skip Elkin
District II Commissioner

72412

To: Members of Edgewater Homeowners Association
Supplement to Annual Minutes

Re: Marty Graham's Presentation at the Annual Homeowners Meeting
June 27, 2012

Comments by Marty Graham and Responses by Dan Hagan

1. Comment: FEMA says floor must be above flood plain
Response: The floors are above the FEMA 100 Year Floor Plain, **See Attached Exhibit A**
2. Comment: Void under spillway caused by erosion, no action taken.
Response: Void under spillway caused by broken water main, **Exhibit B**
Response: No evidence of entry of outside water, joints in spillway still tight, **Exhibit C**
3. Comment: Dam spillway working as designed
Response: Spillway now undersized due to upstream development over past 30 years, **Exhibit D**
Response: Future upstream development will further increase the problem, **Exhibit E**
Response: Undermining of spillway needs to be addressed ASAP, **Exhibit B**
4. Comment: If home slabs built above Flood Plain no problem
Response: Spillway is now undersized and cannot accommodate upstream build-out, **Exhibit E**
Response: Spillway may collapse if not repaired or replaced ASAP, **Exhibit B**
5. Comment: Notch top of Dam two feet
Response: Doesn't address inadequate size of spillway
Response: Doesn't address necessary spillway repair
Response: Emergency spillways are not intended to be used except in emergencies
6. Comment: 3" of rain caused the problem
Response: 2008 and 2009 record rainfall saturated the ground increasing runoff, **Exhibit F**
7. Comment: Dan should pay
Response: I didn't cause the increase in runoff over the past 30 years
Response: I didn't cause the undermining of the spillway

Comments by Dan Hagan

1. The spillway needs to be repaired or replaced ASAP to avoid an untimely collapse of the spillway during a heavy rain or other inopportune time
2. Two options:
 - a. Repair and hope the repair holds, realizing the spillway is undersized
 - b. Replace with a new spillway designed to handle future runoff
3. Potential liability if spillway collapses
 - a. Impairment of downstream developments and personal liability
 - b. Loss of home values if no lake or no functional lake
 - c. Cost of replacing spillway and washout damage at inopportune time more costly
 - d. Fiduciary Responsibility of EW/WE RA Directors to preserve and protect assets of Edgewater/Waters Edge Recreational Association

August 8, 2012

To: Edgewater Homeowners Association
c/o Susan Clark, Diversified Mgt.

From: Marty Graham, member
5871 Waterfront Drive South

RE: misrepresentation of the FIRM

In the recent distribution of the meeting minutes, there were several attachments from Dan Hagan. I will address one of Dan's responses which misrepresents what the FIRM (Flood Insurance Rate Map) shows. In his responses, Dan Hagan states the following:

"The floors are above the FEMA 100 Year Flood Plain", then refers to "Exhibit A".

Exhibit A is a portion of the FIRM for our area. It must be pointed out that the statement above is not from Dan Brush, P.E., it is Dan Hagan's statement.

As I have explained at the meeting, the FIRM is a horizontal (flat map) representation of what is supposed to be a vertical datum (elevation data). Let me explain it this way:

Let's imagine that the basement floors which flooded were not there. Instead, let's pretend that the houses were built at the exact same horizontal locations but were built on slab foundations rather than basements and those slab elevations were at the same elevations as the existing main floors. Now let's picture the same flood event of 2009 which flooded the basements. With no basements, the houses, sitting at the exact same horizontal locations on slab, are sitting up high and dry. No flooding. Unfortunately, that is not what we have.

You see, the FIRM does not indicate the elevation of the basements which are at least eight feet below the main floors. In fact, for our location, the FIRM doesn't even notate a 100 year flood plain elevation. Therefore, no one can look at the FIRM and make any determination about elevations.

There are only two sets of data required to certify that a basement floor is **ABOVE** the 100 year flood plain. None of the data required to make this determination is on the FIRM. The first set of data is the actual basement floor elevations; again, these are never notated on the FIRM. However, I am sure Dan's engineers have this information already.

The second set of data is harder. The 100 year flood plain elevation is not notated on the FIRM for our location because it is an "unstudied Zone A." Basically what that means is that literally, the proper studies to determine the 100 year flood plain elevation for our location have not been completed and approved by FEMA. The FIRM depiction of the flood plain for our location is an approximation at best.

To determine the 100 year flood plain elevation, the proper hydrology studies must be completed by a professional engineer which would route the 100 year storm event through the spillway and dam. The results of this study will determine the elevation of the lake for a 100 year flood event.

Since Dan Hagan has made this claim, I request that Dan simply direct his professional engineer to draft a short letter noting the 100 year flood plain elevation and the elevations of the basement floors proving that the basement floors are ABOVE the 100 year flood plain. This letter would of course need to be signed and sealed by the professional engineer.

Please consider this a written request for information. As you know, the association has five working days to respond.

Thank you,

Marty Graham, member
5871 Waterfront Drive South
Columbia, MO 65202

cc: members
cc: Stan Shawver
cc: Skip Elkin
cc: FEMA
cc: Brush and Associates

FYI


September 9, 2012

To: Edgewater Homeowners Association,
Recreation Association,
c/o Susan Clark, Diversified Mgt.

From: Marty Graham, member

RE: Erosion under spillway/ Negligence

The erosion problem underneath the spillway of the dam has come to a critical point. After sixteen years of negligence, Dan Hagan finally "discovered" the erosion problem due to the house flooding problem. Dan Hagan went so far as to describe the house flooding problem as a "silver lining" at the 2011 meeting because it caused him to finally acknowledge the erosion problem which I had warned him about in the summer of 1996.

As I have previously explained, I discovered an erosion hole on the north side of the spillway during a jog the last week of July, 1996. The hole was approximately 3 feet along the retaining wall and about 2 feet wide. It was deep enough that I could surmise the problem had been created from underneath the spillway and that it was not a surface runoff problem. Coincidentally, I had previously noticed water being forced through the cold joint along with air bubbles coming up through the joint during runoff events. This confirmed to me that there had already been a void created under the concrete. Due to the proximity of the cold joint to the erosion hole, I thought that it was possible that erosion from this action had caused the hole.

The next day I called Dan Hagan to inform him of my concerns regarding an erosion problem underneath the spillway. I advised him that this was a problem which needed to be inspected. **I specifically told Dan Hagan to have it inspected and not simply fill the hole.** A few weeks later I noticed that the hole had been filled. Now I know that no inspections were done to determine the source or extent of the problem.

In 1996 I was not aware that anyone would be so stupid as to build a waterline along the face of an earthen dam. When I found out in 2011 that the cause of the erosion problem was a rupture of a water line, my first reaction was to ask who was stupid enough to do that. The answer; Dan Hagan. Dan Hagan built the water line along his own dam that ruptured and caused serious damage.

I have consulted with City Water and Light regarding this problem. The City inherited our water lines from a now defunct county water district. As the developer, Dan Hagan built the water line without inspection then deeded it over to the old water district. Unfortunately for us, the water district accepted the lines as built. A few years later the City took over the water district service area and ownership of the lines.

City Water and Light engineers have told me that they would not have allowed any water line placed in an earthen dam. City engineers all agreed that this was poor planning and development and should not have been allowed. They described it as a short cut that should not have been

taken. I have also consulted with several professional engineers who work in development and all basically said this was something they would not do and an example of poor planning.

The fact that the water line ruptured where it did is proof that it is stupendously stupid to put a water line across an earthen dam. This is an incredibly, irresponsibly stupid mistake by the developer, Dan Hagan.

All of the pictures that Dan Hagan has presented at our meetings are proof positive that the erosion problem is critical. The pictures are also proof positive that the erosion has been occurring over a long period of time. In 1996 I warned Dan Hagan to have this problem inspected. He did nothing but fill the hole. His inaction for sixteen years is not only an example of pure negligence; it is a dereliction of duty as President of the Recreation Association by Dan Hagan.

Again, the erosion problem could have been determined by a simple inspection by a dam inspector in 1996. Had this been done, the water line rupture would have been found and fixed, and the erosion problem could have been corrected before it came to critical mass. Dan Hagan's inaction after being warned by a City civil engineer is not only negligence, it was dereliction of duty.

By placing a water line along the dam, Dan Hagan actually caused the erosion problem. It is his fault, his liability. Dan Hagan is responsible for his actions and poor planning. Furthermore, he failed to take appropriate action after being warned about the erosion problem which constitutes negligence and dereliction of duty.

Thank you,

A handwritten signature in black ink, appearing to read "Marty Graham". The signature is fluid and cursive, with a large initial "M" and "G".

Marty Graham, member
5871 Waterfront Drive South
Columbia, MO 65202

cc: members

p.s. much more information shall be forthcoming