

**Vanderburgh County
Drainage Board
January 22, 2001**

The Vanderburgh County Drainage Board was called to order at 7:45 p.m.

Approval of Minutes

Commissioner Mourdock: Okay, we will call the January 22, 2001 meeting of the Vanderburgh County Drainage Board to order. If you're not aware, please be advised that the County Commissioners work also as the Drainage Board. The surveyor's office is our technical representative. The first item of business is to approve the meetings of the prior...approve the minutes of the previous meeting. Since I was the only attendee of that, I trust the two of you will take it on faith, and I will move, second and say so ordered to the fact that the minutes of the prior meeting are correct and need to be submitted to the record.

Appointment of Officers

Commissioner Mourdock: The second item on the agenda is the reorganization of the board. Typically, although obviously it doesn't need to be this way, the Vice President of the County Commission has served as the President of the Drainage Board. You knew you wanted to be at this meeting.

Commissioner Fanello: You're all in favor of that, aren't you?

Commissioner Mourdock: Okay, so you've made the motion that Ms. Fanello will be President of the Drainage Board and I will say second and so ordered. Then typically the President of the County Commission is Vice President of the Drainage Board, and I would presume – is there a motion to that effect?

President Fanello: I'll make a motion to that effect.

Commissioner Mourdock: And I will say second and so order. By way of historical reference here, Bill Jeffers generally runs these meetings for us. He did that as chief deputy in the surveyor's office and one of his campaign pledges, which I'm sure he will honor to the utmost, is that he will continue to do that as the county surveyor.

President Fanello: Thank you.

Set Dates & Times for 2001 Meetings

Bill Jeffers: As part of the reorganization, you also need to fix the time and dates for your regular meetings.

Commissioner Mourdock: I'll turn that over to you, Catherine. Historically, we do it on the third or fourth?

Bill Jeffers: Fourth.

Commissioner Mourdock: Fourth Monday immediately following the regular meeting of the Vanderburgh County Commissioners.

President Fanello: Then how did it get on...wait...what is...

Commissioner Mourdock: Pardon?

President Fanello: What are you saying?

Commissioner Mourdock: We need to set the time...oh, okay.

Bill Jeffers: In IC36-9-27- inaudible...you reorganize, which you've just done, and fix the times and dates for regular meetings.

President Fanello: Which will be on the –

Commissioner Mosby: Motion to keep them on the fourth Monday right after the Council meetings...Commissioners' meetings.

Commissioner Mourdock: Okay, formally we will need to do that –

Charlene Timmons: You've already done that.

Commissioner Mourdock: We've already done that?

Charlene Timmons: In a Resolution.

President Fanello: In the Resolution.

Commissioner Mourdock: We did that as a Resolution in the first meeting so you made the motion and I will say second.

President Fanello: So ordered.

Bill Jeffers: Then I suppose you've notified APC with regard to that. Because they take it upon themselves to announce your meetings to the public?

Lake Placid, Section E - Final

Bill Jeffers: Next order of business is final drainage plans. As before, I bring all the plans with me and they are on this table over here in case there is a member of the board or audience who would like to view them. The first one is Lake Placid, Section E which is a two lot residential subdivision. I'm reading now from a prepared script that is attached to your agenda that I handed you. Due to the very simple nature of the project, the surveyor recommends that the board make its approval of the final drainage plan for Lake Placid, Section E effective coincidental with the commissioners approval of the road and street plan for the same project so that when the county engineer recommends approval of those road and street plans and the commissioners approve them, the details shown on the road and street plans will serve as the final drainage plan for Lake Placid, Section E. It's simply an extension of a short section of private road to serve two lots. The additional details required for this recommendation...excuse me, in addition we would ask that a note be included on the recorded plat that prohibits direct discharge from hard surfaces onto adjacent property without returning it to a sheet flow. So that's our recommendation. It only takes a motion and a second for consideration of approval.

Commissioner Mourdock: In ten simple words or less you say that it's a simple plan. Does that mean that it's just (inaudible)?

Bill Jeffers: Very simple. It's the extension of a 50 foot right-of-way in between two lots. One of them is owned by Mark Raben and the one to the south is vacant. He wants to sell it off for someone to build a house on a 3 ½ acre lot. It's going to have a little private extension of a road to serve that second lot.

Commissioner Mourdock: Okay, that being the case I will move then that we accept on final approval effective coincidental with the County Commissioners' approval of the road and street plan, the final drainage plan for Lake Placid, Section E.

Commissioner Mosby: Second.

President Fanello: So ordered.

Wild Cherry Replat of Lots 2, 3, 4

Bill Jeffers: The second final drainage plan is Wild Cherry Subdivision Replat of Lots 2, 3, and 4. This is a three lot residential subdivision located off of – eastward off of West Franklin Road, requiring a replat to establish the true location of the road because it was built outside the right-of-way. Wild Cherry Subdivision was recorded in 1979 with a notice on the plat that the minimum road improvements were not made and the county will not accept the roads and roadway drainage for maintenance. All the lots are now occupied by homes and no additional construction is contemplated; therefore, the surveyor recommends approval of the as-built final drainage plan for Wild Cherry Replat. Solely for the purpose of allowing it to advance to the Area Plan Commission with the understanding that this recommendation does not carry any obligation by the county for maintenance of existing roads or drainage improvements. Mike Wathen generally brings you a recommendation for the erosion plans for these final subdivisions. These first two, the one you've already acted on, and this one are so simple that he didn't require an erosion control plan.

Commissioner Mourdock: Even though they are that simple, I did error with the previous one. I should have looked around the room to see if anyone had any discussion for that. I hope I didn't cut anyone off there with Lake Placid. I will make the same offer at this point with the Wild Cherry Replat. Is there anyone here to talk about that one? Seeing no one, I would move then the approval of the final drainage plan for Wild Cherry Replat of Lots 2, 3, and 4 as recommended by the county surveyor.

Commissioner Mosby: Second.

President Fanello: So ordered.

Castle Creek - Final

Bill Jeffers: Okay, the next item for final drainage plan approval is Castle Creek Subdivision which is a commercial subdivision located at the northeast corner of Schroeder Road and US Highway 41 North, just south of I-64. The developer, Mr.

Mortensen, is here in the audience along with his Consulting Engineer, Mr. Farney. The county surveyor recommends that the final drainage plan for Castle Creek Subdivision with the following provisions:

1. That all construction be in accordance with requirements and conditions of permits if necessary issued by the Indiana Department of Natural Resources for construction in a flood plain.
2. All construction within the subdivision shall be in accordance with the requirements of the Indiana Department of Transportation with regards to discharging stormwater into the state right-of-way.
3. I'm eliminating one condition because it's covered by the next one.
4. All components of the stormwater drainage and detention facilities shall be shown on subsequent street and drainage plans in accordance with requirements of the county engineer. Such plans will become part of the approved drainage plan.

With those three conditions, the county surveyor recommends approval of the final drainage plan for Castle Creek Subdivision. In this case, Mike Wathen called me and asked me to let you know that Castle Creek did submit an erosion control plan on July 11, 2000 and it was approved by his department.

Commissioner Mourdock: Before I make a motion, anyone to speak for or against? Seeing no one, I'll move on final approval the drainage plan for Castle Creek Subdivision.

Commissioner Mosby: Second.

President Fanello: So ordered.

Beverly Alsop Subdivision - Preliminary

Bill Jeffers: Your next item of business is preliminary drainage plans. These are brought to you because Area Plan Commission requires that all subdivisions coming before their normal regular on the first Wednesday of each month have prior Drainage Board approval so that drainage is not a topic of discussion at Area Plan Commission. The first one of these is Beverly Alsop Subdivision. A simple three lot subdivision located east off of Slate Road. Is that east or south?

Unidentified: South.

Bill Jeffers: It's on the south side of Slate Road and is accessed by a proposed 10 foot wide rock lane. The county surveyor recommends preliminary plan for Beverly Alsop Sub with the understanding that the final drainage plan will include all revisions, if there are any, require by the county engineer during his approval of road and street plans.

Commissioner Mourdock: Let me restate it just for Dave and Catherine's frame of reference here and correct me if I'm wrong, Bill. When we get these as preliminary, as Bill said, this cannot go for a zoning change to Area Plan Commission until preliminary approval is given for the drainage plan. Assuming for a minute that it

goes onto Area Plan Commission and it would be approved for a zoning change, it would then come back to this board next month for final drainage. We often use the period between the preliminary drainage plan and the final drainage plan when we have remonstrators here, which we do quit often, opposing both the zonings and the drainage changes. We often use that time to try to encourage them to work with the developer to either modify or enlarge a basin or do whatever it takes. In the last couple of years, and I really commend Bill here because he's really played a key role in brining folks together and working through these details and trying to, if not make everyone completely happy, at least getting a lot of folks to compromise a little bit. That being the general detail, on the Beverly Alsop Subdivision is there anyone here wishing to speak for or against? I can't see anyone behind you, Bill, but I can't see through you either. Seeing no one to comment, I'll move for preliminary approval the Beverly Alsop Subdivision as recommended by the county surveyor.

Commissioner Mosby: Second.

President Fanello: So order.

Cross Pointe, Section 6 - Preliminary

Bill Jeffers: The next preliminary plan is Cross Pointe, Section 6 which is an expansion of the rest of Cross Point northward from the intersection of Cross Pointe Boulevard and Virginia Street. For a point of reference, Cross Pointe has O'Charley's, Outback, All State and a hospital facility. The county surveyor recommends the preliminary drainage plan for Cross Pointe, Section 6 with the understanding that revisions necessary to accomplish this project in accordance with requirements for construction in a floodway, any roadway modifications and any other requirements of local or state statutes and codes be fully addressed in subsequent submittals. I say that because there's a floodway study in progress for Nurrenbern Ditch and because generally when it goes to Area Plan Commission there may be some suggestions from EUTS or APC with regards to interconnecting roadways, etc. I've looked at this plan and I only anticipate some minor modifications being made before it comes back to you as a final plan. We do recommend approval of the preliminary plan.

Commissioner Mourdock: Anyone here to speak to Cross Pointe, Section 6? Seeing none, I'll move that we approve on preliminary the drainage plan submitted for Cross Pointe, Section 6.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: Okay, as a note, I've attached to the back of the text a copy of Area Plan's agenda to show you that each of the subdivisions located in the county have been acted upon tonight and that they can go forward to Area Plan Commission.

Premier Properties

Bill Jeffers: Under other drainage plans, the county's drainage ordinance allows

plans to be brought to you from the floor which were not submitted to the surveyor's office prior to the deadline for plan review. The board may consider these plans at its discretion. One such plan is for Premier Properties proposed project at Burkhardt and Lloyd Expressway which the county surveyor's office received, I believe, Thursday afternoon late. I was not here on Friday and did not see it until this morning. There may be other unreviewed plans to come from the floor, but I don't think so. There are people here in the audience to represent Premier Properties and owner as well as an engineer. I have looked at the plans briefly and I do have some minor concerns about what they propose. The developer and his engineer are here and would ask that they be heard.

Commissioner Mourdock: I have a question, Bill. In having this come before us as you said it did not come in prior to your deadline but would any action we take then are you suggesting that be in a preliminary form?

Bill Jeffers: Yes.

Commissioner Mourdock: So if, in fact, we work through this and a motion we would make would be for preliminary approval?

Bill Jeffers: Yes, sir. This is in the city and the only jurisdiction that this board has over this project is due to the Bonnie View Ditch, a regulated drain in the south boundary of Premier property and Crawford-Brandies, a regulated drain, in the west boundary right along the edge of Burkhardt Road. What the developer will be asking is that you relax the 75 foot right-of-entry down to 25 feet along Bonnie View and down to 15 feet because he intends to pipe Burkhardt...I mean Crawford-Brandies adjacent to Burkhardt. So what he's trying to do is achieve a relaxation of the right-of-entry. It's not our right-of-way. We don't own it; it's not deeded to us. It's simply a right-of-entry we have for the sole purpose of maintaining the ditch. I've had several discussions with them. I agree 100 percent with their proposal with regards to relaxing it to the dimensions that they seek so that they can have full use of their property as possible in accordance with the codes and statutes. I just have some very minor sticking points on a few issues that I'm sure can be resolved, but they are asking to be heard by you at this time. You may take an action independent of the recommendation of the county surveyor in this regard, if I'm not ready to make a recommendation.

Commissioner Mourdock: Okay. Technically, you could recommend it and we could still go against your recommendation, just for the record.

Bill Jeffers: Yes, you could still go counter to that.

Commissioner Mourdock: I want to be clear procedurally that we are doing the right thing here. Phil, I know you're new to the drainage issues or I presume you are, but do we have any obligation for preliminary plans to advertise? If we are going to vote on it in preliminary form, is it required that we have that advertised as part of the agenda prior to this meeting?

Philip Hayes: Well, coming right off the top of my hat, you may not have a requirement for it, but I think as a matter of public policy it would be advisable for you. It's not your intention ever, as I know, for this Drainage Board to hold up anybody's projects, but it's an important area and once again it's been pointed out that our one and only jurisdiction is this...it's an important but relatively narrow question on both of these floodways. Considering even someone as unschooled as

me is aware of the issues and problems with drainage in that area. I see Jim's here. Jim, this is yours no doubt? My recommendation is the conservative approach. You may not have to advertise but as a matter of discretion of policy you could apply that.

Commissioner Mourdock: Okay.

Bill Jeffers: Before we go too much further into this.

Philip Hayes: Bill may know the answer to that question.

Bill Jeffers: I agree with what your counselor said; however, to add to your knowledge, the board—

Commissioner Mourdock: Good politician, Bill.

Bill Jeffers: Brenda told me to campaign everyday for four years and to your wife you should please. The board may reduce the 75 foot requirement to any distance not less than 25 feet from the top of each bank of an open ditch and not less than 15 feet from the center line of a tile drain. So their request conforms to the ability of the board to grant the request. Mr. Offerman, and it would be Phil Offerman, calls me occasionally and asks me what's coming before the board. In this case, he called me some weeks ago and asked me what's coming before the board in January? I told him that this was coming before the board in January. I'm not sure how active the grapevine notification is in that neighborhood, but I assume that some of those that are most active have knowledge that this is being discussed.

Commissioner Mourdock: It is usually pretty active but that comment having been made, I feel even more strongly about Phil's recommendation on the policy side. I don't want to walk into something here, especially you guys first month on this thing, I don't want to see us get started down the road and only have something thrown back at us that we acted improperly. I'm certainly willing to listen to the information and take it in tonight. I don't have a problem with that.

Bill Jeffers: Why don't we just go ahead and listen to what they have to say and then you can go ahead and make your decision based on that.

Jim Morley: Very briefly, at the time we were before you before, we were investigating the possibility of piping the Bonnie View. Since that time, we've determined that if we were to pipe it and then provide, because of the size of the pipe, for an auxiliary surface overflow we would have problems with elevation drainage, if there was anything. The decision was made that the best thing we could do to end the maintenance of the ditch, which is the portion that has plagued Bill's office for a long time, is to line the ditch with concrete. So the existing ditch, in its full size, would be lined in concrete and then Premier Group would accept the maintenance along that area. That will eliminate the need for the county to have that as part of the maintenance rolls on the Bonnie View. Then along Burkhardt Road, Premier is proposing to widen the roadway. There are additional turn lanes on Burkhardt Road. The ditch along Burkhardt would be piped all the way from the south end of the project to the north to enable the widening of the road. All of that is accessible. There are no buildings up against it. The pipe for the most part, except where it crosses the tapers out beyond the pavement. That's what we have as a situation. I think very low maintenance final solution. I'd be happy to answer any questions that you might have.

Commissioner Mourdock: Is it going to upset, disrupt, or otherwise cause serious havoc with your client if we do not take this under preliminary -- accept it preliminary tonight?

Jim Morley: I'll have Brian Cronk answer but I won't speak for Brian.

Brian Cronk: Brian Cronk with Premier Properties, Indianapolis, Indiana. My primary concern is that we have a meeting Thursday to discuss construction for the first phase of the project at the end of February is what we are trying to shoot for. In our first phase are the road improvements, ditch improvements and probably some top soil clearing and maybe commencing on the berm construction. With that in mind, yes, I want preliminary approval if that can happen today. In terms of notification on Bill's end, I don't know when Bill got ours or how it has to be advertised for all that matters, but Morley submitted this last Wednesday. I don't think it crossed Bill's desk until Thursday, but I think we met the requirements of submitting in that time. Whether or not Bill got it on time...I know Bill's got a lot on his plate. I don't think we were at fault for submitting it late. So if that's the advertising because we were late then, yes, I think we should get preliminary approval tonight if you agree with our proposal.

Commissioner Mourdock: Refresh my memory, Bill. For preliminary or finals in a case like this is there any registered letters that go out? Do we need to do that formal notification or have we?

Bill Jeffers: No registered letters are required in the past for an approval of the type that Mr. Cronk is asking you for tonight. He's not asking for an approval of a preliminary plan for a subdivision drainage plan. He's only asking that the plans he has submitted for the relaxation of the right-of-entry be considered. The only body that I know of in the local government that sends out or requires the sending of registered notifications is Area Plan Commission which took it upon themselves to require notification of Drainage Board meetings be added to the notification of Area Plan meetings. I'm not aware of anything in the statute or the local ordinance governing this particular issue of relaxation of the right-of-entry.

Commissioner Mourdock: But even going from preliminary drainage to final drainage on this one, there's nothing to go back to APC is there?

Bill Jeffers: Nothing will go to APC from your body. It will go from the Board of Public Works in the city engineer's office as a subdivision.

Commissioner Mourdock: But it would still come back to us after that is final?

Bill Jeffers: This constitutes a reconstruction of a regulated drain, and the reconstruction of a regulated drain requires notification of every affected property owner by registered or certified mail. When it comes time for the plans--

Commissioner Mourdock: Time out, time out, time out...I'm sorry, I missed that. Go back. What we have here is the reconstruction?

Bill Jeffers: No, what we have here is a very preliminary and sketchy conceptual drawing of how a reconstruction may be aligned if it takes place. If, in fact, you sometime down the road appoint a contract deputy to design this. Whether the contract deputy be Morley & Associates or whether we do it in-house through the county surveyor's office. When this comes to the point of having a set of plans for

a proposed reconstruction, at that time, those plans will be held in the county surveyor's office and every affected property owner, which right now we estimate to be about 40, will be notified by registered mail. They will be given the opportunity to view the plans in advance of any hearing for the reconstruction of this ditch...these ditches. The conceptual drawings are here and the only exception I have with them is the fact that he has shown a pipe 300 feet long underneath pavement that will be maintained by the city. I would rather it be covered by dirt than pavement. Another exception I have to it is I have not yet got, from INDOT or OSHA, a reply as to this side slope of 5 to 1 being safe for a dump truck to travel on with a full load. Very simple questions I still have, but I don't have the answer to them yet. I have several calls in to INDOT and OSHA and I'm waiting for a reply. Other than that, I have no problem with what Mr. Cronk is requesting.

Brian Cronk: I don't know if you have the plan in front of you, but the first 12 feet, is that right, Bill?

Bill Jeffers: Right, is five to one across—

Brian Cronk: When we talked and met a few times, we said we would take on the maintenance of this if we could start our berm from the top of the bank of the ditch. You know, go two to one slope, or one to one, or three to one or whatever. Bill's concern was the maintenance of it. We said that we will take than on and we'll bond that. I think what it came down to was we're not saving that much room, maybe three feet?

Bill Jeffers: In your letter that came to me Thursday, it said that you proposed that the county maintain the integrity of the channel and I'm wondering whether we can get dump trucks in there if anything ever has to be repaired. That's my concern.

Commissioner Mourdock: Just for your information, that type of thing is typically what we see in the interim between preliminary and final. Having a better handle now on what you were saying as far as the easement v. the reconstruction, I still don't necessarily like to act too quickly on things until they are properly notified and such, I do see a difference. I would move with the surveyor's recommendation that for preliminary we grant the request to Premier Properties as requested.

Commissioner Mosby: Second.

President Fanello: So ordered.

Commissioner Mourdock: Then we will see you next month.

Brian Cronk: Yes.

Commissioner Mourdock: Sorry to belabor the fact there, but I just didn't want to get everybody off on the wrong foot here.

Bill Jeffers: Unless there are any other drainage plans to come before the floor, I'll go to item six.

Philip Hayes: With the board's permission there was one...if it's appropriate...informally...this matter of the advertising and APC rule that you were speaking of, Bill. I'm no authority on that but I wasn't aware of that. Is that called to the attention of the Commission tonight?

Bill Jeffers: About Area Plan Commission?

Philip Hayes: Right.

Bill Jeffers: I like to point out frequently, and I've pointed it out three times tonight that Area Plan Commission is an appointed board –

Philip Hayes: –we know that.

Bill Jeffers: – which has decided through its administrative office that they are requiring the developer to notify –

Philip Hayes: – by certified mail.

Bill Jeffers: – by certified mail, adjacent landowners that a Drainage Board meeting will be occurring to hear comments on new subdivision drainage plans.

Philip Hayes: Okay, legally then you weren't asserting that particular rule was not applicable to this proceeding tonight? No confusion about that. I just wanted to verify that.

Bill Jeffers: Absolutely not.

Philip Hayes: Okay, so when I said –

Bill Jeffers: This is preliminary to reconstruction.

Philip Hayes: And we are still going to see your review?

Bill Jeffers: A full blown set of plans that will have to be developed before any reconstruction can take place.

Philip Hayes: And back before this Drainage Board?

Bill Jeffers: Yes, sir. By the way, what they've proposed to do is a vast improvement over what exists. It's just a matter of logistics.

Philip Hayes: I appreciate that. I just wanted to clarify that record on this advertisement because it is confusing about what you're suppose to advertise and what you're not. If I'm confused everybody else it going to be too.

Bill Jeffers: I think I brought it up in reverse order and I apologize for that.

Philip Hayes: We got you. Thank you.

Dan Buck Petition - Cambridge Golf Course

Bill Jeffers: Under general item six. Item 6A is to receive a report from the surveyor regarding Dan Buck's Petition to remove an alleged obstruction. Under IC36-9-27.4, your board received a petition from Mr. Dan Buck on December 18, 2000. He represents Cambridge Golf Course, LLC. He petitions the board to cause a removal of an alleged obstruction in a water course drain in the property owned by Cambridge Golf Course. On January 10, 2001, the surveyor inspected the site and

prepared a report as required by 36-9-27.4. At this time, we submit the report to you and ask you to include it in your permanent record. The same statute further requires the board to set a date for a hearing and all comments from the petitioner, respondent, and other interested parties. The hearing must be not less than 30 days or greater than 90 days past the date of your board's receipt of the petition. Your next meeting on February 26th will be 70 days past your receipt of the petition. There will probably be another hearing scheduled for that night. You may wish not to hear two petition hearings on the same night, that could get lengthy. Monday, March 12, 2001, will be 85 days past your receipt of the Buck Petition. Although it's not the fourth Monday of March, you may wish to assign March 12 as the date for a special meeting to hear only the Buck Petition and no other business. The auditor's office and surveyor have prepared a notification form for your review. That was the first two page handout I gave you just now. If you show approval by your signatures or if you simply take an action of approval under my signature, we will mail these notices to all interested parties immediately via certified mail. This notifies them of a hearing date on March 12, 2001, at or about 7:30 p.m. here. You would have to advertise that one in the paper as well because it would be a special meeting and not one that you called here as the fourth Monday of each month. This will be only to hear from Mr. Buck; the respondent, Mr. Rexing; and any other interested parties.

Commissioner Mourdock: So there are several item here. The first one we need to do is to –

Bill Jeffers: Just receive the report for the record.

Commissioner Mourdock: Move formally to accept the report provided to us by the county surveyor entitled, "On Dan Buck's Petition to Remove an Obstruction," so I move we enter that into the record.

Commissioner Mosby: Second.

President Fanello: So ordered.

Commissioner Mourdock: The second then is to schedule the hearing date of...what did you say Bill?

Bill Jeffers: That was the first thing I handed out. That's your notice that I typed off one that Mr. – oh, I stapled the wrong thing there. This follows exactly the notice form that Mr. Joe Harrison used last year under his signature. He told me that...last year...if I get into a bind this year to go ahead and use that and put it under my signature with your authorization which I assume could be taken in the form of a motion. I talked to him again today, and he faxed me over some more stuff that I happened to staple the wrong one to the back of yours. This is an order to remove.

Commissioner Mourdock: So again, formally, we need to accept the document signed by the county surveyor and accept on that a hearing date of March 12, 2001, on the Vanderburgh County Drainage Board notice of public hearing regarding petition for removal of alleged drainage obstruction for...I'm looking for the petitioner's name.

Bill Jeffers: Dan Buck.

Commissioner Mourdock: Dan Buck, Manager of Sagamore Creek Development.

Bill Jeffers: I think I say at or about 7:00 p.m.

Commissioner Mosby: Second.

President Fanello: So ordered.

Commissioner Mourdock: I move permission to advertise that same hearing.

Commissioner Mosby: Second.

President Fanello: So order.

Bill Jeffers: I'll get with the auditor and prepare another notification to be advertised in the newspaper to cover the rest of that.

Hearing Lillian Robbins Petition

Bill Jeffers: The next item is the very same thing, just about. It is hearing Lillian Robbins Petition on Monday, February 27th or 26th, 2001. I believe Ms. Robbins is in the audience tonight. I think I recognize her. Again, I'm asking using the very same form and this time I did attach the correct form that Mr. Harrison prepared for exactly similar hearing last year. So you can see, I followed almost identically to the letter his form and signed it with my signature notifying...this was a result of an action taken by the board last year. They have already set the date of February 26th. I'm just asking your permission to mail this via certified mail to all the interested parties. I've attached the report that was already submitted and made a part of your record for the new commissioners.

Commissioner Mourdock: And Ms. Robbins or her representative have seen that report, I presume?

Bill Jeffers: I don't know if they have, but I'll be happy to give them one. I was going to mail it as part of the notice.

Commissioner Mourdock: I would move that we do formally advertise through the mailing and other means the meeting of February 26, 2001, for the Lillian R. Robbins Petition.

Commissioner Mosby: Second.

President Fanello: So order.

Bill Jeffers: This one doesn't require a special Drainage Board meeting because that is the fourth Monday of February.

Commissioner Mourdock: Ms. Robbins has been very patient back there. I don't know if –

Unidentified: What time will that meeting take place?

Bill Jeffers: At or about 7:00 p.m. depending on the preceding Commissioners' meeting. I'm sorry, are you Mr. Mayer?

Lillian Robbins: Mayer Hawkins. He's on the other end of the ditch.

Bill Jeffers: Here's a copy also for you Mr. Hawkins. That was Mr. Hawkins who apparently is another interested party although I didn't see him as...would you like to be notified by mail, Mr. Hawkins?

Mr. Hawkins: I got a copy of Dan Buck's.

Commissioner Mourdock: Did you give him the wrong one?

Bill Jeffers: I'm just full of mis-information tonight. If you'd leave your name and address, I'll be happy to notify you by mail as well.

Mr. Hawkins: This will be fine.

Commissioner Mourdock: All three of those folks have been very patient. Are there any comments for the record?

Bill Jeffers: I think it would be better if you brought those pictures to the board for their hearing on the 26th so they can see them. Is that okay with you?

Lillian Robbins: Do you want a copy now?

Bill Jeffers: I'll take a copy, sure. I thought you meant the actual photographs. You bring the originals to the board.

Unidentified: Inaudible.

Commissioner Mourdock: I think there's a part of the Constitution that prevents cruel and unusual punishment that would preclude that but we appreciate the comment.

New Petitions

Bill Jeffers: Seeing no one in the audience, I'll just ask if anyone on the board or representative of the board has received any new petitions or documents for me to make reports on?

Commissioner Mourdock: Not here.

President Fanello: No.

Encroachment Agreements Decem Investments/MWR Investments (Integra) & Bank of Evansville

Bill Jeffers: These are encroachment agreements between the board and property owners. These requests are frequent due to the lot owner's need to extend parking lots especially in commercial development across drainage easements. The form was developed by the board's attorney last year to hold the board harmless to subsequent damages or claims that might arise within the drainage easement after it's been paved across and made into a parking lot, etc. The county surveyor has two of them here tonight. One is from Integra Bank and one is from Bank of

Evansville. Both are on Burkhardt Road; both of them are in Waterford Place Subdivision; both of them face Burkhardt Road; and both of them are due to the banks' need for parking spaces and drive-thru lanes, etc. In both cases, the county surveyor finds the requests to be in proper form and recommends the board enter into those requests. I have the originals that I'll hand to your attorney first so he can look at them, if he wishes. They have signature spaces for the members of the board.

Charlene Timmons: Did they submit their recording fees?

Commissioner Mourdock: Bill, did they submit their recording fees?

Philip Hayes: It's not attached. Did they give you recording fees?

Bill Jeffers: I was unaware that they were suppose to submit recording fees before I bring them to you. What I generally had done before was to have you sign them and then they sit down in the auditor's office and await the representative to come down there and pick up the signed form and take them to the recorder's office to have them recorded. Does the auditor now require—

Charlene Timmons: I thought we had discussed that prior.

Bill Jeffers: Some of them are three pages long and some are five pages long.

Charlene Timmons: But they know that when they submit it to you. The only problem is that they sit down there a long, long time.

Bill Jeffers: That was the problem in my office, they sat there so long that they disappear. That's why we now have them sit in your office.

Charlene Timmons: But if you'd have them submit the money when they do it, then they wouldn't sit there so long. That would be my only suggestion.

Bill Jeffers: Is it a per page deal?

Charlene Timmons: It's nine dollars for the first page, I believe, and two dollars for every page thereafter. The recorder could tell you that for sure. Or you could have them check with the recorder before they bring those to you to just verify it. That way...they do sit there.

Bill Jeffers: These are not accompanied by proof of recording fee. These two are not. I told these people that they were in proper form and I would recommend approval tonight.

Charlene Timmons: Either we need the name of who to contact to get the recording fees which you can supply us tomorrow. I've had one sit there several months.

Bill Jeffers: Right. We still have two or three of them that have sat there six or eight months in our office.

Charlene Timmons: Right, right.

Commissioner Mourdock: So we need a motion to approve then the several petitions—

Bill Jeffers: There's two.

Commissioner Mourdock: The first one then, I'll move approval of the petition to enter into an agreement to encroach with Integra Bank as requested by the county surveyor.

Commissioner Mosby: Second.

President Fanello: So ordered.

Commissioner Mourdock: And second, I would move that we enter into a petition and agreement to encroach with The Bank of Evansville as recommended by the county surveyor.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: I see no others persons wising to address the board.

Other Business

Bill Jeffers: In other business, may I make this brief and just simply enter what I'm showing as page six and page five should say seven. The last two pages of this text here, I'll tear out and would like to just hand it to the secretary of your board and ask that it be included in the permanent record as the surveyor's report on ditches.

Commissioner Mourdock: I'll move that we enter that into the record.

(The following report is copied into the record from a disk furnished by the surveyor.)

Text: January 22, 2001

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IX: Other New Business

Item IX-A: Receive a Report from the Surveyor

The county surveyor update the Board with regard to his regulated drain maintenance and repair priorities by June 1, each calendar year.

At this time the Surveyor will make a preliminary assignment of priority for maintenance and repair of regulated drains in Vanderburgh County as follows:

1. Bonnie View Ditch, Bonnie View Extension and that part of Crawford Brandeis Ditch south of the Lloyd Expressway are in need of reconstruction.

These drains no longer fully perform the function for which they were designed and constructed.

Certain topographic changes and ongoing urban development have made the drains inadequate to properly serve the affected real estate.

Additionally, these drains will serve any future development of the forty (40) acres at the southeast corner of Lloyd Expressway and Burkhardt Road.

The Surveyor declares the need to reconstruct the drains using a combination of pipe structures and paved open waterways. More details of the proposed reconstruction are forthcoming in subsequent reports.

2. Crawford Brandeis Ditch and Hirsch Ditch along the south side of Morgan Avenue between Burkhardt Road and Green River Road are in need of extensive embankment repairs.

The effects of ongoing urban development have caused damage to the side banks. The repairs generally will require excavation and long term erosion control. Again, more details of the proposed repairs are forthcoming.

3. Wabash Erie Canal east of Stockwell Road to Newton Avenue is in need of tree and brush removal and embankment repair.

This portion of the old canal channel serves as the outlet for twelve (12) miles of East Side Urban regulated drain system as well as the outlet for Harper Ditch. Together these drains serve nearly all the land east of Stockwell Road, north of Lincoln Ave., and west of I-164.

Again, more details will come to the Board when plans for repairs are ready to bid.

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4. Pond Flat Main from U. S. 41 North thence downstream to the northwest corner of Vanderburgh County requires improvements including waterway repairs and enlargement of bridge openings.

Pond Flat Main serves approximately one half (½) of Scott Twp. and one half (½) of Armstrong Twp. Most of the land remains agricultural with development concentrated one half (½) mile either side of U. S. 41.

The Surveyor has completed waterway improvements each year but waterway openings at several bridges remain insufficient and obstructive. The Surveyor encourages the Commissioners to investigate their ability to provide new, larger waterway openings especially at obstructive bridges identified by the 1991 Floodway Study.

The Surveyor's Office will make a list of those bridges available to you with subsequent reports.

The county surveyor makes this report and asks it be included in your minutes as a written report to be supplemented prior to June 1, 2001.

X: Consent Items

Item X-A: Ditch Maintenance Claims

Each year the Board enters contracts with various individuals and companies to completed maintenance and repair of about eighty (80) miles of regulated drain in Vanderburgh County.

The contractors submit blue claims as the work is completed.

The county surveyor recommends payment of blue claims submitted at this time on behalf of contractors for the work completed as shown.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: Unless you all have further business, I have none.

Commissioner Mourdock: I have just one request. Next week – you did say next week Cheryl Misgave is going to talk about GIS, is that right?

President Fanello: Um-huh.

Commissioner Mourdock: Might you be available for a part of the County Commission meeting? The GIS discussion is going to come up there and there's probably...

Bill Jeffers: Might I suggest that Linda Freeman...I'll be happy to attend, if you'll allow Linda Freeman to be our representative because she is on that committee and is much more up on what's going on with that.

President Fanello: I use to sit with her on the committee.

Commissioner Mourdock: That's fine. I just think that there's a lot of folks that's involved in that.

Bill Jeffers: I'd be happy to be here but I'd like for Linda Freeman to make comment.

Commissioner Mosby: Motion to adjourn.

Commissioner Mourdock: Second.

President Fanello: So ordered.

Meeting was adjourned at 8:34 p.m.

Those in Attendance:

David Mosby	Catherine Fanello	Richard E. Mourdock
Philip Hayes	Charlene Timmons	John Stoll
Bill Jeffers	Brian Cronk	Jim Morley
Lillian Robbins	Mayer Hawkins	
Others unidentified	Members of the media	

Drainage Board

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded by Charlene Timmons and transcribed by Jane Laib

**Vanderburgh County
Drainage Board
February 26, 2001**

The Vanderburgh County Drainage Board was called to order at 8:45 p.m.

Approval of Minutes

President Fanello: Go ahead and call the Drainage Board meeting to order. Number one, approve minutes of previous meeting.

Commissioner Mourdock: I'll move approval of the minutes as submitted.

Commissioner Mosby: Second.

President Fanello: So order.

Lillian Robbins Petition

President Fanello: Second. Lillian Robbins petition.

Bill Jeffers: After much study, it's been found that "I am" is the shortest sentence in the English language, but that "I am finished" is the most welcome. Unfortunately, it will be awhile before I say either one. Prior to opening this hearing, the county surveyor respectfully asks the petitioner, Mrs. Lillian Robbins, to consider withdrawing her petition and working with the respondents, Mr. and Mrs. Mayer to resolve their differences outside the Drainage Board. The county surveyor asks Mrs. Robbins to withdraw her petition for the following reasons: a) the statutory definition of an obstruction includes a condition that prevents or significantly impedes the flow of water through the drain and b) the surveyor is prepared to state that the material existing in this drain does not prevent or significantly impede the storm water flow c) additionally, the material existing in the drain may have been placed their prior to the enactment of the statute thereby preceding the legal definition of an obstruction d) finally, the surveyor is prepared to estimate the cost to the county for administrative work and potentially for legal efforts required to address the petition may grossly exceed the cost and physical effort actually needed to correct the natural erosion and some minor dirt work irregularities that are causing Mrs. Robbins concerns. In order to encourage Mrs. Robbins withdrawal of her petition, the surveyor respectfully asks the board to offer a refund of Mrs. Robbins \$100 filing fee, if she agrees to use that \$100 towards purchasing some materials to arrest erosion on her land which is partially responsible for the poor drainage of the site of the alleged obstruction. If Mrs. Robbins, who's in the audience tonight, is not inclined at this time to withdraw her petition, the surveyor withdraws these suggestions and asks the board to proceed with the hearing at this time. Would you like a copy of what I just read Mrs. Robbins?

Lillian Robbins: Inaudible.

President Fanello: We need to have you come forward.

Bill Jeffers: While Mrs. Robbins is coming forward to address the board, in the manila envelope is a packet that I just read from and also in there is a report from the surveyor that's required by the statute. The report was made some months ago and there's a copy in there with maps and comments from the surveyor and other information that might assist you. There's also a copy of the statute which enables Mrs. Robbins petition and which caused this hearing. You might want to refer to the

statute from time to time with regard to definitions of an obstruction, a watercourse, etc.

Lillian Robbins: At this point, I would like to point out that the only time that I talked directly with Mr. Jeffers was by phone before I filed the petition. He has not talked to me since. I do not understand where he's going with this. I have pictures made there before. Would you like me to pass the out to you?

Commissioner Mourdock: Sure.

Lillian Robbins: We tried to resolve this in 1991, '92... '92 without a lawyer and that did not work out.

Commissioner Mourdock: The pictures that we're looking at, is your property one side of the fence and...

Lillian Robbins: Yes. You may be able to see it a little better on these pictures. This is my property here. This is where he's (inaudible).

Commissioner Mourdock: And the water is coming this way.

Lillian Robbins: The water is coming off of (inaudible). I don't understand where the erosion Mr. Jeffers is referring to is coming from.

Commissioner Mourdock: He will answer that question momentarily.

Lillian Robbins: Here is Mr. Jeffers original reply. There was no water standing when he was first on the premises looking in November. Do you have any questions on the pictures? The only work that we have preformed around that area is putting in the fence. We did not do the ditching or the rocks which you're observing. This was taken on the 17th. You can see the water...here it is...the fence and here's the water and I think you can see the depth. (Inaudible) Do you have any questions on any of the pictures? This has been gradually added (inaudible) since 1998.

Commissioner Mourdock: Where is this in here?

Lillian Robbins: It would be right in here.

Commissioner Mourdock: And this was taken after this?

Lillian Robbins: Um-huh.

Commissioner Mourdock: So all this material was there and since the leaves or whatever piled up...

Lillian Robbins: This was spring of '98.

Commissioner Mourdock: You need to speak loudly and towards the mike.

Lillian Robbins: That was the spring of '98 and this is 2/6/01.

Commissioner Mourdock: The sum total of your concern?

Lillian Robbins: Is the water backing up on me. That is covered by state law.

Commissioner Mourdock: I understand.

Lillian Robbins: At the time, we thought we had worked it out. I have letters from my lawyer. I do not have the original copies. Do you want to see the copies that he sent to Mr. Mayer?

Commissioner Mourdock: It wouldn't hurt, I guess. Sure.

Bill Jeffers: I'm not in receipt of these letters.

Lillian Robbins: If you'd have asked for them you certainly could have seen them.

Bill Jeffers: Well, they are of no concern to me because they predate the statute by four years.

Lillian Robbins: Well, there was a statute back then, Mr. Jeffers.

Bill Jeffers: Not one that was enforceable through this procedure and through the Drainage Board.

Lillian Robbins: But in the State of Indiana there was.

Commissioner Mourdock: Let me interrupt you. What Bill is saying is without question in 1991 or 1992 or '93 you had the option of having a civil lawsuit and it could have proceeded that way. Since that time, and you chose not to do that, I'm guessing?

Lillian Robbins: Exactly.

Commissioner Mourdock: Since that time, three years ago –

Bill Jeffers: 1996, I believe, this statute was enacted in 1996 that enables this process to take place.

Commissioner Mourdock: It allows the Drainage Board to hear this and am I correct, Bill, if in fact all of this 1993 stuff predated the statute under the way the statute is worded, this process isn't applicable. Is that the reading of the law?

Bill Jeffers: It's my understanding from last year's interpretation by the lawyer who represented the board last year, that the definition of an obstruction came into an existence with the enactment of the statute. That if an action was taken prior to the enactment of the statute, it may not fall under the definition of an obstruction because the definition didn't exist prior to July 1, 1996.

Commissioner Mourdock: If an action was taken prior to, is that what you said?

Bill Jeffers: If an action was taken prior to July 1, 1996, that action might not fall under the definition of "obstruction".

Commissioner Mourdock: Okay, but if no action was taken prior to that date?

Bill Jeffers: If it was taken after that date, the definition would apply.

Lillian Robbins: There is the spring of 1998 and as late as this fall 2000.

Bill Jeffers: Dirt was moved into that area?

Lillian Robbins: Yes, it was.

Bill Jeffers: That's what this board needs to determine...whether the dirt that Mrs. Robbins represents to be an obstruction, in fact, was placed subsequent to July 1, 1996? That's one thing you need to determine.

Philip Hayes: Is the respondent here, Bill?

Bill Jeffers: Yes, sir, he is here also as are other people who were notified. I have all the green cards that show receipt from the respondent, the petitioner, and some neighbors adjacent to their property of the notification of this meeting. Some of those people are here as well.

Commissioner Mourdock: Being a hearing, we need to hear both sides.

Bill Jeffers: On this map Mrs. Robbins' acreage is outlined in pink. She's the petitioner. The Mayer's property is outlined in green. They are the respondent. The blue line indicates a center line of this watercourse that's the subject of this hearing. It flows off on Mrs. Robbins, across another fellow's property here, and then it just barely cuts the corner of her acreage right here.

Commissioner Mourdock: And that's the spot where you say the photos are?

Bill Jeffers: She's showing you photos from this pink line northward basically. Some of them...this fence in the photos is represented by this line with the "X's" in it. This particular shot is taken exactly where that watercourse crosses the fence and that photo as well. This photo is looking in this direction down through Mr. Mayer's property through his trees. This one is standing in Mrs. Robbins' property looking through the fence down through Mr. Mayer's grassy waterway that he created and this one as well. Most of these are taken from Mrs. Robbins' side of the fence looking down from that direction. These conditions that existed back in...I did not see any of this rip rap. This apparently is all gone now.

Commissioner Mourdock: I think she's saying it's covered.

Bill Jeffers: Maybe, but I did not view this material...these rip rap stones. I did not view any rip rap stones or evidence that they exist at this time as late as Thursday of last week...Friday of last week. This is the eroded channel that comes through Mrs. Robbins' acreage and then the transition into the grassy waterway that Mr. Mayer created right at the fence line. Basically, what Mr. Mayer did was to fill in the depression that's shown in this photograph map. There was a large depression on his ground indicated by that oval shape. He brought dirt from some source and deposited it down in this area and attempted to blend the flow line of his newly created grassy waterway...he attempted to blend it into Mrs. Robbins' watercourse which has a naturally eroded channel...just a natural occurrence coming down through a farm field or pasture. When you meet there at the fence line because her channel has been sized by natural erosion and his has been repaired, there's a slight deviation where her depression still remains and his has been filled. I'm estimating that is less than a foot deep. We took some shots with our level and the furthest extent of the water up into her property, which is shown in one of these photographs, that was the depth I viewed it a few days ago...less than a foot deep of water, less than a foot wide and about 15 to 25 feet long. When you get up here,

if this was filled in with a small load of rock, this would blend in at the fence line and would make a natural match with what Mr. Mayer did on his property. However, as long as it remains in this eroded channel, it will hold about eight to ten inches of water after a rainfall. Four or five days after the first rainfall I viewed that was all dried up. After these most recent rainfalls, of course, there's water standing.

Sherman Robbins: I'm Sherman Robbins, Lillian Robbins' husband. I'd like to say, in Mr. Jeffers preliminary report you said that with the spring rains it will wash out. The obstruction has been there since 1992. That ditch or drainage way drains 16 acres. You get two inches of rain over 16 acres and it's not going to stay in the channel. It may eventually wash out. Due to the water backing up, the sides of the drain sunk it and the are continuing to sink. We've tried to work with Mr. Mayer on this for years and he denies putting anything in that waterway. This fall he put at least two to three loads of dirt...truckloads of dirt...in that ditch...going all the way up and covered over the rock and the chat. I don't see any way we can work with him, if he denies doing what he's done. The ditch, at one time, was deep before he started on it in 1992. That ditch was deep enough that the prior owners of that property had a wooden bridge across it. He has greatly improved his place. It was a small house and he built a large house over the top of it. There was a small garage he torn down and built a pole building. One corner of that pole building about three feet off the ground. He's hauled load after load after load of dirt in there to build up that area and then says that he doesn't put anything in the ditch. According to Mr. Jeffers preliminary report they said they hadn't put anything in there since 1995? 1996?

Bill Jeffers: It was reported to me that no additional dirt has been moved in there since 1996. That's what was reported to me and that's what I reported in my report.

Sherman Robbins: I understand that but like the minister here before with people released from the jail, if you only listen to the defense lawyer, you wouldn't need the jail. That's what's happened to this case; I wish you'd have talked to us first. You need to get both sides. We're the petitioners and I think we should have been heard before this meeting.

Philip Hayes: Sir, he only takes a report. That's what he's saying.

Sherman Robbins: I realize that.

Philip Hayes: He's just a reporter of what was said and not to the accuracy of it.

Sherman Robbins: But he only reported one side.

Philip Hayes: That's the purpose of your report here so that all of that is done. He's acting on the basis of petition and he's not meant to fill the record in other than to report that response, I believe, that's appropriate. You continue to make your record. I just wanted to be sure that you understood that.

Sherman Robbins: I just want to say that we've tried to work with the man and back in 1992 we had Darryl Rice and the Soil Conservation people come out. He suggested that we make some extensive grading on our side of the fence. He said that we could even get a backhoe in or bulldozer in to do it. I didn't feel that since the problem really wasn't mine that I should have to spend this kind of money to create it to look like Mr. Mayer's. Then we also run cattle and sheep and in wet weather, this kind of weather in spring, it really makes a mess down there. As far

as erosion, there's essentially no erosion on our property. Mr. Jeffers has gone up about 300 feet and (inaudible) grade stabilization structure in that ditch on our property up where it corners. We put another one on the other side of the hill...we put another on over there. We put some in the back that don't apply to Mr. Mayer. We've had a lot of conservation workers in and as a matter of fact we had a (inaudible) here at one time and I sort of resent that someone would say that our property is eroding down in that ditch. That's all I have to say.

Commissioner Mourdock: Mr. Robbins, this photo shows some water in it. If you have an excessive rain and it's during the wet season, how much water backs up on your property?

Sherman Robbins: I've seen water backed up, when the ditch stopped up back down at the road, I've seen water backed up to our fence.

Commissioner Mourdock: That doesn't tell me anything. From your fence, you've seen the water backed up to your fence –

Sherman Robbins: – to our fence.

Commissioner Mourdock: – okay but stop, wait a minute...let me get it a piece at a time. When the water is backed up on the fence, that's backed up to your fence, the water is standing on their side of the fence?

Sherman Robbins: That was some time ago.

Commissioner Mourdock: When that water backs up you're saying it's on your neighbor's property. How much does it back up onto your property and how long does it stay there or does it?

Sherman Robbins: At that time I don't know. This particular rain there's a lot of trash that washed down there and water had been like 18 inches up on the fence. As a matter of fact, as it shows in those pictures, there was a tire (wheel) from a one ton truck that washed down from another neighbor. So there's enough water coming down there that there's a great deal of water coming down there.

Commissioner Mourdock: But you're talking about water that's flowing through your property –

Sherman Robbins: – through mine, yes.

Commissioner Mourdock: Excuse me, the tire you're talking about came from above your property and came down to your property?

Sherman Robbins: It came down because of the flow. As far as water will flow and stand in that ditch almost year around. Mr. Jeffers came out and we had a dry fall and the ditch was dry. That's when Mr. Mayer did some of his grading work and he put dirt in that and (inaudible) on the other side of the fence to cover up those rocks. Water runs through that, I don't think I'll call it a ditch - it's a waterway, essentially almost all year. That was the reason we put the grade stabilization structure about 300 feet on up the ditch. With Mr. Rice's recommendation that we go in and grade that out and spread it out...he told us to be careful and not back up water on our

neighbor if we did this. After the hard rains how far did it back up?

Commissioner Mourdock: Right, from the fence going backwards.

Sherman Robbins: Oh, about 20 something...it's hard to say. It stands about 23 feet back from the fence right now if it's barely going through the ditch. With the hard rains it's going to come through the ditch and it's going to spread out quite a few feet.

Commissioner Mourdock: Okay, so on this map, which is 1 inch to 200 feet, you're saying that the water would back up to one tenth of an inch?

Bill Jeffers: I have a more detailed map that shows that area...25 feet maximum, 8 inches deep at the fence tapering off 25 feet back. Here's the area blown up. It's about a 25 foot area. I agree with Mr. Robbins that that's the area.

Commissioner Mourdock: And that would be in this area right here?

Bill Jeffers: The very corner of his property from the fence line north.

Commissioner Mourdock: Okay, that's what I was asking a moment ago.

Bill Jeffers: I was out there when it was raining the other day and it was 23 to 26 feet more or less. Approximately eight to ten inches deep and approximately one foot wide. That's on an 80 acre parcel.

President Fanello: Is Mr. Mayer here?

Sherman Robbins: That's what I'm saying, a ditch that small or waterway that small, will not carry water from 16 acres. Mr. Morley measured that area through topographical maps and it's about 16 acres, so a two inch rain over 16 acres is a lot of rain. Let me ask another question. Did you notice if the water running through ours was it muddy?

Bill Jeffers: No. It was nice clear water.

Sherman Robbins: That's right, there's no erosion problem.

Bill Jeffers: The only erosion problem that I'm pointing to is that approximately eight to ten inches deep that runs through the corner of your ground there's just a slightly eroded...very minor erosion about this deep...the very center of the waterway is slightly eroded.

Sherman Robbins: Inaudible.

Bill Jeffers: The water that backs up on Mr. Mayer's property during heavy rain is a result of an undersized pipe under the road in front of his house. The water is waiting to get under St. Joe Road and that's why it was backed up through Mr. Mayer's property. That's not a function of anything whatsoever to do with this hearing.

Sherman Robbins: I'd like to point that out that in 30 some years that we've lived there, it's only happened one time and it may never happen again.

President Fanello: Would Mr. Mayer like to come forward and tell his side of the story?

Mr. Mayer: You want to ask me questions or what?

President Fanello: I guess, if you just want to go ahead and give us your –

Mr. Mayer: Well, like you said, I guess, I didn't know there was that much ground flowing onto my ground. If there is 16 acres flowing onto my ground from his fence line and my fence line to the end of my property there's probably, if I had to guess would be about a four foot fall. That's how much fall is in my ditch...in the ditch that I own, I guess. If I can take 16 acres of water and flood it back on him, I'm doing something. As far as obstructions in that ditch, I don't think I've ever put any in there. I've added dirt to that place almost every year since I've been living out there. As far as obstructing or causing water to back up on his property, I don't think I am, but that's what the erosion people had told me. I got pictures like he does that show the opposite direction. They're like his, they really don't show anything worth a hoot as far as seeing what kind of ditch he's got. It might look different if you see it on my side of the fence looking on his. I can show you them.

Commissioner Mourdock: Mr. Mayer would you state your name and address for the record, I'm sorry.

Mr. Mayer: My name is Ronald A. Mayer, 7217 West St. Joe Road.

Commissioner Mourdock: And you said a moment ago that the erosion people, that's the phrase you used, told you that in fact your water is backing up on them.

Mr. Mayer: No, the erosion people are saying that the thing I'm doing to the ditch is fine. I cannot back water up on him whatsoever...never have. The time he used his lawyer...or Mrs. Robbins used her lawyer, he came to me after the fact and sent me letters and this and that. I told him that I know you're not a water person but if you came out to my house and walked on my property you could resolve this problem. He did and he said how could you back water 20 foot up a pasture ground, I'll never know how you could do it. As far as, I didn't know the laws changed in '96 that you couldn't put dirt in a ditch to keep it from erosion. Even some of the stuff that I put in there now is starting to erode from the water. Like he said, I got 16 acres of ground, three different neighbors that feed me, what am I doing? I'm just trying to keep the yard from making a tremendous ditch...you know. I don't know if I'm doing something wrong. I guess I'll let Bill Jeffers tell me I'm doing something wrong, but I'll show you the pictures I have. That's my side of the fence looking at their ditch. This is the only thing I can see that they are calling an obstruction is that dirt. I think that's the ditch also. Here's what my grassway looks like now after I added the dirt on my property, way down from the fence line and graded it out. I planted new grass this fall. (Inaudible. He walked away from the mike.)

Philip Hayes: Mr. Mayer, if I might ask, have you...on an annual basis you've added the dirt and done the contouring and planted vegetation in an effort to stop the erosion on your property and it basically just keeps on keeping on, right? It keeps on washing that material out and coming on through?

Mr. Mayer: Right, it doesn't force it all out. Like right now I got it cut about and inch or two inches deep. The erosion people say that as long as you keep grass growing there and do like that. I've slowed it down since I've been out there. Like Mr. Robbins said, one time I can remember since I've been down there the culvert got

clogged up with trash, tree limbs and stuff like that. The three foot culvert going across St. Joe Road that clogged up and sure it flooded back to the fence...almost to the fence. By the time I got out there after the rain and cleaned the drain, it went "whish" it was gone. That little puddle that he's saying is 20 foot long and one foot wide and eight inches deep...it holds water maybe probably a day after a hard rain and then it just gradually seeps right on out. Bill Jeffers is the one that contacted me on this and he said that he'd let me know what I had to do. He said if I wanted to come to this hearing, I could but didn't have to be here. I thought I'd be here to see what they had to say. Are you done with the pictures? Can I sit down then?

President Fanello: If you're finished. Anything else?

Commissioner Mourdock: Bill, do you want to restate the options here?

Fred Hawkins: I'm Fred Hawkins. I live at 7125 West St. Joseph Road. I' actually the neighbor to the east of Mr. Mayer. The only real problem I have with this is on the petition made by Mrs. Robbins on page three the second paragraph says that during the same telephone conversation with Ronald Mayer informed Mr. Jeffers work was initiated prior to '96 and no additional dirt has been added to the water way since the initiation of the work. Being a neighbor, I did see three dump trucks full of dirt go into that area. I'm not saying it all went in the waterway. I'm intelligent enough to know that he scattered it out and spread it out. How much of it went to the property line that is in question, I do not know, but some dirt was brought in contrary to this statement.

Commissioner Mourdock: The approximate date was?

Fred Hawkins: July of 2000. That's about all I've got.

Philip Hayes: If you are quoting from the report, if I may ask...Bill, on page three I was reading that and he stated that he receipted and used the same dirt fill as was placed in the waterway prior to July 28 of '96. Is the same dirt fill being what was left there or shipped in?

Bill Jeffers: When I talked to Mr. Mayer, he informed me that he had brought dirt into his property over a period of time preceding 1996 and that this summer he moved some of that dirt around to repair some minor erosion and re-seeded the area including that area immediately adjacent to the fence which I confirmed. When I went out and looked at it the grass was recently sprouted up to the fence line. So assuming that he was telling me the truth, I report to you and continue to report to you that he said he moved some dirt around including up to the fence line and re-seeded it to repair erosion. I did say and continue to say that what happened in the past will happen again. The more it rains, the more that will seek it's own level. At this time, I say it's an insignificant amount of dirt that has caused the concern and that it will re-erode and either...they have an option which is why I asked them to withdraw the petition. They can go fill in the low places on Mrs. Robbins' ground and cause it to blend that way or they can scrape out the four or five offending inches on Mr. Mayer's property and it will seek it's own level. When reading the definition of an obstruction, I read a condition that exists within or near a drain and prevents or significantly impedes the flow of water through the drain. It's my report to you that this does not prevent the flow of storm water through this drain and it does not significantly impede the flow of storm water through the drain. The extent of its impediment, if any, is approximately four inches higher or lower than what it would be naturally. In other words, it would take about four or five inches of fill on the

Robbins side to match at the property line or it would take four or five inches of shaving it off on the Mayer side to make it match. I don't consider that to be significant. While I'm not a selfish person in this regard, I think the county has more important things to do than to worry about four or five inches of dirt in a proven erodible waterway. This is what the county pays the Soil Conservation Service to address. Soil Conservation Service has been out there on several occasions, none of which have been followed.

Commissioner Mourdock: Made recommendations to which party?

Bill Jeffers: Both parties.

Commissioner Mourdock: And they've been followed by neither party?

Bill Jeffers: Had been out there recently enough to see some of what Mr. Mayer has done and as recently as this afternoon on the telephone said they didn't find it significant enough to come down here and report to you today. The other option would be to put an under drain in there and take the low flow out and the unrepaired portion of the Robbins property.

Sherman Robbins: I'll agree with Mr. Jeffers that this is a small problem and it can be corrected with very little effort, but it's not my problem; I didn't cause the problem. If Mr. Mayer wants to grade out that would be fine with me. That's all we want. In the petition we want it lowered so that water will drain from our property. This was a suggestion that Mr. Rice made. It wasn't a recommendation, it was a suggestion he made.

Bill Jeffers: The repair on your side of the fence was his suggestion.

Sherman Robbins: Okay, but why should I spend money to correct a problem caused by someone else? As far as it's a small problem, I'm a taxpayer and my small problems are as important to me as a large problem to large companies. I talked to a fellow about putting obstructions in the ditch and he says that he did not do it and it makes me all the more eager to get something done about it. When it's obvious that pieces of rock and stuff were put in that ditch by someone other than me. Like I said before, I think this can be resolved by Mr. Mayer moving four inches of dirt out of his ditch and let the water drain from my property. That's all we ask in our petition. That would be easier for him to do than it would be to haul dirt in there..much less effort.

President Fanello: Okay, anything else to add?

Philip Hayes: Do you wish to take it under advisement?

Bill Jeffers: Having heard all sides apparently...and you guys being new to this...on the second page of the handout I gave you, the determination by the Drainage Board...if the Drainage Board finds that an alleged obstruction exists and the removal of the obstruction will promote better drainage of the petitioners land and not cause unreasonable damage to the land of the respondent, the board shall find for the petitioner. Okay, now I do not deny that there is a quantity of dirt. If you find that quantity of dirt to be an obstruction as alleged by the petitioner, and you find that the removal of that quantity of dirt will promote better drainage as shown on the pictures brought to you by both parties, and not cause unreasonable damage to the land of Mr. Mayer, then you have to find on behalf of the petitioner and order Mr.

Mayer to shave off that ground and remove it in such a way as to promote better drainage. If you find that...if you are unable to determine that this obstruction exists from your interpretation of the definition of obstruction and you are unable to determine whether the removal will promote better drainage from looking at the evidence that you have in front of you without causing unreasonable damage to the respondent's land then you must deny the petition. The only damage, I would say, will be caused to Mr. Mayer's land is if you order him to remove this alleged obstruction, you will also be ordering him to remove growth of grass that he has struggled to establish and you'll be doing it at a time which now, with the warm weather coming on, he may be able to address that with the erosion control fabrics. So the unreasonable cost to him might be the loss of what he's already established: his grass growth plus the purchase and application of erosion control fabrics which let's say, in my estimation, is going to be in the neighborhood of \$100 to \$250 dollars. That's what it will cost Mr. Mayer. The decision basically, unless you have anything else to ask the surveyor, the decision is yours.

Philip Hayes: You can take it under advisement if you want to.

Rob Grasso: My name is Rob Grasso. I live at 7315 West St. Joe Road. I live just to the west of Ron, next door. I don't have any recollection of when dirt was brought in because I've lived there for eight or nine years not. When we got the notice in the mail that they were going to have a hearing on this, my wife and I went down there to take a look at the complaint, the area, and it was right after a rain so there was plenty of water out there. It was also after the snow had melted. The ditch that runs right along the side of his yard is carrying water out. I don't know what an obstruction is classified to be, but you can see the flow of water going down the side of his yard. The little part that they are talking about in the corner of that land is at the bottom of a hill which is I don't know how many feet higher. If he was backing water up on to their property and flooding them from where he sits, he would have to build a damn and basically build a lake because he is so much lower than they are. I don't see how it could possibly be flooding up in their back area. I just wanted to state that because we went out to see what exactly the complaint was.

Bill Jeffers: In fact, I do agree that it backs water up about 25 feet horizontally to a depth of not greater than ten inches. (Inaudible)

Conversation away from the mike.

Commissioner Mosby: Is this new information?

Lillian Robbins: Yes. I'm sorry to take so long.

Commissioner Mosby: No, I'm just asking for new information.

Lillian Robbins: Okay. The water he sees coming down there...he's talking about the hill coming down at a high depth. The water that comes through that ditch comes from a drop box on our property through Mr. Grasso's land. It comes down through there. That is not that much higher depth. It's a gradual depth. He use to have a much, much deeper ditch (inaudible) before I put that drop box in there. The drop box was put in there in 1974, but what I'm saying is (Tape Flipped) coming down off that hill; it's coming through that ditch. I know it's a small thing, but I don't really feel that we should be out more money for something that we did not create.

Mr. Mayer: She just said about a drop off that she put on his property. Why don't

she put a drop off on her property right before she gets to mine? She won't do that. They won't talk to me. She wouldn't even let her husband talk to me for almost 12 years until three months ago guys. I mean, it's like family feud. I'll do whatever the surveyor's office tells me to do after your verdict.

Sherman Robbins: The last drop box we put in cost about \$1,400 and I did a lot of the labor.

Commissioner Mosby: Any other new information? Seeing no new information I make a motion to deny the petition.

Commissioner Mourdock: I will second.

President Fanello: So order.

Meyer Acres - Final

Bill Jeffers: Subject three - final drainage plans. Copies of all three drainage plans are on the table over here in case there's a reason to view them. The county surveyor recommends that the Drainage Board pass each of the three drainage plans with the condition they become effective upon approval by the county commissioners of the street and drainage plans for the same projects as recommended by the county engineer. Tonight you did approve Meyer Acres so take that one first. The county surveyor recommends approval of the final drainage plan for Meyer Acres which already had its street and drainage plan approved tonight.

Commissioner Mourdock: Is there anyone here to speak to the issue? Seeing none, I'll move approval as recommended.

Commissioner Mosby: Second.

President Fanello: So ordered. Sorry. I'm about ready to fall to sleep.

Clear Creek Village Section 5 - Final

Bill Jeffers: Clear Creek Section 5 is an expansion of Clear Creek Subdivision from four northward. The representatives are here in the audience, if you have any questions. Again, I have reviewed the plans for Clear Creek Section 5 and the surveyor recommends approval of those final drainage plans.

Commissioner Mourdock: And seeing no one rushing to the microphone, I'll will again say so moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

Cross Pointe Section 6A - Final

Bill Jeffers: Same comments with regard to Cross Pointe Section 6A.

Commissioner Mourdock: Move approval on final hearing.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: I don't believe there are any other drainage plans to come before the board tonight from the audience.

Commissioner Mourdock: Bless you, my son.

President Fanello: Yes.

Receive Surveyor's Annual Report of Regulated Drains

Bill Jeffers: You need to receive, which I have in your packet, the surveyor's annual report on regulated drains. It's required by state statute to be submitted to you before June 1 of each year. I'm asking you to receive it at this time and enter it into the record of your meeting. You can do that now if you wish.

Commissioner Mourdock: Do we need to report back to you with this or just accept it?

Bill Jeffers: This is just a report that the county surveyor must submit each year by June 1st to tell you what the condition is in each of your 30 drains at this time.

Commissioner Mourdock: I'll move approval then of the surveyor's annual report of regulated drains for the year 2001.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bonnie View Ditch & Extension and Crawford Brandeis Ditch

Bill Jeffers: In the interest of brevity...

Commissioner Mourdock: And he is very interested.

President Fanello: We are all interested.

Bill Jeffers: I'll call attention to page nine of this report...Crawford Brandeis Ditch south of Lloyd Expressway alongside Burkhardt Road and Bonnie View Ditch along the south boundary of the Premier Property and Bonnie View Extension which is 600 and something foot extension south therefrom. All three are in need of reconstruction. These three drains no longer perform the function for which they were designed and constructed. In addition, certain changes have made these drains inadequate to properly drain the land which Premier plans to develop into

almost totally paved shopping center making major changes necessary that will be a public utility per 36-9-27-34b. Vanderburgh County Surveyor hereby requests that the board find it necessary to advance the work of this reconstruction to a degree in consistent with the county surveyor and to declare an emergency and authorize the employment of a firm of engineers as the contract deputy to perform the necessary work as the board is enabled to do by 36-9-27-32a. What I'm saying there is that we have a situation where a development corporation wants to move ahead quickly. Our office does not have time to prepare the plans and the other requirements of the statute within the same time frame as this development corporation finds it necessary to advance the plans. Your board can receive the plans that Morley & Associates has developed for this reconstruction and you can declare an emergency because our office cannot proceed as quickly as the demand calls for and you can authorize a contract deputy. At this time we suggest that be Morley & Associates who designed the plan for Premier. You can instruct that contract deputy to carry out all the statutory requirements otherwise required of the county surveyor for such a reconstruction. All this is enabled by the state statute that I quoted.

Commissioner Mourdock: The last sentence on that page that Premier development is willing to participate in the cost of planning...what does that mean? Does that mean pay for or are we paying something in addition?

Bill Jeffers: Let me get a little more current text here. I was reading from the one I gave you Friday. Okay. It's the county surveyor's understanding that Premier has volunteered to pay all the cost associated with the design and construction of Crawford Brandeis and Bonnie View Ditch. They also, tonight, volunteered to donate plans for Bonnie View Extension. However, since that does not form one of their boundaries for this, we would absorb the cost of Bonnie View Extension, approximately 650 feet. However, they are going to give us, as a gift, a set of plans that's worth about \$3,000 to bid out. There plans are for Bonnie View Ditch which is about 1350 feet long and Crawford Brandeis Ditch which is about the same distance along Burkhardt Road and they will absorb all the cost with regard to design and construction as well as the administrative cost associated with conducting a reconstruction...publishing the notice, notifying the adjacent landowners, holding the hearing, displaying the plans, etc...inspection, etc.

Commissioner Mourdock: For that section that is not on their property, I think you said it was 650 feet?

Bill Jeffers: Yes, sir, approximately.

Commissioner Mourdock: They are going to do the design work –

Bill Jeffers: They told me tonight that they have done the design work and will donate that set of plans for us to bid out, if we want to do ours in conjunction with theirs.

Commissioner Mourdock: – but we would be paying for that section for the actual work?

Bill Jeffers: We will be paying for the concrete liner in that section which I agree we should.

Commissioner Mourdock: Okay.

Bill Jeffers: I have a plan to fund that.

Commissioner Mourdock: But they are going to design and pay for all the other work that –

Bill Jeffers: – all the other work that forms a boundary with their development project.

Commissioner Mourdock: The only other question is a legal one and that is just to go on record to make sure that we can declare an emergency? I have the sense that the developer wants to rush in and get that done and I understand that but does that meet statutory requirements to act on this on an emergency basis?

Philip Hayes: For the record, my opinion is that it does because of the stage, as I understand it, the construction project is in. In other words, it would be deemed critical to the advancement of the construction plan in order...here's the citation, didn't mean to interrupt. Under IC36-9-27-32 and under sub-paragraph A, whenever the board finds it is necessary to advance the work of construction or of reconstruction as determined from the long range plan which is previously established under section 36, and it's to a degree inconsistent with the present workload of the county surveyor, then we can declare an emergency and authorize that employment. I think it's a looser concept of emergency. It's more that the emergency arises if the flow of construction is going to be stopped to the point where it cannot be properly, in an engineering sense, advanced. Is that correct? Is that your understanding?

Bill Jeffers: At this time, the nature of the emergency is that the existing ditch, especially Bonnie View, was constructed by the county surveyor in 1982 as an agricultural drain and if the project known as Premier Development proceeds on their work schedule, they will create a shopping center that our drain cannot handle. So it's a critical situation that they do this reconstruction. They're willing to pay for it; we can't afford to do the entire thing; we can do 650 feet that's not adjacent to their property, but I can't put together a set of plans quick enough to meet their deadlines.

Commissioner Mourdock: Okay, with it being understood that Premier is going to pay for the plans for that 650 feet, then we will have to do that construction and with it understood that they are going to pay for the plans and all the construction of the other section on their property, and understanding now the definition of the emergency, I will move approval as requested by the surveyor in the bold print at the bottom of page nine.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: That would include, I suppose, or do you need a new motion to authorize a contract deputy and name that contract deputy at this time and instruct that deputy to go forward with all the responsibilities that the contract deputy...

Commissioner Mourdock: I move that we name Morley Engineering for that purpose.

Bill Jeffers: You're it, bud.

Philip Hayes: It's a motion to amend your previous motion?

Commissioner Mourdock: I just made the motion that we go ahead and name Morley for that purpose.

Philip Hayes: Okay, it needs a second.

President Fanello: So ordered.

Bill Jeffers: Mr. Morley has a set of plans which I've asked him to produce a set of plans for our office to be there to be viewed by the public if they come here to view them. A set for Pat Keepes, City Engineer, so that he may view those plans in conjunction with his review of the drainage plans for the new Target Store, and a set of calculations for Mr. Stoll to review with regard to our portion of the ditch that's going to be affected north of the Expressway, if that's okay? Backing up to the annual report.

Unidentified: Do you want to set the hearing date?

Bill Jeffers: Morley's office has indicated to me that under item ten that if you appoint them, which you just have, as contract deputy, they are prepared to go forward with all the administrative responsibility and set a hearing date for March 26 for the reconstruction hearing. They will do the notifying.

Commissioner Mourdock: So moved.

President Fanello: So ordered.

Bill Jeffers: They will bring you the notification to be put in the paper. He's now serving as the county surveyor on this project.

Charlene Timmons: So you want us to place it in the paper for you or you will do that yourself?

Philip Hayes: It works best if you have him do it.

Bill Jeffers: He'll prepare it and bring it to the auditor's office.

Charlene Timmons: We will need it –

Bill Jeffers: You'll need it this Friday to get it in for next Friday.

Charlene Timmons: That would be great.

Commissioner Mourdock: And the date for the hearing will be what?

Adopting Specifications in the Annual Report

Bill Jeffers: March 26th. Twenty-eight days from tonight. Backing up to adopting the specifications. Along with the surveyor's annual report, I provided you with a general set of specifications and special provisions for the special projects we want to do this year. I'm asking you to adopt those at this time.

Commissioner Mourdock: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

Notice to Bidders - Permission to Advertise

Bill Jeffers: On the last page of the report, as always every year, we provide you with a copy of the notice to bidders asking them to review these specifications and look at our projects and submit bids also on March 26th. This should appear in the paper with all of our signatures on it...the board, the auditor and the surveyor and should be conveyed to the auditor so she can advertise. It has to be advertised twice...once a week from Friday and once two weeks from Friday. There's a ten day period then they bring in their bids as notified. I'm asking you to sign that tonight and authorize us to advertise.

Commissioner Mourdock: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

Permission to Advertise Dan Buck Hearing

Bill Jeffers: Item number eleven. You've already authorized the notice, however, I'm asking you to let me advertise under my signature alone a notification that Dan Buck's hearing is scheduled for March 12, 2001, immediately following your commissioners' meeting. This is another petition to remove an obstruction.

Commissioner Mourdock: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: I'll take that to the auditor's office tomorrow morning and have that advertised.

Charlene Timmons: That will be a special meeting?

Commissioner Mourdock: I'll move the advertising of the special drainage board meeting for March 12, immediately following the commission meeting.

President Fanello: So ordered.

New Petitions

Bill Jeffers: The next item is receive new petitions. I don't know of any unless your staff received some since the last meeting.

Encroachment Agreements

Bill Jeffers: We have a few new requests to encroach drainage easements that your secretary is holding and for which the surveyor recommends approval of all. They are accompanied by checks to cover the recording costs. They've all been reviewed by our office and we recommend approval of all encroachment agreements by developers to put parking lots in drainage easements. I ask you to sign those.

Other Persons Wishing to Address the Board

Bill Jeffers: Anyone wishing to address the board?

Other New Business

Bill Jeffers: Other new business?

Ditch Maintenance Claims

Bill Jeffers: Ditch maintenance claims. All of which are for work that was completed in the year 2000. We hold back a certain amount to guarantee payment of all vendors, etc. and they are ready for your signature. I'll bring them to your desk and recommend that you pay all these claims.

Commissioner Mourdock: I'll move approval of the claims.

Commissioner Mosby: Second.

President Fanello: So ordered.

Encroachment Agreements Continued

Commissioner Mourdock: Going back to item twelve to receive the petitions for request to encroach. I don't know that I've seen those, Bill. Are those in the packet? How many are we talking about?

Bill Jeffers: What we do now...I'm sorry, we didn't have copies in your packets. We now, because I've lost a couple of the exhibits...they've somehow gotten lost in the shuffle. As soon as I receive them, I make copies of them and take those down after they've been reviewed to the auditor's office because she's much better at holding on to those. We have an agreement with the auditor, at this time, that she will keep the originals and I'll only keep copies.

Commissioner Mourdock: Well let me just read these three into the record then. They are identified as Omni Properties, 1500 Heidelberg; Results, LLC, 1511 North Royal Avenue, Virginia Cross, LLC, 330 Cross Pointe Boulevard. So those are three drainage easement encroach agreements and I'll move approval of those.

Commissioner Mosby: Second.

President Fanello: So ordered. Anything else?

Bill Jeffers: Just the claims.

President Fanello: We already had a motion on the claims, correct?

Commissioner Mourdock: Correct.

Adjournment

Commissioner Mosby: Motion to adjourn.

Commissioner Mourdock: Second.

President Fanello: So ordered:

Meeting was adjourned at 9:50 p.m.

Those in Attendance:

Catherine Fanello	David Mosby	Richard E. Mourdock
Philip Hayes	Charlene Timmons	Bill Jeffers
Ronald Mayer	Lillian Robbins	Sherman Robbins
Fred Hawkins	Rob Grasso	
Others unidentified	Members of the media	

Vanderburgh County
Drainage Board

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Vanderburgh County Special Drainage Board Meeting March 12, 2001

A special meeting of the Vanderburgh County Drainage Board was called to order at 7:20 p.m. in room 307 of the Civic Center Complex.

Dan Buck Petition - Public Hearing

Bill Jeffers: My name is Bill Jeffers, Vanderburgh County Surveyor. This is a special hearing on the petition to remove an obstruction filed by Dan Buck, Manager of Sagamore Creek Development with the Drainage Board on December 18, 2000. The petition required the surveyor to immediately go out and investigate the site of the alleged obstruction and file a report with your Drainage Board. The surveyor filed that report on January 22, 2001. Subsequently mailed certified letters to the petitioner, Dan Buck, Manager of Sagamore Creek Development on behalf of Cambridge Golf Club, LLC and to the respondents, Ray and Bernice Rexing, at 3 West Stacer Road, Vanderburgh County. There are two receipts showing that the notice was received by Ray J. and Bernice M. Rexing at two different addresses that we mailed to because that address on 3 West Stacer is listed in Haubstadt, Indiana and on some tax documents listed as an Evansville address. We mailed it to both addresses and both have the signature of the receiver. Likewise, there's two addresses for Sagamore Creek and we mailed the notice to both of those addresses and received receipts back for those notices. The notice reads that basically the Vanderburgh County Drainage Board in accordance with 36-9-27.4-1 will hold this meeting on Monday, March 12, 2001, at or about 7:00 p.m. in this room and for this purpose. I've given you a little packet and it includes a map of the watercourse that passes through Cambridge Golf Course and two lakes on Cambridge Golf Course and exits onto the land of Ray and Bernice Rexing and into a grassy waterway on that land. It shows the location of the alleged obstruction at or very near the joint property line of the two properties. It shows an area labeled section shown in photos and I have those photographs here. It shows the location of the pipe which drains the lake in Cambridge into the grassy waterway and other information. At this time, I'll show you the pictures of the location of the alleged obstruction. This is standing on the property of the Rexing's and looking east into Cambridge with the property line moved out as a straight line. This is a picture standing on Cambridge's side of the same line and looking west onto Ray and Bernice's property. You can see the grassy waterway and you can see the alleged obstruction. Being a 15 inch corrugated pipe and an amount of dirt. Here's a close up of the water standing on Cambridge. This is another picture showing a little closer view of the alleged obstruction. I'd like those entered into the record. The statute requires the surveyor to make the report and if he finds the obstruction exists at the location alleged by the petitioner to report that to you. I'm reporting, at this time, that the alleged obstruction exists at the location alleged by the petitioner and that it consists of an 18, excuse me, a 15 inch corrugated metal pipe and a quantity of dirt holding that pipe in place all within a natural surface watercourse or a watercourse improved by man, draining lands of the petitioner through lands of the respondent. The quantity of dirt and the pipe itself, being set at a higher grade than it should be set, represents material that either impedes or substantially impedes the flow of water through the watercourse being that the pipe is far too small to carry the anticipated flow calculated to come through this watercourse during a normal rainfall. The fact that the dirt holds the pipe at a significantly higher elevation than it should be thereby causing water to pool back on Cambridge Golf Course, LLC and adversely affecting their drainage system. I'd also declare that the removal of the obstruction would likely cause better drainage of the petitioner's property and that it would not...I'll just leave it at that. I have a subsequent report because the first time I went out there in January...December

rather...and I was unable to take any survey information because everything was snow packed in ice. Everything was frozen and I couldn't get any real data. On this page called the subsequent report, I gave elevations using the flared end section of that pipe on Cambridge as a benchmark and showing various elevations of pipes and stuff that I'm confirming represents an obstruction. Also give the names and dates that certain other individuals visited the site with me. Also, see attached a letter from Mike Wathen, Resource Conservation Specialist with the Vanderburgh County SWCD, who was invited to give his opinion and he was invited to give his opinion by the respondent, Mr. Rexing. His opinion from the letter that he sent us, "I agree the pipe crossing that was installed by Rexing Farms is an obstruction based upon my observations and the elevation information that you gave to me." "You" being the county surveyor and "me" being Mr. Mike Wathen. At this time in the interest of brevity, I will simply reiterate that I did find an obstruction to exist at the location alleged by the petitioner and of the material so alleged and that the removal of it will cause better drainage of the petitioner's property. There are representatives here for Rexing Farms and the respondent, Ray Rexing, in the audience and there are representatives here from Cambridge Golf Course, LLC, Mr. Bauer and Jim Williams his engineer.

Commissioner Fanello: Okay. At this time, would anyone like to speak?

Ray Rexing: I'm Ray Rexing and I live at 3 West Stacer Road, Haubstadt, Indiana and to the best of my knowledge, I do not have an Evansville address at 3 West Stacer Road in Evansville, Indiana. I guess, I need to start at the beginning and I hope you'll bear with me. I attended the Drainage Board meetings when the drainage plan was discussed and I had concerns of low flow water and seepage that would come from lakes that are used for retention areas to slow water up. I think they found my comments, maybe not real amusing but fairly amusing. They figured that I really didn't know where I was coming from, but I've been expose to this before. I don't have a problem with what they're saying that there's an obstruction in the waterway. The reason we put the obstruction in the waterway was because we were combining wheat in the middle of the summer and there was no other way for us to get wheat out; there was no other way for us to get straw out. Going back prior, I met with Mr. Jeffers on the site out there and expressed my concerns. Mr. Bauer was there and two technicians from the Soil Conservation Service, but apparently they didn't figure it was an issue...the low flow water and the seepage. Later on after this event when we couldn't get our straw and wheat out, I asked Mr. Jeffers to come out and he did come out and reiterated to me that what I had said would happen, in essence, was happening.

Commissioner Mourdock: May I interrupt you for a second to clarify something?

Ray Rexing: Sure.

Commissioner Mourdock: When you say the low flow seepage, here's what I picture that to mean and you tell me if this is right. You're saying that prior to the lake being built that slight watercourse pretty well dried up during the summer but now that there is a lake there, it's constantly putting some water out and keeping it wet pretty well all summer long. Is that right?

Ray Rexing: Right. It rained last Saturday night and I checked yesterday evening and water was still running out of that lake. That's eight days. I checked some of my other waterways and they were dry. I don't have a problem with what they are

wanting to do, all I'm asking for and all I've asked for all along is to take this low flow water at the property line and take it underground in a tile. It can go under our property, that doesn't bother me, but for it to trickle across the top of the ground for days after it's quit raining, you can't farm that way. That's our livelihood; that's all we do is farm. I didn't put the pipe in, the boys, my two sons put it in. I even questioned them and said why in the world didn't you just...we have four wheel drive tractors...why didn't you just drag through the mud? They said they didn't want to drag all that mud out on the road. They were thinking about safety more than I was and I question whether the Drainage Board ever thinks about safety? You know, dragging mud out onto the road and different things like that? Our problem is not taking this obstruction out of this waterway. When I received the letter I would have taken that obstruction out of the waterway – I could have taken it out in 15 minutes, but this is the only way we felt like we can tell our side of the story. What they do on their side of the property line doesn't bother me at all, but when it interferes with our livelihood, then we're naturally concerned. I'll entertain any questions. Can I add one more thing?

Commissioner Fanello: Yes.

Ray Rexing: I did...there was a gentleman by the name of Chris Wahl that worked for the developer up there and we had made an agreement that he could use my tile in this particular waterway that the obstruction is in and put a collection point to catch the water that comes out of these two 36 inch pipes out of this lake. It was working real well. Then they came through with a sewer line and, I guess, they cut the tile and whether they fixed it or not, I don't know. If they did fix it, it apparently is not functioning now. There was another stream of water coming north of the existing big lake where the two pipes come out of and that's the reason that we didn't have any choice but to put the pipe and dirt in there. After it went in there, it rained real hard a couple days later and took half of the dirt out. We were probably obstructing the volume of water that could go through it but not the grade of water that could go through it.

Unidentified: There's also a picture there that will show the subsurface drain.

Commissioner Mourdock: You need to state your name.

Brian Rexing: I'm Brian Rexing, Ray's son. There's a picture there that will show the subsurface drain full of water and it has a drain top on it that's full of water and you can tell there's no water going through it. There wouldn't be any water pond there if that subsurface drain was working right now because it would take the volume of water that is trickling.

Commissioner Mourdock: The subsurface tile that you said initially was working, but it's not now, flows from east to west on your property?

Brian Rexing: Yes. I talked to David Blankenberger who installed the...who was working at the time installing it and he was under the understanding, as we were, that they could use our drain to put their subsurface drain to. He agreed that he remembered hooking it up and...

Commissioner Mourdock: Where would that tie in?

Brian Rexing: That would tie in right there at the crossing. The subsurface drain is on their property.

Commissioner Mourdock: The tile that are intersected here.

Brian Rexing: If I could show you the picture here.

Commissioner Mourdock: No, show me on the map.

Brian Rexing: The tile runs down the middle of this grass waterway.

Commissioner Mourdock: There is underground tile underneath the waterway?

Bill Jeffers: I haven't submitted any information or drawing about the subsurface drain at this time, but I will if you think it's an issue.

Brian Rexing: But a few minutes ago you acted like it wasn't worth your while.

Bill Jeffers: If the board wishes to see pictures of the subsurface drain and understand its function, I would be happy to incorporate it into this hearing. I was staying on the surface with the hearing at the time.

Commissioner Mourdock: I understand. Let me just ask one question though.

Brian Rexing: Bill had pictures while ago of the subsurface drain.

Commissioner Mourdock: Here's my question. I heard something about a tile that was cut when some other pipe was put in?

Brian Rexing: They laid a sewer through there and when they did that it's quite possible that, at that time, it was cut and not fixed again.

Commissioner Mourdock: Okay, but up until that point, you're saying that through these tile that you didn't get any effect of what you are now seeing?

Brian Rexing: Right, right. Like I said, we agreed that they could hook it up to our tile and there was no problem. That was another reason we put the pipe in because dad said we could drag through the mud and get through it. We could, but we did not want to crush that tile.

Commissioner Mourdock: Does the tile come all the way under the property line?

Brian Rexing: Yes.

Al Bauer: Hello. My name is Al Bauer and I'm one of the Managers of Cambridge Golf Club. There's probably more to what we're talking about tonight than drainage although what we really want to talk about is drainage. I sat on the Area Plan Commission for quite a few years and this was the first subdivision that I've ever heard of, whether it was my own or whether it was anybody else's, that discussed the positives of having retention basins which are designed to retain water from escaping a developed site too quickly onto someone else's property. Then the alternate effect discussed by Mr. Rexing earlier as saying that even though we appreciate you retaining water, there are moments when the wind picks up there are waves and water blows off these lakes and therefore keeps our passageways wet and we can't traverse them. We already heard that he could have traversed them with four wheel drive vehicles. In fact, I think another way to accomplish it was to traverse them and then removed them. I'm saying there are other issues involved.

They'd like to sell their property and I'll just leave it at that. All I know is that the obstruction that has been sited this evening has created a slough on our property. If there is a subsurface drain that needs to be reattached, we'd be perfectly willing to look at that, but we'd also like to ask why it is on our property to begin with, if it was initially installed by the Rexing's? But that's okay. If it's there, we will try to reattach to it. I guess the bigger question for the Drainage Board would be when it comes to retention for subdivisions are retention basins a good thing? Well, of course, they are a good thing, but do you give up anything by requiring them? If we are simply talking about, in this situation, the lake effect which is blowing of water through a pipe because the wind picks up, I say, how can anyone develop a piece of property where the water flows through it? I guess, the other side of that argument also would be has the agricultural value of the Rexing property been diminished by a golf course being built right adjacent to their property? I would think we are probably the most desired development next to anybody's piece of property. We're willing to...the whole issue was the fact that we've had water standing on our ground; it's created mud and mosquitoes and a very undesirable situation on our site. They were asked to remove it and they didn't.

Commissioner Mourdock: Just for the benefit of you two since this is your second meeting here. As the Drainage Board, the only thing we can deal with by the statute that established the Drainage Board are the true drainage issues. Mr. Bauer just alluded to other things that may be out there - that doesn't matter to us. Mr. Rexing suggested that hauling mud out on the road is a safety issue and not that it's not a valid issue but looking at this from the Drainage Board point of view, you can't consider that. That's just the rules of the game. I just want to say that to both sides. There's all those issues out there, whatever they may or may not be, but all we can deal with is the drainage issue itself. Coming back to the one other question I would have regarding the subsurface tile that apparently extends east of the property line. Mr. Bauer, I presume you were not there personally on site when that sewer line was put in that they are suggesting may have cut that line?

Al Bauer: That is correct. I would also say that would it would handle the issues of the water problem we currently have? No, it would not because we have an obstruction in the way. No, I was not there to see it, but I would be happy to investigate that.

Commissioner Mourdock: I think I heard Mr. Rexing say, and don't let me put words in your mouth, given your comment that you felt that getting this tile reconnected might resolve the problem, I thought I also heard you say that you agreed that this was an obstruction. By saying that, I presume you are saying that you're willing to get that obstruction out of there if, in fact, that tile can be reconnected underneath where that sewer line is now, is that correct? You'll need to come to the microphone.

Ray Rexing: We don't have a problem taking the obstruction out. I've been farming long enough to know what an obstruction is and we probably should have taken it out, but I reiterate back to that this was the only way to voice our opinion. Somehow or other, we need to be able to dry up the waterway. Number one, it was put in with cost share money from the U.S. government and has to be maintained for ten years. If the waterway is not allowed to dry out, the grass will die and instead of a waterway, we will have a ditch.

Commissioner Mourdock: So you just caused another picture to come in my mind

here. That is a true conservation type right-of-way that you put through there? It is a grass strip?

Ray Rexing: Yes, it is. It's put in according to their specs.

Commissioner Mourdock: So, going back to my question a moment ago. Are you willing to pull out your obstruction if, in fact, Mr. Bauer does what he says and makes an effort to reconnect that tile?

Al Bauer: We don't even know, by the way, that it has been disconnected. We don't know that for a fact.

Commissioner Mourdock: I understand that. We are dealing on presumption here. I'm hearing you say that you're willing to spend the time and effort and go out there and dig and if it's there...if it was, in fact, disconnected, you're willing to reconnect it?

Al Bauer: Sure.

Commissioner Mourdock: And with that being the case, Mr. Rexing, are you willing to pull the obstruction out of there that is presently there?

Ray Rexing: I think there needs to be...there's something else that entered the picture. There's water coming from around the lake that needs to be picked up next to the property line, but we'll pull the obstruction out.

Commissioner Mourdock: Okay. Fine.

Bill Jeffers: With regards to Mr. Rexing's comments that someone, possibly the county surveyor's employees at the time of the design of this, found his comments amusing with regard to low flow. We found them interesting and we addressed them. At first, it was something we had never heard of and there may have been some nervous chuckles, but we addressed them completely and to say otherwise is misleading and mis-informative. That the obstruction was put in to combine wheat; wheat harvest was in June and this is March. Number three, that for some reason or other we didn't figure that low flow or seepage was an issue. We addressed that. Not only that but like Mr. Bauer said, the first subdivision I've ever worked on since 1981 where we made the developer go to M & W Concrete and fabricate a special end section, shown on the plan that Mr. Mosby has his hand on, at great expense to lessen the velocity at which the water left this property. Made this man, on the golf course, back the pipe up a hundred feet and put a spread apron on the end of that thing with a low trickle flow interceptor that's in the picture that I've just brought to your desk. It shows an expensive drop basin, not some Mickey Mouse drop basin but an expensive inlet. It's the only subdivision I know that we asked them to do that, and they did it voluntarily because it's not in the drainage ordinance..to pick up the low flow. That lake is designed to detain greater than a 100 year storm. That was not the case at the time they designed it. They could have done it to a 25 year storm. It's greater than a 100 year storm.

Commissioner Mourdock: Where's this photo?

Bill Jeffers: If you'll look at the detail here. There's your apron which is the outflow, at this point, and there's the basin connected to the existing drain tile with the existing riser removed and replaced by a clean out.

Commissioner Mourdock: Hold on, you made it too complicated for me. Where is this structure?

Bill Jeffers: Just in the very end of the apron leaving the twin pipes on Cambridge's property.

Commissioner Mourdock: Clear up at the lake?

Bill Jeffers: No. This is the pipe leaving the lake and here's the end of the pipe here.

Commissioner Mourdock: Okay.

Bill Jeffers: And here's the last 100 feet you're looking at in all those pictures.

Commissioner Mourdock: So this is right here?

Bill Jeffers: This is right there.

Commissioner Mourdock: And this then is –

Bill Jeffers: – connected over to a pipe that goes off through (inaudible). This is the only structure of its kind in Vanderburgh County. It was put in voluntarily at great expense. We have word from the contractor that put it in...an employee of Blankenberger Brothers, that he did hook it up to the existing drain tile in conformance with the plans in front of you. I suspect that it may have been...it is very likely that it was severed by the sewer being installed and whoever installed the sewer was a different contractor and did not reconnect it. We have word from the conservation officer that the Rexing's have a different tile than this one, but this was the tile that was pointed to at the time. We were told that they could hook up to it and it would drain through the Rexing's property during low flow conditions. If you'll look at that plan there and look at the details of that double flared end section and you can call M & W Concrete and ask them how much it cost, but there's nothing like this in Vanderburgh County except at this one location. It was custom made. That Mr. Rexing also said that I went out there and confirmed that what Ray said would happen, did happen. On that occasion I was about a half a mile north of this location and we were talking about a different lake. One of the Rexing family said that dragging mud out onto the road was an issue. When I was asked by Kent Rexing to come up with a solution, I pointed out that I am not the design engineer for this project, nor is it the county surveyor's responsibility to design something, but I would have put a rock crossing made out of ballast rock. Something smaller than rip rap and something larger than railroad ballast. He could go across that and that's typical construction...I mean rumble strip so to speak for a construction site that will rumble the mud off your tires. That suggestion was made. In fact, without discussing that with Mr. Wathen whatsoever, Mr. Wathen says in his letter that if a rock crossing, excuse me, the pipe crossing should be totally removed and a rock crossing installed one inch in elevation below the Cambridge property line. That's to cross for the combines. If a rock crossing is not acceptable, then a concrete crossing with gabion baskets installed immediately upstream would also work. The rock or concrete crossing would allow Cambridge to utilize their property and would provide a suitable access for the Rexing farm equipment. Kent Rexing and I discussed that and coincidentally Mr. Wathen recommends it in his letter.

Commissioner Mourdock: Let me put some finality to this in a motion and see if I can wrap all this up in one motion. This will be a challenge.

Bill Jeffers: I'd like to point out that there is a clean out as a part of this subsurface drain system that they can go poking around in and see what's blocking that thing up. That was also recommended by our office and put in at great expense.

Commissioner Mourdock: Is that on the Cambridge property?

Bill Jeffers: On the Cambridge property.

Commissioner Mourdock: I've heard both sides on this and we have not put a date on here so I will include it in the motion. Mr. Rexing you tell me if this is inappropriate and Mr. Bauer. I would move that we consider this particular petition resolved providing that 1) Mr. Rexing removes, within 45 days, the obstruction that is presently located, and if, in fact, there is a crossing needed at that location, to put in some sort of stone crossing or whatever that is not in the future an obstruction. 2) That Mr. Bauer, within 45 days, make the effort to excavate along the sewer line that was placed. If, in fact, the tile was severed, reconnect the tile.

President Mosby: I'll second that motion.

Commissioner Mourdock: Wait a minute, isn't that what everybody agreed to?

Al Bauer: I would certainly agree to that as long as that is a part of what we were originally suppose to do in our drainage plan that we submitted. If that was part of that document or part of that approval process, we will be happy to do that.

Commissioner Mourdock: Why would that not be part of it?

Al Bauer: I have no idea.

Commissioner Mourdock: So you're saying that as long as it doesn't violate the terms of your drainage plan.

Al Bauer: I guess, I don't want to go out on a witch hunt and it be said that there is a tile that we should have connected to and didn't and blah, blah, blah. We'd be very happy to do that.

Commissioner Mourdock: I was specific to say where that sewer line went in.

Al Bauer: We'd be happy to do that. As I pointed out earlier, I think there's no excuse to block the water for the last nine months, but we'd be happy to do that.

Commissioner Mourdock: And somebody was shaking your head that what I just said wasn't agreeable? I thought that's what you agreed to a moment ago?

Kent Rexing: Kent Rexing. They talked about combining wheat and –

Commissioner Mourdock: Stick to the motion here. When I made the motion saying that you all would remove the obstruction and if you want a crossing that you would put stone or something in that would remove the obstruction, is that not agreeable?

Kent Rexing: I agree with everything you said up to the point that why should we be penalized to put a crossing in –

Commissioner Mourdock: You're not; you don't have to. I'm just saying, if you did.

Kent Rexing: How are we suppose to access our property on the other side which is 64 acres of land on the other side of this crossing?

Commissioner Mourdock: Well, that's what I'm saying, if you want a crossing, you would...presuming here that you want a crossing there, that whatever you put in would not be an obstruction to cause water to backup on the Cambridge property in the future.

Al Bauer: While we're discussing it, I just want to, again, clarify that water always passed through this waterway. In all that we were asked to do - not all - we were asked to do a lot. We were asked to retain it a certain way and then let it out a certain way, and we were more than happy to do that.

Commissioner Fanello: Sir, I have a motion on the floor and a second, is that correct?

Commissioner Mourdock: Yes, there was a motion.

President Mosby: I don't know if they've ever agreed.

Commissioner Mourdock: I'm puzzled at the question. I thought I said it correctly. I understand what you're saying, Mr. Rexing, that you may need a crossing there and maybe you don't. I thought the whole purpose of this when the suggestion was made about attaching or reattaching the tile that was there, that everything was going to be working okay at that point. That was the assumption. So if you connect the tile, you're going to have the thing working and if it's working, why would you put in the crossing? I'm simply saying that if, in fact, you want a crossing at some point for whatever reason that it doesn't obstruct the drainage way. That makes sense, I think.

Ray Rexing: There are other issues that I'd have to take you to show you but that's fine.

Commissioner Mourdock: Okay.

President Mosby: Okay.

Kent Rexing: May I say one thing?

Commissioner Mourdock: We have a motion and a second, but you're still free to say what you'd like to say.

Kent Rexing: It's been said by a couple people that we put this in temporarily for wheat harvest. I did some figuring today and I figured that throughout the course of a year, on an average, that we'll cross that 50 times to access the 64 acres so it's not a one time deal.

Bill Jeffers: How many times have you crossed it since it's washed out? You said it washed out a month after you put it in so how many times have you crossed it since then?

Commissioner Mourdock: Just for the record –

Bill Jeffers: A rainstorm washed it out a month after you put it in.

Kent Rexing: Spring wheat, combine wheat –

Bill Jeffers: Since July, how many times have you crossed it?

Kent Rexing: Ten or fifteen, maybe. A couple days when we put this pipe in we probably crossed it 30 that day or 40.

Commissioner Mourdock: The motion and the second was there with both parties given 45 days to get this thing resolved.

Commissioner Fanello: So I have a motion and a second. So ordered.

Commissioner Mourdock: Motion to adjourn.

President Mosby: Second.

Philip Hayes: If I could just momentarily, Mrs. Engelbrecht is here and she had remarks concerning a drainage problem and I thought it might be economical to –

Jane Laib: This is a special hearing and we can only discuss the advertised issue.

Philip Hayes: Good enough.

Commissioner Mourdock: It's a special drainage meeting and under special drainage you can only discuss the areas that were discussed. Once we get done here, we'd be glad to talk with you. Motion to adjourn.

President Mosby: Second.

Commissioner Fanello: So ordered.

Meeting was adjourned at 7:56 p.m.

Those in Attendance:

Catherine Fanello	David Mosby	Richard E. Mourdock
Philip Hayes	Jane Laib	Bill Jeffers
Madelyn Grayson	Kent Rexing	Brian Rexing
Ray Rexing	Al Bauer	Ms. Engelbrecht
Others unidentified	Members of the media	

**Vanderburgh County
Drainage Board**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

**Vanderburgh County
Drainage Board
March 26, 2001**

The Vanderburgh County Drainage Board meeting was called to order at 6:56 p.m. by President Catherine Fanello.

President Fanello: I already called it to order.

Approval Of Minutes

Bill Jeffers: First order of business is to approve the minutes of the Drainage Board Meeting on February 26, 2001.

Commissioner Mourdock: So moved.

President Fanello: Second and so ordered. I think that what we are going to do tonight, if this is correct, is open the bids for—

Deferral Public Hearing For Crawford Brandeis Ditch/Bonnie View Ditch

Bill Jeffers: The County Surveyor, due to technicality and notification recommends the board move the public hearing of the reconstruction of Crawford Brandeis Ditch and Bonnie View Ditch forward one week.

Commissioner Mourdock: So moved and that would mean that it would be on April 2nd.

Bill Jeffers: Right, same time and place.

President Fanello: Second and so ordered.

Final Drainage Plan - Cambridge Hills Subdivision Section Two

Bill Jeffers: Drainage plan for Cambridge Hills Sub, Section 2 is a final drainage plan. The preliminary drainage plan was passed in 1998 and the County Surveyor recommends the final drainage plan for Cambridge Hills, Section 2, be approved. It is by you over there on the table.

Commissioner Mourdock: Okay, are there any remonstrators? Seeing none, I will move approval.

President Fanello: Second and so ordered.

Deferral of Windham Hills Subdivision Final Drainage Plan

Bill Jeffers: Final drainage plan for Windham Hills Subdivision, Section 1, is not represented here tonight due to a notification by the board, and I recommend that you move that forward one week.

Commissioner Mourdock: To April 2, so moved.

Bill Jeffers: April 2nd.

President Fannello: Second and so ordered.

Bill Jeffers: Final drainage plan for Wynnfield Subdivision, Section 1, previously known as McCutchan Gardens, the Surveyor recommends to move that forward one week.

Commissioner Mourdock: So moved.

President Fanello: Second and so ordered.

Receive Petition To Remove Obstruction - Steve Melay, Petitioner

Bill Jeffers: We need to receive the petition to remove an obstruction from, on behalf of Steve Melay and, I believe, that is in your signature file.

Commissioner Mourdock: Sorry, I just read this and it says to remove the obstruction from Les Shively, well, I bet that Les would like to have that obstruction removed.

Bill Jeffers: It was, the obstruction petition was, prepared by Les Shively or Fine and Hatfield on their letter head and it is on behalf of Steve Melay. So all you need to do is receive that.

Commissioner Mourdock: I will move that we receive the petition.

President Fanello: Second and so ordered.

Temporary Crossing Authorization - Crawford Brandeis Ditch

Bill Jeffers: Alright, number seven is to authorize temporary crossing of Crawford Brandeis Ditch for NFA, your contractor, Heavy Highway Contractor, to haul fill across Crawford Brandeis Ditch to Lynch Road Interchange at I-164. It is in accordance with what has been done in the past for Blankenberger Brothers.

Commissioner Mourdock: Yep, so moved.

President Fanello: Second and so ordered.

Bill Jeffers: Okay.

Open Bids - Annual Ditch Maintenance

Commissioner Mourdock: Now, the bids.

Bill Jeffers: The County Surveyor recommends the Drainage Board to move the following, authorize the attorney to open the proposals for annual bid maintenance and subsequent to passage of the motion, the attorney will read all proposals for annual ditch maintenance into the record of this meeting and take proposals under advisement for one week, and further to move in accordance with 36-9-27-7(e) adjourn this meeting until Monday, April 2, 2001 at or about 7:00 p.m. local time to continue in this room for the purpose of completing business otherwise scheduled to be taken up tonight whether by virtue of its appearance on a previous agenda, it's advertisement in the newspaper, it's notification by mail, or by other forms of notice, whatsoever, and also in that motion to include the adoption now of this drainage

easement and encroachment agreement as prepared by your attorney and found wonderfully suitable by the Surveyor.

Commissioner Mourdock: So moved in its entirety.

President Fanello: Second and so ordered.

Commissioner Mourdock: I'm sorry, I am not sure that I am on tape, I had the switch off. So moved in its entirety.

President Fanello: Second and so ordered.

Bill Jeffers: It is all printed here for your Recording Secretary and as the bids are opened they can be read into the record and a copy of the empowering statute to move this meeting forward without public notice from day to day or a day certain without written notice is also available to you and that day certain is April 2nd.

Commissioner Mourdock: Okay, we have made that motion and we will now adjourn and we will be meeting again on Monday, April 2nd.

President Fanello: Second and so ordered.

The meeting was adjourned at 7:00 p.m.

The following bids were read into the record by County Attorney Philip Hayes:

BIDDER	DITCH	AMOUNT
Union Township	Cypress Dale-Maddox	\$716.61
Union Township	Happe-Helfrich	\$380.94
Union Township	Kamp	\$1,450.80
Union Township	Edmond	\$461.85
Union Township	Barnett	\$250.74
Rexing Enterprises	Singer	\$343.00
RR Rexing Farms	Pond Flat Lateral D	\$641.06
RR Rexing Farms	Pond Flat Lateral B	\$391.58
RR Rexing Farms	Pond Flat Lateral A	\$743.54
John Maurer	Baehl	\$861.25
John Maurer	Hoefling	\$557.10
Shideler Spray Service	Keil	\$216.86
Shideler Spray Service	Kolb	\$322.20
Shideler Spray Service	Eastside Urban South Half	\$1,519.63
Shideler Spray Service	Sonntag Stevens Sterilize Ditch Bottoms SP-209.1	\$770.76

Shideler Spray Service	Harper	\$212.40
Shideler Spray Service	Sonntag Stevens Broadleaf Herbicide SP209.2	\$170.00
Shideler Spray Service	Eastside Urban South Half Broadleaf Herbicide	\$1,168.95
Shideler Spray Service	Eagle Slough	\$3,094.12
Downin’s Green Grow #1	Sonntag Stevens	\$845.70
Downin’s Green Grow #2	Sonntag Stevens	\$200.60
Downin’s Green Grow	Kolb	\$353.53
Downin’s Green Grow	Keil	\$237.95
Downin’s Green Grow	Eagle Slough	\$3,304.40
Downin’s Green Grow	Eastside Urban Drain South Half- Broadleaf	\$1,379.36
Downin’s Green Grow	Eastside Urban South Half Sterilizing	\$1,379.36
Downin’s Green Grow	Harper	\$233.05
Carso, Inc.		No Bid
Jimmie L. Axton	Aiken (Fall)	\$1,034.00
Jimmie L. Axton	Aiken (Spring)	\$1,034.00
Jimmie L. Axton	Sonntag Stevens (Spring)	\$2,610.60
Jimmie L. Axton	Kolb	\$1,342.50
Terry R. Johnson	Wabash-Erie & Harper- mowing only	\$3,000.00
Terry R. Johnson	Aiken-mowing only	\$1,155.97
Terry R. Johnson	Harper-mowing only	\$1,709.53
Terry R. Johnson	Keil-mowing only	\$1,745.45
Terry R. Johnson	Kolb-mowing only	\$1,474.51
Terry R. Johnson	Sonntag-Stevens- mowing only	\$2,793.80
Terry R. Johnson	East Side Urban-mowing only	\$13,098.74
Terry R. Johnson	Henry-mowing only	\$1,970.98
Eldon Maasberg	Wallenmeyer	\$1,253.25

Eldon Maasberg	Maasberg	\$154.42
Eldon Maasberg	Baehl	\$1,033.50
Eldon Maasberg	Kneer	\$303.60
Naas & Sons, Inc.	Eagle Slough	\$19,255.60
Naas & Sons, Inc.	Wabash Erie & Harper	\$9,980.00
Bigge	Harper	\$5,250.00
Bigge	Eagle Slough	\$16,221.60
Big Creek Drainage Assn.	Rexing	\$2,051.52
Big Creek Drainage Assn.	Buente Upper Big Creek	\$3,837.05
Big Creek Drainage Assn.	Pond Flat Main	\$6,264.84
Big Creek Drainage Assn.	Barr	\$4,133.60
Big Creek Drainage Assn.	Maidlow	\$2,613.94

**Vanderburgh County
Drainage Board
April 2, 2001**

(Continued from March 26, 2001)

The Vanderburgh County Drainage Board meeting was called to order at 7:00p.m. by President, Catherine Fanello.

Approval of Minutes

President Fanello: First item on the agenda approval of minutes from Special Hearing on March 12th. Do I have a motion?

Commissioner Mourdock: You and I have to do that—

President Fanello: Oh, that's right.

Commissioner Mosby: On March the 12th?

President Fanello: No, he was here on March the 12th. Yeah.

Commissioner Mosby: Motion to approve.

President Fanello: Second and so ordered.

Bill Jeffers: Last week's minutes?

President Fanello: Which was? What was last week, the 26th.

Bill Jeffers: Are you going to do them all at once, as this week's as well, cause this is a continuation?

President Fanello: Okay.

Bill Jeffers: Cool.

Old Business

President Fanello: So, we will move on to item two, Old Business.

Bill Jeffers: A report on the status of the Drainage Board's order to remove the obstruction as petitioned by Dan Buck. I have reports that it has been removed from the waterway, and I need to go confirm that, and take some pictures and let you know what finished condition it is in, so that means the respondent reportedly has removed the obstruction. You gave him 45 days to remove it. You gave the petitioner 45 days to hook up his under drain and clear it, and conditions haven't been right for that to be accomplished due to rain, and I obtained a copy of the plans from the Soil and Water Conservation District showing that waterway and there was no under drain shown on the plans, apparently, because the under drain pre-existed the construction of the waterway. Mr. Blankenberger has said he will attempt to hook it up to the appropriate under drain and see that the under drain is cleared to the property line, west property line in Cambridge Golf Course and then the farmer will be responsible for it from there westward. That brings you to item number three, which is the reconstruction hearing for Crawford Brandeis and Bonnie View ditches.

Mr. Morley, Jim Morley, Jr, here is your appointed contract deputy for the project, and has brought a set of plans to the public hearing and I assume he has brought proof of mailing to all the, proof of mailing of the notice to all the affected property owners, including the City of Evansville, and I'll turn the meeting over to him at this time for your questions and for him to present the plans to anyone who is interested in viewing them.

Jim Morley, Jr.: Jim Morley, Jr. with Morley and Associates. I brought the green slips, do you want those?

Philip Hayes: Yes.

Jim Morley, Jr.: The city was notified at the Board of Public Works hearing last week, and it was read in to the minutes as an official notification. We finished the design of the plans and we submitted them to Bill for his review and blessing. Do you have any comments on them? I was out of the country last week, so I had just—

Bill Jeffers: I have probably about ten minutes worth of comments on them, so if you have anything that you want to present first.

Jim Morley, Jr.: I mean, have you seen them? Would you like for me to give the nickel tour of them? I can get through it real quick, or—

Philip Hayes: Have we not seen those?

President Fanello: No.

Commissioner Mosby: I haven't seen them, but—

Commissioner Mourdock: I look to our technical expert here for his summary.

Commissioner Mosby: I was going to say, I probably wouldn't know what I was looking at, so I will let him give me his ten minute's worth of problems, or whatever.

Jim Morley, Jr.: Okay. The short and skinny is where we are putting a box culvert down Crawford Brandeis Ditch, we're continuing up with a different size but to continue that box culvert on to the basically 1/4 mile south of the Lloyd to the south line of the Premier Properties development. Then we are putting in a concrete line, a concrete ditch liner all the way along the south property line in the Bonnie View ditch, and at that point we are also lowering the grade at the upstream end of the Bonnie View ditch to improve some drainage in that neighborhood.

Philip Hayes: If we could have the record reflect then, if you want to unroll your plans and submit them here for the Commissioners to review while the presentation from the County Surveyor is being made, it would be appreciated.

Jim Morley, Jr.: Any questions that I can answer?

Philip Hayes: Thank you.

Bill Jeffers: That's two subdivisions that are considered (inaudible).

Philip Hayes: Do you need help with that?

Bill Jeffers: I'll set this down so that everyone can see it. Okay, the single sheet

which is legal size 14" X 8 ½" , that shows Bonnie View, it's titled , " Bonnie View Ditch Proposed Cross Section", and it shows James E. Morley, Land Surveyor's stamp on it. This is a composite of a part of, or this is an excerpt from a part of a plan that was presented to you on January 22, 2001 with the original request to reconstruct this ditch. It corresponds, for your information, to this same cross section down here. That is basically going to be the focus of the first part of my comments. I would like to say that also here available, and probably already in the record, is on the letterhead of Morley and Associates, Dear Board Members, on behalf of, paraphrasing, on behalf of Premier Properties we are requesting alterations to and within the legal drain, etcetera, for Bonnie View and Crawford Brandeis Ditch, and what we are asking is that you grant the relaxation to 25' and grant the drive crossings to access this ground for development subject to the following; one, this is Premier, Morley asking on behalf of Premier, subject to the final design in accordance with applicable specifications and requirements; two, the final plans are substantially compliant with the attached plan, and this is a copy of the attached plan on what I have handed you out on the 14" X 8 ½". This is what they handed you that day and said this was their proposal, you tentatively approved this cross section and they say that their final plans should be substantially in compliance with this. I told you at that time, and paraphrasing from the minutes of that meeting, Mr. Mourdock asked, "I'm sorry, I missed that , go back. Is what we have here a reconstruction?", and I replied, "No, what we have here is a very preliminary, sketchy conceptual drawing of how a reconstruction might be aligned, if it takes place". Then, I go on to say what some of my main concerns are before it takes place, one specifically being the five to one cross slope on the maintenance path which has the little number two underneath it. They showed you five to one and I was wanting six to one or anything that would be INDOT or OSHA approved. You will see on the plans there that they have changed that to six to one. So the balance of my comments now will be what I still find to be of concern to me—

Commissioner Mourdock: Is that the only change between this 8 ½" X 14"--

Bill Jeffers: No, that's not the only change. There are quite a few changes I'm concerned with.

Commissioner Mourdock: Okay.

Bill Jeffers: That's the positive change. They did flatten it to six to one, making it safe in accordance with INDOT's standard practice. Now this letter is addressed to you tonight. It's from the County Surveyor, and the following comments are made by the County Surveyor to the Drainage Board with concern for the orderly conveyance of anticipated volume of storm water through the reconstructed drain, with concern for regulated drain maintenance and repair responsibility that will be retained by the County Board and the County Surveyor with concern for protecting the public and private interest of all parties affected by this proposed reconstruction and with concern for normal industry standards generally incorporated into plans such as you are being asked to approve at this time. The first group of my comments, basically, one through ten or so, are relative to changes that have been made by the Morley and Associates that was shown on the plans that were submitted to you tonight, and most of these changes represent substantial modifications of this plan that was tentatively approved by the board on January 22, 2001. Okay, looking at little number one there, the paved channel bottom width has been reduced from an average 7' width to a uniform 2' width on the new plans. The first effect, the 2' bottom width will increase the velocity of the low flow in the channel with a corresponding increase in the scour and effect that that velocity will have on the concrete. For those who may not understand that statement, as you get closer

and closer to the bottom of a V shaped channel, because it is narrow, it is just like still waters run deep, and shallow waters run with higher velocity. As you get down into the base of that V. The water that is running in there is running at a higher velocity than it would if it were spread out 7' wide as was shown on the original plans. Therefore, the velocity is increased and the scour and effect that the water has on the concrete is increased. The second affect that the narrowing of that channel has is shown on your new set of plans, the 2' bottom width restricts our access for maintenance and repair of the concrete liner, which remains our responsibility. Where we could use light rubber tired equipment and motorized concrete hoppers, we could no longer go in on a 7' bottom, can't do it on a 2' bottom. It does restrict us to some degree there. Okay, now look at little number two on the drawing of the original plan, they have on the cross slope of the 12' grassed maintenance pathway, flattened to a six to one maximum slope per INDOT's standard , and this change was made at the insistence of the County Surveyor and we approved that change, and we thank the consultant for making that change. Now little number three on your handout, the new plan shows the removal of a 3' high retaining wall at the toe of earthen berm . The first effect that we note there is the retaining wall defines the outside limits of the 12' wide maintenance pathway, and without this wall, the outside edge of that pathway will become poorly defined over a period of time. From the landscape maintenance, on behalf of...Premier is doing there own landscape maintenance and weathering etcetera, we won't have a clearly defined edge of the pathway there. Also, the retaining wall holds the berm in place by preventing the toe of this earthen berm from slumping into the 12' wide maintenance pathway over a period of time, just natural erosion, and that will further confuse the definition of the pathway and infringe upon it, and I assume that the 3' high retaining wall that was shown on the original plan had been placed there to hold the berm in place and define the pathway. We would like to see that replaced. Little number four, in the berm itself, this mound that you see here is the berm that is being erected by Premier to act as a sight and sound barrier between Premier's commercial development and the residential development to the south, it is symbolized by the owner standing there next to his house and showing you his line of sight across the ditch and up to the closest building. So looking at little number four, the south slope of the berm shown on the original plan was a two to one side slope, that's been steepened to a one and one half to one. My first comment on the effect of that, a two to one side slope provides the minimal stability for an earth berm known to the County Surveyor's office. We recognized that when he first submitted it and said, well at least he's met what we consider the minimal stability for a grass covered earth berm without armor plated. Second thing that we noticed is that one and one half to one that he has changed to two on your plans that you are asking me to approve tonight. A one and one half to one unarmored side slope provides to us questionable stability of this earth berm, again, without the retaining walls in place, and without any armor shown to stabilize a one and one half to one dirt slope, we fear that the earth will move. Looking at little number five, the 6' high sight barrier fence on top of the earth berm as shown on the original plan has been changed to a 7' high fence. At this time, additional height adds additional weight to the fence structure, and adds additional wind resistance to the fence, that may be a factor. Looking at number six, the 4' wide flat top that the earth berm as shown on the original plan that had been tentatively approved has been reduced to a very narrow top on your plan tonight of an undetermined width, they don't tell you how wide it is, but it's like a foot or less. The effect of that is a reduction of the flat top width which reduces the anchoring surface for the sight barrier fence that has been raised to 7' high, and may result or contribute to an unstable condition dependent on how they anchor that. Looking at little number seven, on your original plan it was a 10.3' high retaining wall, that has been reduced by greater than 2' removed to an 8.1' high retaining wall with a dirt slope of an undetermined height above that. You will notice

on there that what they have done is they've gone at a one and one half to one from the top of the lower retaining wall, and, I think, you may have an unstable slope on both sides of this retaining wall now. Another effect is the reduction of the retaining wall height increases the likelihood of unstable earth in the berm itself, because on your original plan it went all the way to the top of that dirt and retained all of it, now forces of gravity can wreak havoc on what is not retained. Also the back slope of the earth berm above the shortened retaining wall is at a one and one half to one slope which draws the same comment as earlier. Also, with regard to this retaining wall, the plans do not show the exact height of the earth berm. I could not find anywhere on there that they give the exact height, so I have no way to determine a quantity of dirt that exists unretained up above this wall. Drawing your attention to little number eight on this, the height of the commercial building roof line closest to the residential property has been increased from the original submittal at 20' to now in your plan 24'. This is when it finally occurred to me that without any commentary from Morley and Associates or any evidence to the contrary, it is my opinion at this time, that all of these changes that I have enumerated up to now, with the exception of item number two the six to one safety ledge were made purely to accommodate the increased height of a berm and a fence to block the view of a building that was arbitrarily raised from 20' to 24', and at the same time these changes resulted in the maximum encroachment by the client of the right-of-way required by the county for our future maintenance of the drain. The reason this bothered me, is that we have done everything we possibly could do to accommodate this project, and the raising of the height of a commercial building has nothing to do with drainage, but yet for that extra 4' I have these concerns pop up to deal with. Therefore, it is the County Surveyor's recommendation that the plans be readjusted to reflect the proposed cross section as shown on the drawing submitted to the board on January 22, 2001 which I have handed you, and which we have been working from, and that any modifications to that would only include the six to one cross slope for the 12' wide maintenance path we have already agreed upon, horizontal and vertical dimensions adjusted only with regard to the retaining wall, fence heights, earth berm height and width, etcetera necessary to address the developers apparent desire to raise his building height. In other words, he is going to have to raise his berm height if he raises his building height, but not at the expense of the stability of the berm, or the accessibility of the ditch on our behalf, or any other minor modifications required to show newer more accurate data that they may have collected in the field. That refers basically to cross sections of the ditch itself and elevations of the dirt out there. Now I have some more comments that are made not relative to a hand out that I had, but more specific details and instructions not found in my review of the plans submitted for your approval at this time, and I might say that a certain quantity and quality of detail is required to ensure the installation of material in accordance with INDOT, City of Evansville, and industry standards, and they include but are not necessarily limited to the following. Before I go forward, I would like to say I did provide Morley and Associates with a copy of the boiler plates and the special provisions for a project almost identical to this one that the city had completed a couple of years ago, and I did provide them with a set of plans to draw information from, and my intent there was that I want a come back to you at some time in the future and ask to vacate this ditch to the city, and in order to do that I want it built to the satisfaction of the Board of Works of the City of Evansville. Do you have a set of specs yet prepared for this project, or is all we have the plans? I don't want to be unfair here.

Jim Morley, Jr.: The developer has already contracted Industrial Contractors to build this, so it is not going to be bid out through a public process, it is going to be paid for by the developer, the plans have the information that ICI requires.

Commissioner Mourdock: Jim, have they bidden out to these specs or to these specs?

Jim Morley, Jr.: To those specs, and I can go through and tell you what changes and why those changes were done. They all have a reason behind them, but if you want–

Bill Jeffers: Either way, that would be at the board's pleasure.

Commissioner Mourdock: Before we do that, though, it seems to me that since we do look, and I will speak for myself here, you guys jump in if you agree or disagree, but this board has traditionally looked to the County Surveyor to be our technical representative on these issues and I am going to try and put into a few words, Bill, what I think I heard you say. When this was presented to us on January 22nd, it looked like a plan that you could support with some minor details. What has come back here now has some relatively significant alterations to it, and you can't support these to us.

Bill Jeffers: Not all of them.

Commissioner Mourdock: Right. There are several that you can't..

Bill Jeffers: Unless they can be justified.

Commissioner Mourdock: Okay, so, certainly I am not inclined to take any action on this this evening until the County Surveyor is satisfied with the points that he has made here regarding all of those issues. Obviously, it is not up to this board to control the height of the building, and I don't know, and I presume that, David, you might know, in the zoning issues or Board of Zoning, I don't know if there was any restriction on what the height of that building is?

Commissioner Mosby: There is a use and development commitment on this zoning.

Commissioner Mourdock: On the building height?

Commissioner Mosby: Yeah, there's building heights, there's berm heights, so, I mean, to me that's not a question to us.

Commissioner Mourdock: That's right. The height isn't a question to us.

Commissioner Mosby: I don't know why it's in here.

Commissioner Mourdock: Because in changing this height from 20' to 24', Bill's presumption is that they change this to have more blockage of that additional height.

Bill Jeffers: My presumption is that the alterations that were made to the steepness of the slope of the dirt berm, the modifications to the retaining wall, the extension of the fence another 1' up in the air, the crowding of the ditch, etcetera, by one 7' wide bottom to a 2' wide bottom are the (inaudible) that has been done to accommodate screening a 24' high building that was previously planned to be 20', and at the same time not losing anything they have gained from us out on the one side of the ditch.

Commissioner Mourdock: Your questions regarding the velocity in the 2' versus the 7' structure are pretty important here.

Bill Jeffers: That is just one thing that I am concerned about going from a 7' to a 2'.

Commissioner Mourdock: Understood, but, this is the Drainage Board, from the drainage issue that's the key issue.

Bill Jeffers: Right.

Commissioner Mosby: Well, that's what I'm looking at, that's what I'm saying, I'm looking at the drainage. Have you discussed this with him?

Bill Jeffers: No, he was out of town for a week, then I was out of town for a week, and today is the first day we were both back in town. We have discussed some of the issues, but not all of them.

Jim Morley, Jr.: I can tell you, I know what has happened here, I know why these changes have been made, and if it be the pleasure of the board I can give you a quick run down of why we changed it and the advantageous or disadvantageous effects of those changes. It won't take but a minute.

Commissioner Mosby: Okay.

Jim Morley, Jr.: The ditch channel, the 7.1' that was shown on here, when we had done this preliminarily that's the average width of the existing channel. When we went out and did the actual design, we found that the ditch upstream at the southeast corner of this site, the pipes that come out of that neighborhood are buried all but about this much, so we didn't want to put in 1400' of concrete ditch and still leave the pipes buried all but this much. One of the 12" pipes is only that much exposed, so what we did was we deepened the ditch all the way through, and it is shown on, let me show you real quickly, on this page here you can see where the ditch has been deepened, this is the existing ground line and that's where the pipe comes out now, and that is where the new one is, and when we deepened the ditch because there are fences on the property line on the south side, and we had previously talked to Bill, and if I remember correctly, you had wanted us to stay inside the bank and that was our goal to stay inside the bank. When we deepened the ditch, it pushed that, as we came down for every foot we came down it got three feet narrower.

Commissioner Mourdock: Jim, as I'm looking at this it looks to me that while this is your discharge point over here and it is fairly low, we could go off the property. You are still going back up here, is that right?

Jim Morley, Jr.: No, here is the pipe, here is the pipe where it comes in, that pipe is down, right there. We kept the ditch 4/10 beneath the inverted pipe—

Bill Jeffers: This was where concrete trucks when they were building all these houses dumped all this stuff in here and that's all concrete—

Commissioner Mourdock: This stuff here?

Bill Jeffers: Right.

Commissioner Mourdock: As far as the original—

Bill Jeffers: Originally the ditch was deep enough to handle the outflowing pipe.

Commissioner Mourdock: That outflowing pipe, Bill, is current?

Jim Morley, Jr.: Yeah, there is two pipes there, no that's just a (inaudible). There's two pipes there—

Commissioner Mourdock: Okay I saw that. My question of earlier then was your statement is correct, you are actually putting this grade somewhat lower than what your outflow is?

Jim Morley, Jr.: We are keeping it—

Commissioner Mourdock: You are going to have some pooling of water there?

Jim Morley, Jr.: No, no, no. It's flowing that way. It goes that way. Here is the low point.

Commissioner Mourdock: Okay.

Jim Morley, Jr.: We intentionally put the invert down 4/10 to allow for any amount—

Commissioner Mourdock: That looked to me like it sloped that way on this page.

Commissioner Mosby: I was going off of this, like it was coming down, so that's what I was looking at.

Jim Morley, Jr.: It goes that way, so there is no pooling there. The 2' was narrowed up, the 2' it does increase the velocity of the water in there, however, with the channel, I believe, the channel, I don't remember, it's a 6" thick concrete, what the increased velocity will do will help it clean the channel, will help the channel clean itself. That is one of the problems with a wider flat bottom channel, is instead of that water flowing with at 2' channel it might be flowing an inch deep, and with a 7' channel it's flowing 1/3" deep which allows it to flow slower and drop out more sediment. So the 2' flat bottom cleans itself better. It also makes for a narrower channel to reach a track hoe or a dozer across, if you need to reach across. The other side is inaccessible for the most part because the subdivision is built right up to the top of the bank. The five to one slope was reduced to six to one, then that is why it went from a 7.1' as shown here to a 2', the primary reason was because we went deeper they came in on themselves, and then we did the calculations and found that the 2' was adequate and increased the volume capacity of the ditch significantly from what it is now, so it moves the same amount of water, actually it moves more water with a narrower bottom, and alleviates upstream problems in those neighborhoods, because now instead of having this much pipe discharging out they will have the full 19" by 30" or 12" either one. That is why it was narrowed up, it wasn't narrowed up to short change anybody, that was the reason behind it. The five to one was changed to six to one to meet INDOT's standards. Number three, the retaining wall, when we looked at this, this was the idea that we had come up with originally, a lot of this is at this point is now cost and use of land driven. It wasn't, none of it was done to short change the county. It was a matter of, is there something that we can do different and get the same effect for and preserve as much area as we can use, and not short change the county any and cost us less. The retaining wall was removed, the retaining wall and two to one slope were removed and a one and one half to one slope was put in, and I have a letter, that was our client, Premier Properties worked with a landscaper architect from Atlanta, and he wrote a letter, and I should have brought a second copy to give to you today, but he wrote a letter stating how that one and one half to one was to be built with geo

textiles that wrap back into itself and prevent any soil from eroding down, and then how it is to be seeded, and he had told me on the phone that this is something that he had done before and that's why he felt that the one and one half to one would hold using the type of method in accordance with the manufacturers recommendations for geo textile. In essence, what you do is you put it down, put dirt on it and flip this back up over it, and put dirt on it again, and you just do a bunch of little loops into the dirt, and that prevents the dirt from sliding down the hill and prevents any erosion, the geo textile there. That is, so, when we did that, when we went to one and one half to one we were able to eliminate the retaining wall. Initially, I thought, that the removal of the retaining wall would be a welcome sight, to be honest, to me it just gets in the way. A one and one half to one is just, I mean, a two to one with that retaining wall there isn't a driveable surface, because you can't get up to it because of the retaining wall, and the one and one half to one isn't a driveable surface either, but the main difference being there is no retaining wall there to hit as you are turning a track hoe around or something like that and damage it. If you happen to drive up with one of the tracks on the one and one half to one for a couple of feet or something, you are not hurting anything, but if you happen to hit that retaining wall, now the retaining wall is damaged and, to me, it just got in the way. I thought that was a positive change to get rid of the retaining wall.

Philip Hayes: On the city standards, will that supposed substitute satisfy the city (inaudible)? The design that you described from your landscape architect's letter?

Jim Morley, Jr.: I am unaware of a city standard for landscaping a berm.

Philip Hayes: Well, that is one of the, Bill, isn't that one of the problems that you were trying to instruct us about? City standards and INDOT standards on being able to get accepted? You are saying, that you are trying to get this—

Bill Jeffers: Right, the reason that I put that in there is that none of this was presented as a part of the plan. In other words, we were just showing a one and one half to one slope, we weren't show that that was geo textile armored, and we weren't given the manufacturers recommendations to go along with that, so nowhere in our set of plans or specifications were we provided with the information that Mr. Morley had available to himself. My comment is that an unarmored one and one half to one slope is unacceptable and my comment is backed up by the very fact that his architect said use armor.

Philip Hayes: That is my point.

Bill Jeffers: Had that been put into the plans it would have been addressed. Likewise with the retaining wall, if this is an armored slope, and a retaining wall is not needed, I agree.

Philip Hayes: From a legal stand point then, can all of these issues be addressed in order to get us where we need to go technically so that we—

Bill Jeffers: If the developer is willing to go through my list and agree to those things, which I only am pointing out things that I did not find in my review of the plans, and I'm asking for those to be somehow addressed in these plans or that a notation on the plans—

Philip Hayes: For example—

Bill Jeffers: —reference them in some specification so that when the contractor goes

out there to effect this plan, it is done in a way that will be advantageous to the City of Evansville, Vanderburgh County Drainage Board, and the people who are served by this ditch. Yes, I think that it can all be worked out, but what you heard is that a lot of things are now being cost and use driven.

Philip Hayes: No, is that what you meant (inaudible)? The value of the property (inaudible) cost and use driven?

Jim Morley, Jr.: The developer is a private developer, he is not unlike any other private developer if he can give the county a good product for a lesser price and it is still a usable product just like the other one was, then that is what he is going to go for. That is what anybody that tries to make money does. As long as the end product is just as good. Just real quick I'll finish up, the fence was raised to a 7' fence to help block, however, that is outside the right-of-entry, and I'm not exactly sure what concerns—

Commissioner Mosby: I want to stop you for a minute. I'm going to ask a question here. Since you were out of town and he was out of town and we are sitting here listening, we've heard his comments and we're listening to you give a rebuttal, but the two of you have not talked. I guess, my question to Bill is, and I just heard him say that this could probably be worked out if you two had a chance to sit down and talk. Why don't you two work this out over the next week and bring it back next week, rather than sit here and go through this tonight.

Jim Morley, Jr.: Okay.

Commissioner Mosby: Then we're going to hear the comments, then you two are going to work it out.

Commissioner Mourdock: Not next week, but next Drainage Board.

President Fanello: Next Drainage Board meeting.

Jim Morley, Jr.: Is there a way to—

Commissioner Mosby: I mean we went from last week to this week, so we might as well go to next week.

Jim Morley, Jr.: That's the problem—

Commissioner Mosby: I was going to say that you are probably under a time restraint.

Jim Morley, Jr.: Yeah. The month delay would really—

Commissioner Mosby: Right. So I'm saying, you know, they go and work it out this week and bring it back and we hear it after the meeting next week. Hopefully, they will either have it worked out or we'll have to vote one or the other.

Commissioner Mourdock: Okay, that's fine with me.

Bill Jeffers: Before you make a motion, please, have you read all of these comments?

Jim Morley, Jr.: I skimmed them when I was sitting here, but I've—

Bill Jeffers: Okay, because a lot of them had to do with lack of detail of the transition between one structure and the next. It is going to take some drawing, it is going to take some figuring and this that and the other. Do you want one week or do you want two? I am just talking about your available man hours. In other words, you don't show any transition between the end of this pipe, that you should have known was there, you should have known what the grade was before you ever drew the 7' bottom. To say that you are just trying to clear that pipe, when actually it is going to take at least a 4' bottom—

Commissioner Mosby: Okay, one more fuel for thought. If we go two weeks, it's the 16th, it is the same night we've got all of the jail people back here.

President Fanello: And it's rezoning.

Commissioner Mosby: And it's rezoning night.

Bill Jeffers: I will be most happy to work closely with you for one week, if that's what it takes, but I don't want to rush you and have to go through the same thing again one week from now.

Commissioner Mosby: I guess, my thought is if you all can come to an agreement on this, whether he has the final design done, or drawing or whatever you are needing, I mean, if you can come to an agreement on this is what I am looking for. If not, we will sit here and vote and he will not have to redraw.

Bill Jeffers: I will be most happy to recommend a red line set of plans if he can't get it blue lined.

Commissioner Mosby: Okay.

Jim Morley, Jr.: Say that again just for my clarification.

Bill Jeffers: I would be most happy to recommend a sufficiently detailed red line set of plans. You take that set, if you can't get it all blue lined by Monday evening, I will recommend the red line set that will be turned into a blue line set, after their approval.

Jim Morley, Jr.: So I don't have to have them finished? If I just have it sketched out what I am going to do—

Bill Jeffers: Like if your plotter breaks down at the last minute.

Jim Morley, Jr.: Fair enough.

Commissioner Mosby: I will make a motion then that you two go back and take the next week to try and work as much of this out as possible and we will hear it again on April the 9th.

Commissioner Mourdock: I'll second, but we will probably need to do something else just as far as making sure we set next week April 9th for that Drainage meeting.

President Fanello: Do we need to make a motion to that affect , or do you just need to set a special.

Commissioner Mourdock: Go ahead and so order the first one.

President Fanello: So ordered.

Commissioner Mourdock: Second one, I will move that we recess this evening and reconvene on April 9th to hear this matter, and this matter only, to bring this to resolution.

Jim Morley, Jr.: Okay, thank you very much.

Commissioner Mosby: Second.

President Fanello: So ordered.

Charlene Timmons: Do you want to say out loud whether it requires advertising or not?

Commissioner Mosby: It should not require advertising, we recessed.

Charlene Timmons: Okay, thank you.

Commissioner Mosby: If we had adjourned, it would require advertising.

Final Drainage Plans-Windham Hills and Wynnfield Subdivisions

Bill Jeffers: We have two sets of final drainage plans. The first one is Windham Hills Subdivision, Section One. John Kipling from Morley and Associates has a display that will help you see it quickly, we have two people in the audience who are adjoining neighbors. We talked to the rest of the neighbors and they appeared to be satisfied. Mr. Schlensker and his lovely wife are back, they have met with John and Dave Schminke in the other room for about a half an hour before this meeting. I don't anticipate any problems with Windham Hills Subdivision Section One, I am going to go ahead and recommend it for approval, the final plans for approval, but please be aware that Mr. and Mrs. Schlensker may like to make a comment.

President Fanello: Did you want to go ahead and come forward, did you have any comments that you wanted to make? Does anybody have any comments?

Commissioner Mosby: Are they satisfied?

Bill Jeffers: Are you satisfied with—

Unidentified: I think so.

Commissioner Mosby: Okay. I just wanted to make sure you weren't remonstrating.

Commissioner Mourdock: Bill, you said that you—

Bill Jeffers: Yes, we've been out in the field, unfortunately, our time set wasn't convenient for Mr. and Mrs. Schlensker, but we met with the rest of the people who are affected by this project and we are in agreement with it, and recommend, then the final drainage plan for Windham Hills Subdivision Section One.

Commissioner Mourdock: I will move approval of the final drainage plan.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: Okay, now on your left, no, on your right the more rectangular piece is what will be known as Wynnfield Subdivision–

Commissioner Mourdock: So, is that what's supposed to be B?

Bill Jeffers: That's B, it's name, this is the second time I made the same mistake. It is Wynnfield Subdivision, W-y-n-n-f-i-e-l-d. These name changes were necessitated by previous use of similar names, and APC likes to avoid confusion.

President Fanello: Well, there you go.

Bill Jeffers: Don't start now. They are doing a wonderful job, and they are succeeding in avoiding confusion of subdivision names. I appreciate them doing that. Okay, so Section One is simply this area up here, and again I have had an opportunity to review this with Mr. Kipling and Mr. Schminke, the two engineers who are working on it. I am in agreement with them and I do recommend approval of the final drainage plan for Wynnfield Subdivision, Section One. Mr. Leland Fehd is in the audience, he is the only adjoining property owner who has responded to the notice of the meeting last week and tonight. Mr. Fehd do you have any comments to make? You are relatively satisfied at this point and time? I think what we have, is we have two adjoining property owners who are going to keep a close eye on the subdivisions for us to make sure that there are no violations of off site sedimentation and that. These, and they are just interested property owners who have farmed and lived out there a long time and we certainly appreciate their input. The County Surveyor recommends approval of Wynnfield Subdivision, Section One.

Commissioner Mourdock: I will so move.

Commissioner Mosby: Second.

President Fanello: So ordered.

Receiving Petitions and Requests to Encroach

Bill Jeffers: An item that we were unable to get to last week, and appears as item five tonight under receiving petitions and requests to encroach, is a site plan that is before Area Plan Commission's site review committee. At this time, rather than belabor it, it is on a legal drain, there is a 50' easement that was left in between the Pasta Grill and SIGECO's property on this side, it's Nurrenbern Ditch, the Expressway is immediately north of here, Fuquay Road runs up to John Dunn's entrance of his large (tape change) I-164 and the Lloyd, and then on this side is Mr. Woodward's development that is where Eagle Crest Boulevard enters into Mr. Dunn's. SIGECO has already put a substation all the way across our ditch, piped it and everything, and they have an entrance, this was done in '92, and since it has been done, they have gated their entrance and we haven't even been back there to maintain this ditch, it's been maintained by the Pasta Grill and by SIGECO. This gravel road already exists, and it is being used by a cell tower firm over here, however, when they came in to put some additional equipment and some additional roof top on their cell tower shed Area Plan Commission would like for them to pave this gravel lane, and in order for me to sign off on the drainage end of all this, we now have the encroachment agreement that Mr. Hayes has hammered out, and the only problem is that this gravel lane that is already there straddles the property line. This side is owned by Mr. Dunn and this side is owned by SIGECO, so I am going to have two agreements. I am in total agreement that the cell tower should be allowed to have a grade level driveway, whether it is gravel, asphalt or whatever it is, I have no problem with it, like I say, it has been there eight years, we have done nothing back there in eight years, they have done it all for us, but it is just having to get two different property owners to sign two different encroachment agreements, and I am asking for your permission tonight for you to say that you will grant written approval upon receiving completed encroachment forms on Mr. Hayes current form from the property owners required to get this thing done. Fine and Hatfield represents the applicant.

Commissioner Mourdock: So moved.

Bill Jeffers: Thank you.

Commissioner Mosby: Second.

President Fanello: So ordered.

Awarding Contracts for 2001 Annual Ditch Maintenance

Bill Jeffers: Awarding contracts. You got a cover letter signed by me, it is self explanatory, basically we took all of the contracts that Mr. Hayes opened at the previous half of this meeting last week, and he read all of those into the minutes last week, and then we adjourned and came back after taking those under advisement, and on the legal size print out you have every proposal that was received, opened and read into the minutes by Mr. Hayes for maintenance on regulated drains for the year 2001. Then on the regular 8 ½" X 11" print out that accompanies this cover letter, you have who we determined to be the lowest responsive bidder that was received in correct form and who was known to us to have performed sufficiently in all previous years. In almost every case, I don't think we have any new bidders.

Commissioner Mourdock: Were there any of these, Bill, that you are going to recommend that were not the low bidder?

Bill Jeffers: Everyone that we are going to recommend was the low bidder.

Commissioner Mourdock: Makes it easier. Okay.

Bill Jeffers: Yes, sir, and everyone, every low bidder was responsible, responsive and had the paperwork in order. All I am asking you to do at this time, listen real closely, Mr. Hayes, is what we have done in years past and previous boards have agreed to, the Vanderburgh County Surveyor recommends that the Vanderburgh County Drainage Board waive the requirement for performance bond on each of these projects and hold the 5% bid bond checks as submitted with the bids until such time as the County Surveyor finds the work to be complete. What we are asking you to do is what you have done year after year after year, is to hold the 5% bid bond in lieu of a performance bond. We don't pay them until the work is done, and they don't get their bond money back until the last claim is filed. We also at the end of the work period, we hold back 15% as a retainer for 60 days, this is like Drainage Law. We hold back 15% of the total for a period of 60 days, until they get an affidavit swearing that they have paid all of their suppliers—

Commissioner Mourdock: We need to do this in order, so first thing we need to do is award those contracts, correct?

Bill Jeffers: You can't, yes, sir. That was recommended by the County Surveyor on these 8 ½" X 11" sheets.

Commissioner Mourdock: I would move that we award to the low bidders as recommended by the County Surveyor.

Commissioner Mosby: Second.

President Fanello: So ordered.

Commissioner Mourdock: Second thing then, I would move, that as in the past, that we waive the requirement for performance bond on each of the projects and hold back the 5% bid bonds until the Surveyor deems the work complete.

Commissioner Mosby: Second.

President Fanello: So ordered.

Commissioner Mourdock: I would also move then that the Surveyor release the bid bonds of the unsuccessful bidders.

Bill Jeffers: Right, we have to release them and have them back to them in ten days. We will hold the rest of them. We have the contracts already prepared and the successful bidders who have just been awarded their contracts have five days to come sign them with us and we are in business.

Commissioner Mosby: Second.

President Fanello: So ordered.

Philip Hayes: Just one clarification, I hope it is not stupid, do you have, you are going to negotiate the 5% bid bond checks? You are going to negotiate and deposit, because when you say hold—

Bill Jeffers: They are held in the Auditors Office, in the safe.

Philip Hayes: You intend to negotiate, are all of those certified or cashiers?

Bill Jeffers: Most of them are certified or cashiers checks.

Philip Hayes: I thought I saw—

Bill Jeffers: You want us to draw interest on them, is that what you would like to see?

Philip Hayes: No, well, no I don't care about that, I don't think there is enough money in there but, I thought I saw a couple of items that weren't properly certified, or had time limitations on them. We can cover that, I just wanted to be sure that when we say hold I want to define it as hold within the legal limitation on the instrument is all, that's all.

Bill Jeffers: If we see on an instrument that the bid bond is only good for 30 or 60 days, we will negotiate it. Okay, I got you.

Pay Ditch Maintenance Claims

Bill Jeffers: Okay. I have two bids for work that was awarded on previous contracts, and the County Surveyor recommends payment of these claims.

Commissioner Mourdock: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: Unless someone here present would like to address the board, I think, I have taken up enough of your time.

Commissioner Mourdock: I guess, I will formally move to recess, since we will need to reconvene next week.

Bill Jeffers: Thank you.

Commissioner Mosby: Second.

President Fanello: So ordered.

The meeting was recessed at 8:24 pm.

**Vanderburgh County
Drainage Board
April 9, 2001**

(Continued from 3/26/01 and 4/2/01)

The Vanderburgh County Drainage Board meeting was called to order at 7:30 p.m. by President, Catherine Fanello.

Statement of Indiana Code

Bill Jeffers: April 9, 2001. Under IC-36-9-27-7 paragraph E, authorizing meetings of the Drainage Board to be adjourned from day to a certain day without written notice being given to continue unfinished business. This is the third in a row of three Drainage Boards from subsequent Mondays.

Agreement For Encroachment Of A Drainage Easement

Bill Jeffers: First order of unfinished business is an agreement drafted by Harrison French Architects, drafted by your attorney with insertions from Harrison and French for encroachments of a drainage easement with the required check for \$19 for recording fees. This was brought to you two weeks ago, but is in its final form at this time, only requiring your signature and a notary, and a notarized witness of your signature. It is recommended by the County Surveyor, it is in the form drafted and approved by Philip H. Hayes, Vanderburgh County Attorney.

Philip Hayes: For the record, Bill, your required insurance certificate is there as well, from them for County limits of \$10,000,000 and, in addition, they have prepared the appropriate three exhibits that meet with your approval.

Bill Jeffers: Thank you.

Commissioner Mosby: Motion to adopt.

Commissioner Mourdock: Just one question—

Philip Hayes: They have executed also. They have executed in writing on behalf of the Sam's Business Trust, is the—

Commissioner Mourdock: Bill, does this clear up all of the issues that came before us last week? All of the technical issues that you had last week?

Bill Jeffers: This is just on Wal-Mart's encroachment of a drainage easement, we are saying—

Philip Hayes: It was the one, it was the meeting before that.

Bill Jeffers: I was taking the simple thing first.

Commissioner Mourdock: Okay, alright.

Philip Hayes: I should have refreshed the record, but—

President Fanello: So ordered.

Philip Hayes: The matter was approved before and we just laid it to rest at that time.

Bill Jeffers: It just requires your signatures, the matter has already been approved.

Philip Hayes: We asked them to execute first, Commissioner, which they have done and furnished the documentation.

Approval Of Reconstruction of Crawford-Brandeis and Bonnie View

Bill Jeffers: Under 36-9-27-32, contract deputies, in January you had appointed Morley and Associates as contract deputies for the reconstruction of Crawford Brandeis Ditch south of the Lloyd Expressway with pipe, and the reconstruction of Bonnie View Ditch along the south line of the Premier Property with an open paved ditch, which came before you in its plan form last week at which time the County Surveyor had some concerns about some details which were enumerated in his letter to Mr. Morley and the board directed the contract deputy, Mr. Morley, and the County Surveyor to hash out the details, which we did. All concerns were addressed by Mr. Morley in his writing on a copy of the enumerated details that I was requesting, which is accompanied also by several copies of brochures and other technical data with regard to the materials that are to be used, and at this time the County Surveyor would recommend, would assure you that the details have been addressed here, your contract deputy, Mr. Morley, is here before you with an exact same copy, and the County Surveyor recommends at this time that you accept Mr. Morley's recommendation as your contract deputy, and approve the plans so that they can go forward.

Commissioner Mourdock: The only quick question I have, Bill, is that last week you brought up the issue in narrowing the bottom of that channel from 7' down to 2', I think—

Bill Jeffers: Right.

Commissioner Mourdock: —that you saw some risk of scouring and that kind of stuff because of higher velocities at the bottom.

Bill Jeffers: Right, Mr. Morley, addressed that and showed me the exact velocities in his handwriting on this document that I have before you, and showed that they are non-scouring velocities and that generally scour is not a concern of INDOT in regard to paved channels at those velocities—

Commissioner Mourdock: Okay.

Bill Jeffers: —and that is what you asked for and that is what I provided.

Commissioner Mourdock: With the recommendation of the County Surveyor, I will move approval of the drainage plan.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: Thank you.

Commissioner Mourdock: Motion to adjourn.

Bill Jeffers: That concludes the longest board meeting in the history of Vanderburgh County.

Commissioner Mosby: Second the motion to adjourn.

President Fanello: So ordered.

The meeting was adjourned at 7:40 p.m.

Those in attendance:

Catherine Fanello	David Mosby	Richard E. Mourdock
Philip Hayes	Bill Jeffers	Madelyn Grayson
Charlene Timmons	Jim Morley, Jr.	Others Unidentified
Members of Media		

**Vanderburgh County
Drainage Board**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson

**Vanderburgh County
Drainage Board
April 23, 2001**

The Vanderburgh County Drainage Board was called to order at 7:25 p.m. by President Catherine Fanello.

Approval of Minutes

President Fanello: Do I have approval of the minutes of the previous meeting?

Commissioner Mourdock: I will move approval of the minutes of March 12th. Let me turn my mike on. I will move approval of the minutes of March 12th, and just for the record, I think, only you and I can sign those, because I don't think that David was here that night.

President Fanello: That's right. Second.

Madelyn Grayson: Excuse me. Aren't there minutes from the March 26th meeting as well?

President Fanello: I don't have any in my packet, but if we are supposed to—

Commissioner Mourdock: I don't think so. I think that all I have... no I have April, I have March 12th.

Philip Hayes: Those were transmitted by e-mail, Madelyn. I received my e-mail copies.

President Fanello: I don't have any to sign or anything, do we?

Madelyn Grayson: I have got the original, permanent copies here to sign. You were all sent them by e-mail, but apparently the copies weren't put in your packet?

Commissioner Mourdock: Okay, and were all three of us present at that one on March 26th?

Madelyn Grayson: This was the one that was continued on 4/2 and 4/9.

President Fanello: Remember that's the one where I left early—

Commissioner Mourdock: So, the official date on that is March 26th?

Madelyn Grayson: March 26th, continued on 4/2 and 4/9. They are all in one set of minutes.

Commissioner Mourdock: I will move approval of that set of minutes.

President Fanello: Second.

Premier Properties-Encroachment Agreement

Philip Hayes: With regard to the continuation on the matter of Premier Properties, and their encroachment agreement, legal drain right-of-way encroachment, Bill?

That is a matter that was continued from time to time, was it not?

Commissioner Mourdock: It was continued once, I believe.

Bill Jeffers: Once.

Philip Hayes: Mr. Morley—

Bill Jeffers: You all have...have you all done a so ordered on that second set of minutes?

President Fanello: I seconded and so ordered.

Bill Jeffers: I'm sorry. Right, that has been continued, and they're—

Philip Hayes: So we are prepared to go ahead...all of the...I was directed to negotiate and complete accordingly to outline a document. We have that encroachment agreement—

Bill Jeffers: Okay.

Philip Hayes: —and the insurance. I am prepared to recommend that it be...it can now be executed.

Bill Jeffers: Okay. That takes care of Bonnie View and Crawford-Brandeis ditch, the encroachment by Premiere—

Philip Hayes: That's correct.

Bill Jeffers: —and those 25' and 15' respective rights-of-way?

Philip Hayes: That is correct. While we are on that subject, if I could with regard to procedure, Bill. I have spoken to Madelyn in regard to the recordation of these, and if it is alright with you procedurally, once she has obtained the appropriate signature of Ms. Crouch, that they will hold it and call you for it to be picked up and recorded.

Bill Jeffers: Is that what—?

Philip Hayes: That's what we were going to do.

Bill Jeffers: Is that how Ms. Crouch wants—?

Philip Hayes: That's how I think that I would like to do it. That is what—

Bill Jeffers: They will hold it in the Auditors Office, and then I will hand carry it to the Recorder?

Philip Hayes: I think that would be appropriate for someone...yeah, for you to go ahead and get the recordation done on it so that the numbers of copies can be made, and so it can be distributed, because the exhibits are...they are not contained on here, they are drawings. Those exhibits are in your possession, I think, because they are engineering drawings. Some of them are larger, some smaller...now, they don't have to be...they can be miniaturized, but, uh—

Bill Jeffers: So, Mr. Morley will provide me with those exhibits, and then I will

record them.

Philip Hayes: Exactly, because in this instance isn't Mr. Morley acting?--

Bill Jeffers: Okay, I got ya.

Philip Hayes: Mr. Morley should bring the recordation fees along with him--

Bill Jeffers: Okay, so this document after it is signed will rest in the Auditors Office until the check for the appropriate amount is brought with the exhibits, and then I will retrieve it from there and take it to the Records Office, have it recorded--

Philip Hayes: Yes.

Bill Jeffers: --and distribute copies?

Philip Hayes: I think that would be the most efficient, and it wouldn't hurt to distribute copies right away unrecorded, so they have them for their files, but the drawing that were submitted as exhibits for this are not adequate, obviously, they were not intended to be, they were just symbolic. I just wanted to be sure that you are alerted to that--

Bill Jeffers: Okay. We just had an agreement between the Auditors Office and the Surveyors Office that she hold the documents, because it was more appropriate that she hold them prior to recording than I.

Philip Hayes: Oh, I agree with that.

Bill Jeffers: Okay. Then I will take them over and have them recorded.

Philip Hayes: I don't disagree. Yeah, as long as that's alright with you.

Bill Jeffers: Sure.

Philip Hayes: I just had to come up with that on the Wal-Mart matter, and--

Bill Jeffers: That's fine.

Madelyn Grayson: Excuse me. The original document will remain in the Auditors Office in the scrapbook--

Philip Hayes: Yes.

Madelyn Grayson: --as all other original documents do, correct?

Philip Hayes: Yes, correct. I probably would like to have some copies to distribute, so--

Bill Jeffers: I will work that out with Madelyn, so that she always has possession of the original.

Philip Hayes: I think that it would be a good idea to go ahead and distribute the copies of the signature document so that the parties have them in hand, and

know exactly what they are doing. I don't want any confusion about who has what.

Bill Jeffers: Okay.

Commissioner Mourdock: Okay, well just to put some official-ness to this, I will approve the legal drain right-of-way entry encroachment agreement between the Evansville Pavilion LLC owner and Vanderburgh County.

President Fanello: Second and so ordered.

Philip Hayes: I thought that had already been done.

President Fanello: I guess, I thought that had already been done--

Philip Hayes: Basically, in this instance that is correct, I remember now. One other thing, in conjunction with this... I don't mean to take up time, but if I could ask that, Bill, you might want to take a look...or if we could consult concerning a schedule of fees for some of this work. What is happening is this, that we are, I think, doing a lot of legal work for the applicants in these cases, because each one is turning out to be different. Each one requires different consultation, each one is requiring some education, even without regard to format. We have redone the uniform format, so I don't think that is applicable to the two cases we have done here. I would like to, if it is, respectfully, within your experience and you think that it is appropriate, to suggest a potential fee schedule for some of that kind of work, so that the county is getting reimbursed on a direct basis. I don't think that it is going to cost us anything more, but it takes up a slot...it is almost always needing to be done right away. I don't think that we are talking about a lot here, but I would think that it would be appropriate to at least review that.

Bill Jeffers: So, what I'm gathering is that--

Philip Hayes: Charge them money for doing this work.

Bill Jeffers: Right, because each case is coming up as individual and needs it's own modification--

Philip Hayes: It's not a...yes, it's not a big deal, but, and I don't think it would differ. I think that a uniform schedule could be agreed to. I don't want to burden the developing process, but on the other hand, these are unusual and they require quite a bit of thinking through, I know, I certainly know from on your part, you know, you would have to do a whole lot of review of these things. As far as embodying it, then, in the legal document to be sure that there are no misunderstandings about it, and no further liability, I think that it makes sense to have some kind of a uniform fee for that.

Commissioner Mourdock: Bill?--

Philip Hayes: If that is possible. You know, maybe I'm--

Commissioner Mourdock: I don't know that I've ever in six years heard that question brought up. I guess that was always routinely done just under the work that the County Attorney did?

Philip Hayes: Uh-huh.

Commissioner Mourdock: Is that correct?

Bill Jeffers: I'll uh, actually this was a brand new—

Philip Hayes: I want them to pay the county. I'm not talking about...they don't pay the...they are not paying the County Attorney. The County Attorney will do whatever it takes, let me clarify. It just simply is that I think that the county ought to be...I don't know that we need to necessarily subsidize the professional worked required by the developer, we don't subsidize their engineering—

Commissioner Mourdock: Sure.

Philip Hayes: —they are paying for the Morley part of it...if they want to have...and we are going to provide a form now that if their attorney wants to go ahead and send it, but what I can already see happening, and from the negotiations is, they send it in and it's like, let's try them on for size, and the next thing I know, they have ratcheted down on several things; insurance coverage, breadth and scope of indemnity, capacities, whether it's in the official or individual capacities, and that happened in both instances here—

Commissioner Mourdock: Right. Both—

Philip Hayes: —and it is not a matter...I mean, I want to do a true fee, I don't think that we ought to do something that...it's not a penalty for petitioning us to—

Commissioner Mourdock: Right.

Philip Hayes: —you know, ease up or not ease up.

Commissioner Mourdock: Let me repeat it back to you, just to be sure that I understand.

Philip Hayes: Yeah.

Commissioner Mourdock: What you are suggesting is for something like what we just acted on, where there is—

Philip Hayes: Uh-huh.

Commissioner Mourdock: —a drainage encroachment, there is going to be a certain legal review from our side requiring—

Philip Hayes: There is certainly the Surveyors review—

Commissioner Mourdock: Right.

Philip Hayes: —is going on—

Commissioner Mourdock: When they submit that document to us, they would thus be billed at some set fee rate for having us review that legal work?

Philip Hayes: Yeah.

Commissioner Mourdock: A fee to the county?

Philip Hayes: For putting it together, and...they pay a fee for recordation—

Commissioner Mourdock: Okay.

Philip Hayes: —as well.

Commissioner Mourdock: Sure, which they do now.

Philip Hayes: Yeah.

Commissioner Mourdock: As far as, if we are putting it together, you make a good point. If on the other hand, they are providing us with the draft legal document that their attorney has drafted—

Philip Hayes: On our form, based on our...what I have furnished to Bill is a substantial revised format now, condensed down to a couple of pages, and then it begins to expand as their needs expand on the particular encroachment, on how much they need to put in. I think we've got it down to a science to where it's about a fundamental seven or eight paragraphs of work that need to be done. My point about it is that in each context, though, as to each issue in it's context, the county has to devote it's legal time—

Commissioner Mourdock: Uh-huh.

Philip Hayes: —that it possesses to doing that. I guess, I am asking about the propriety...because every developer doesn't need a drainage encroachment.

Commissioner Mourdock: Uh-huh.

Philip Hayes: They don't all need it. Some do, some don't. I guess, and I am not looking for a source of revenue, particularly, but I am trying to be sensitive to the idea of a potential reimbursement at some set rate that is reasonable...and I frankly don't know of any precedent for it. I haven't called around to find out, but—

Commissioner Mourdock: That is where we are at the moment is, basically, you are just asking Bill to check and see if he knows of any precedent that is out there through other—

Philip Hayes: Yeah, and would it be...is it appropriate to do, and, you know, all that? I know that you do a ton of work for developers, and John does a ton of work for developers, and that the county bears the cost of that. So, maybe I am a little out of line about it, but it just seemed to me to be a place, a most obvious place to start.

Bill Jeffers: Most departments in the Civic Center charge a fee for permits.

Philip Hayes: This is in the form of a permit.

Bill Jeffers: We haven't. That is just...we haven't, you know. Then when we had this petition to...where you...petition for an obstruction to be removed, we found out that people might use it for personal, whatever, so we asked for a \$100 filing fee. I think, what...that is not pertinent to this issue, but—

Philip Hayes: Well, maybe it is—

Bill Jeffers: —that was the first one that we ever did—

Philip Hayes: —maybe it is.

Bill Jeffers: We looked around to see if other people did that, and we found out that they did. I will look around and see if people, if other municipalities charge a fee for an encroachment of a right-of-way.

Philip Hayes: I mean, I think that—

Bill Jeffers: I understand what Mr. Hayes is saying, because the last two particular encroachments, especially the one prior to this one, he spent a substantial amount of time back and forth on the telephone. They were calling me, I was calling him, they were calling him and faxing him documents, because they were hashing out the wording so that they could be self insured and this, that and the other. They weren't satisfied with the document that we had provided them with, and it is the document that we had used for over two years, and they weren't satisfied.

Philip Hayes: That document needed to be killed anyway, in my opinion. I'm glad we had a chance to work out on it, and we spent a lot of extra time—

Bill Jeffers: You are saying now that this...Premiere wanted it tweaked again.

Philip Hayes: Well, that's true, and that's okay too, they can petition...my point, I guess, is maybe the same as yours, it's almost like a filing fee, some kind of a, in essence, it is a flat estimated cost that will average out over the long term. I mean, every law suit costs \$100 to file it in court.

Bill Jeffers: You realize that the County Recorder is going to charge them \$19 just to routinely take it into their files?

Philip Hayes: Well, and house it, you know—

Bill Jeffers: So, surely our efforts are worth something?

Philip Hayes: —make it permanent.

Bill Jeffers: I would agree.

Philip Hayes: Well, I think, the county can maybe realize a, you know, a certain amount of reimbursement with it. What I would have looked for would have been, you know, proffering us a proposed encroachment agreement that wasn't...that took into account our need for indemnity, and our need for insulation for our employees and our officers, because each time they...my point is, they make, this board makes the decision to relax a standard, and when that is done, there is an implicit inference of abusive discretion involved in it. This is a highly technical area, and so, I wasn't comfortable with anything less than all of the risk going on the petitioner, who wants the encroachment. We still have the duty, we can't recklessly proceed, and we don't, but, I think, that for the documentation of all of that, that is deserving of some increment of a fee. If you are going to charge a fee, then maybe that can be computed into it.

Bill Jeffers: I will–

Philip Hayes: The fact that you’ve got some legal–

Bill Jeffers: I’ll look and see what they do in some of the more progressive counties in Indiana and come back to you with a figure. I hope that covers the cost.

Philip Hayes: I don’t know that it will ever cover, but on the long average is what you are looking for so that you...some are easy, some are hard. That will work.

Philip Hayes: Okay, unless you have a fee in mind at this time.

Philip Hayes: Not for you.

Bill Jeffers: Okay.

Removal of Obstruction- Cambridge-Dan Buck, Petitioner

President Fanello: Old Business.

Bill Jeffers: On the matter of the Dan Buck petition to remove an obstruction at Cambridge, that action was taken...your order was given on March 12th, which means that the 45 days has not passed yet, so I will withhold the report on that and give it to you at your next meeting. However, I will tell you that I have heard that it has been removed and that the contractor is currently reconnecting the under drain, but I haven’t...I am not ready to file an official report on that.

Commissioner Mourdock: I’m beginning to think that on these we ought to raise the filing fee to about \$2,500.

Bill Jeffers: We should.

Preliminary Report- Removal of Obstruction-Petitioner, Steve Millay

Bill Jeffers: You have before you the preliminary report on Steve and Gloria Millay’s petition to remove an alleged obstruction of a natural surface water course. This report is in response to the petition which was filed with your board March 26, 2001. My inspection occurred on April 19, 2001, and this report...what I did on this one is, I addressed, pretty much, item by item...because their petition, which is exhibit A, was put together for them by an attorney, and the attorney enumerates their complaints one, two, three, four, five, six, seven, eight, etc., so I address the petition items as they are enumerated within the petition. Attached are some drawings and photographs, etc. that you can refer to as you read the report. I would only like to point out at this time that this is an unusual case, because this is the first case in which the alleged obstruction exists upstream of the petitioners property, rather than downstream. Please take that into consideration as you are studying this, because the obstruction is a dam that holds a lake back upstream of the petitioners property. The reason for the alleged bad drainage is that the point of discharge from the lake is such that it has been moved over to the side of the valley, and the water comes across the petitioners property in a different manner than it did before. In other words, before the dam was there, the water just sheeted across their property through a

natural surface water course, and now the outlet has been placed in such a way that it goes across a part of their property that never had water on it before. It adversely affects their sand volleyball court and comes down the side of their back yard, and does some things that deprives them, they allege, of the use of part of their property. I will drop that in there, because this is more a redirection of water, but they are looking for a court of hearing. I will leave it at that, and I think that you should probably schedule this for a hearing at your next regular meeting. Unless, you don't want to handle it along with all of your other business.

Commissioner Mourdock: I will move that we go ahead and schedule it at the next regular hearing.

President Fanello: Second and so ordered.

Commissioner Mourdock: I would also move that we direct the County Attorney so that he is well prepared for this one, to see...I mean, this is a unique situation. If there is a new drainage area that is flowing, does it meet the standard of the statute which is to say the natural drainage way? Sounds to me like that might be a question rather the state—

Bill Jeffers: It rearrives in the natural surface water course, but it takes a detour of the path to get there.

Commissioner Mourdock: New ground here.

Bill Jeffers: Yeah, it is new ground. I tell you what, if the same Senator or legislator who introduced this original legislation and had it passed, Mr. , not Wells—

Philip Hayes: Is it Mills?

Commissioner Mourdock: It was Meeks, wasn't it?

Bill Jeffers: Well, it's the same fella who introduced some more legislation that was passed here recently to modify this bill, this law, but he also had introduced some about redirection of natural surface water. That, I understand, didn't pass yet. The redirection, as opposed to the obstruction, so this is an issue that will be before you at some time in the future. It is just questionable as to whether the current legislation really covers it or not. That is something we will have to decide at the hearing.

Philip Hayes: The old (inaudible). That the old law of diversion, that every property owner has a right to protect themselves from flowing water by diverting it is modified by the legislation that you are discussing?

Bill Jeffers: Yes, it was modified by the bill that we operate under now. This lake was built for a recreational or beautification purpose, not , it wasn't a—

Philip Hayes: Flood—

Philip Hayes: —storm water control effort.

Philip Hayes: Not a retention or detention?

Bill Jeffers: Not a retention lake. It did not come under any permitting from us. It didn't require any permitting from anybody. They simply built a little pond in their backyard.

Philip Hayes: Is it all in Ag?

Bill Jeffers: I think the lake is in Ag, and the discharge is on to R-1. Adjacent R-1. I can check that out.

Philip Hayes: Well, yeah—

Bill Jeffers: The petitioner is definitely in a subdivision. The respondent looks like a parcelized Ag. with a home.

Philip Hayes: Okay.

Bill Jeffers: I will check that out. It is going to be interesting.

Philip Hayes: I'm sure.

Bill Jeffers: As they all are. Get ready to play Solomon again.

Commissioner Mourdock: Uh-huh.

Philip Hayes: Why don't you call me—

Bill Jeffers: This is one where you are going to have to. You are going to be put in the position of Solomon right here.

Commissioner Mourdock: We will bring our robes.

Philip Hayes: You call me, and we will go down and visit with Mrs. Cunningham.

Bill Jeffers: Okay.

Contracts for Ditch Maintenance for 2001

Bill Jeffers: The next order of business is to receive and sign the contracts that we have entered into so far with the ditch maintenance contractors. We are only lacking Union Township Ditch Association, the rest of them are here. Your signature should appear on the last page of the contract. The contractors signature already appears, along with a notary stamp, and the notaries name, address, etc. Maybe it's possible that you could make a motion to accept these and enter into these contracts, and if you don't wish to sign all 60 of them at this time, you could have your staff affix your signature.

Commissioner Mourdock: So moved.

President Fanello: Second and so ordered.

Commissioner Mourdock: That is what rubber stamps are for.

Bill Jeffers: It is all a matter of just, you know, it is all standard.

Philip Hayes: We don't have to notarize them?

Bill Jeffers: No, everything that is needed to be notarized has already been notarized. You are just acknowledging that you accept to enter into a contract with these people. You already awarded them the bid, they are the successful bidders in each case.

Receive Petitions and Requests to Encroach Easements

Bill Jeffers: At this time we are here to receive petitions or additional requests to encroach easements. I have none in my possession.

Other Persons Wishing to Address the Board

Bill Jeffers: Other persons wishing to address the board, who I haven't yet given that opportunity to.

Commissioner Mourdock: Seeing none.

Ditch Maintenance Claims

Bill Jeffers: I have no ditch maintenance claims to bring to you at this meeting.

Other Business

Bill Jeffers: Other business would be reserved for either this gentleman here, this gentleman here, or board members.

Philip Hayes: Let the record reflect that one was Mr. Stoll the County Engineer and—

Commissioner Mourdock: He is waiting to talk with me, so—

Bill Jeffers: A member of the public, okay. No one wanting to address the board or conduct other business, I suggest you adjourn this meeting.

Commissioner Mourdock: So moved.

President Fanello: Second and so ordered.

The meeting was adjourned at 7:50 p.m.

Those in attendance:		
Catherine Fanello	Richard E. Mourdock	Philip Hayes
Bill Jeffers	Madelyn Grayson	John Stoll
Dan Williams		

**Vanderburgh County
Drainage Board**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Drainage Board
May 21, 2001**

The Vanderburgh County Drainage Board was called to order at 7:50 p.m. by President Catherine Fanello.

Approval of Minutes

President Fanello: First, do I have a motion to approve the minutes of the previous meeting?

Commissioner Mosby: So moved.

Commissioner Mourdock: Second.

Old Business

President Fanello: Old Business.

Commissioner Mosby: Is there not any Old Business?

President Fanello: I'm waiting for Jeffers to come.

Commissioner Mosby: Oh.

Bill Jeffers: In the matter of a report on the Cambridge Golf Course obstruction removal that has taken place, uh, I haven't had the opportunity to view that after the weekend rainfall. It looked good before the rainfall, but I would like to withhold that report until the next meeting so that I can, uh, report on, uh, the effects of that rainfall.

Commissioner Mosby: So moved.

Commissioner Mourdock: Second.

President Fanello: Second and so ordered.

Bill Jeffers: I had a call Friday from the, uh, attorney for the petitioner, Steve and Gloria Millay, and the attorney asked that we postpone and reschedule the hearing for, uh, the next monthly meeting, and he indicated that the remonstrators, uh, attorney concurred with that, and let me read something into the minutes. I am assuming that there is no one here to speak to that petition, and Indiana code 36-9-27.4-13 reads

Before or on the date of a hearing held under this chapter, the Drainage Board may postpone and reschedule the hearing if

and the second condition is the interest of fairness otherwise compelled postponement. The interest of fairness does compel postponement due to some new information that was discovered and is intended to be brought forward by the remonstrator with professional witness, and, uh, petitioner's attorney requests that you postpone it and give him ample time to examine the new evidence.

Commissioner Mosby: So ordered.

Commissioner Mourdock: Second.

President Fanello: That was a long motion. Second and so ordered.

Commissioner Mourdock: He was going to see if anybody was catching up there.

Commissioner Mosby: Well, he just said to hold, so ordered.

Bill Jeffers: The third matter, you have some 2001 contracts that were delivered signed to the Auditor's Office, and I am assuming Madelyn has those for you to sign. If you would just make a motion...we have examined them, they are in order and we would ask you that you just sign them at your leisure.

Commissioner Mourdock: I will move approval of the 2001 contracts, and that's for ditch maintenance, I presume, Bill? Contracts for ditch maintenance?

Bill Jeffers: Yes, sir. For 2001 for maintenance to regulated drains.

Commissioner Mosby: Second.

President Fanello: I have a motion and a second. So ordered.

Bill Jeffers: Under Old Business, your attorney, Mr. Hayes, had prepared a very good agreement, uh, that was sent to encroach, uh, an agreement to encroach a drainage easement by Wal-Mart, on behalf of Sam's for a fueling station, and between Mr. Hayes and the attorneys for Wal-Mart, they had made some adjustments to the original document that was prepared, uh, some years ago by, uh, the former attorney, Mr. Harrison, and, really, basically, the only thing that was tweaked, uh, to any great extent, was that Wal-Mart wanted to be self-insured, so there is a sentence in here that said the limitation of the liability would be in an amount of not less than \$10,000,000, basically, net worth of the company. I made the mistake of attaching a blank document that still had the \$10,000,000—

Philip Hayes: Bill. Bill, just for a minute, for the sake of the record, if I could interrupt you, uh, the question...I...let me correct the, uh, representation. You haven't made an error. What, uh, what has been done as I understand it is, the format of the Wal-Mart agreement, which all of you are familiar with, was signed and it had a \$10,000,000 limit of liability because of the described, uh, risk which required management, and that was on the advice of our insurance carriers, uh, on that issue, and what, what has occurred is that a format containing that language circulated and there was apparently a misunderstanding by one of the engineering firms who thought it was a uniform standard that all encroachments would cause a, uh, \$10,000,000 insurance problem. We have clarified that verbally, and, for the record, we are trying to clarify that tonight, Bill, is that what you want to do?

Bill Jeffers: Right, I just want to—

Philip Hayes: Make a minute. So, but it is not your error. It is simply a factual copy of a public record was circulated for format, and there were certain persons sought that, somehow or other it was a uniform applying to all encroachments of drainage easements, and that is not true. So in each instance, uh, there will be review of risk management and necessity and, uh, we will conform that, and you wish these minutes so reflect that.

Bill Jeffers: That's right, and—

Philip Hayes: Okay.

Bill Jeffers: –just in case one of the Commissioners may between now and the next time when this risk management is adjusted for each project that asks for an encroachment, you may hear, uh, some feedback from people who, uh, somehow got a copy of, uh, the \$10,000,000–

Philip Hayes: Encroachment.

Bill Jeffers: –clause. Which won't be applying to a much smaller project with less risk, obviously.

Commissioner Mourdock: I will move approval then of the amended agreement.

Commissioner Mosby: Second.

President Fanello: So ordered.

Preliminary Drainage Plans

Bill Jeffers: Under Preliminary Drainage Plans, the first one that Area Plan Commission will look at next month is Cross Pointe, Section 7, which is an extension of the Cross Pointe development near the intersection of I-164 and the Lloyd Expressway. It's an ongoing, uh, expansion, uh, I have reviewed the preliminary drainage plans, and they comply with, uh, the , uh, the, uh, ordinance requirements. The, uh, engineer representing Cross Pointe developer is here in the audience if there is any questions. Otherwise, uh, I recommend that the board approve the preliminary plans for Cross Pointe, Section 7.

Commissioner Mosby: Motion to approve.

Commissioner Mourdock: Is anyone here to speak against or remonstrate? Seeing none, I will second.

President Fanello: So ordered.

Bill Jeffers: The next, uh, subdivision that will be considered by Area Plan Commission is Alexander Estates, Section 2, and a replat of Lots 3 and 4. I did not receive a drainage plan for that, uh, at this time I have none to review, and I see no representative here in the audience for Alexander Estates, Section 2, so I will put that on the agenda for next month.

Commissioner Mosby: Motion to hold.

Commissioner Mourdock: Second.

President Fanello: So ordered.

Bill Jeffers: The next one is Cambridge replat of Lots in Section 1. This is a plan that, uh, makes some minor modifications of several lots in Cambridge. The plan is preliminary at this time. The representative from Sitecon is in the audience to answer questions if there are any. I have reviewed it, and the plan complies with the ordinance, and I recommend approval of it.

Commissioner Mosby: Motion to approve.

Commissioner Mourdock: Again, anyone in the audience to remonstrate? For the record, seeing none, I will second.

President Fanello: So ordered.

Bill Jeffers: The final subdivision that we will consider, uh, for Area Plan Commission hearing next month is Clear Creek Village, Section 4A. This is a four lot Section necessitated by the inability of the developer at this time to come with a final, uh, a final roadway plan to enter from Section 4 onto Old State Road. They are still in the process of trying to finalize some plans and acquire enough right-of-way, however, if the right-of-way is not acquired, they may not be able to build the, uh, a safe entrance on to, uh, Old State Road, and I am asking at this time that you simply reaffirm the final drainage plan for Section 4 to include what is now called 4A, and let those minor modifications be made between the County Engineer and the engineer for Clear Creek Village, Section 4.

Commissioner Mosby: I will make that motion.

Commissioner Mourdock: Any in the audience?

Commissioner Mosby: To include 4—

Bill Jeffers: The developers engineer is here if you have any questions.

Commissioner Mourdock: Okay. Seeing no remonstrators, and being a motion, I will second.

President Fanello: So ordered.

Bill Jeffers: Under other drainage plans, I am only going to notify you that, uh, Morley and Associates, uh, delivered a set of drainage plans for the Premiere Project along with the, uh, ditch plans that showed the modifications that were required to make it final. I have not had time to review it, however, it doesn't require your action at this time. I just wanted to let you know that if anyone calls, there is a set of plans from your contract deputy, Jim Morley, Jr., on file at the Surveyor's Office for viewing by the public.

Other New Business

Bill Jeffers: Other New Business. Mr. Stoll faxed over some information on a bridge that the Commissioners would like to build across Pond Flat Lateral A at Boyle's Lane. We are within one foot of agreeing with, uh, with the department of, or the Corp of Engineers delineation of the flood way and the flood plane there, and I just need some time outside of the meeting to contact somebody with the DNR or the Corp of Engineers to see what they mean with, uh, one figure here that seems, it seems to require the Bridge to be built one foot higher than Mr. Stoll is proposing, yet, when you look at the, uh, profile grade of the 100 year flood, it would seem to indicate that the Bridge itself is artificially holding that elevation up and that Mr. Stoll is correct. Once that low beam is brought up to what he proposes, that water should be able to get underneath it, but I just need to confirm that with the DNR. I am sure that they will confirm it with the...when they issue the permit. However, I would like for tentative

approval of Mr. Stoll's low structure elevation and waterway opening, etc. that he proposes for your new Bridge. So long as DNR will approve it.

President Mosby: I don't know what we really need—

Commissioner Mourdock: Yeah, I don't know that we can do tentative approval.

Bill Jeffers: Okay. I'll tell you what, do you have a final set of plans for that yet? Okay. Just allow me to continue to work with Mr. Stoll, and in between him and DNR to get that resolved by the next meeting.

Commissioner Mourdock: So moved.

Bill Jeffers: I may come to you outside of Drainage Board meeting at a regular Commissioners meeting and make that, uh, recommendation.

Commissioner Mosby: So moved, second.

President Fanello: So ordered.

John Stoll: I was going to say we will just work with Bill to make whatever changes we need to the plans.

Commissioner Mosby: Okay.

Other Person Wishing to Address the Board

Bill Jeffers: Other persons are hear wishing to address the board, and when you are finished with that, I have no ditch maintenance claims to turn in tonight.

President Fanello: Anyone?

Commissioner Mosby: Yeah, come forward.

President Fanello: Please make sure that you state your name, and address.

Bill Payne: My name is Bill Payne, and Leland Maasberg has asked me to speak on his behalf on a drainage problem he has on Armstrong Road. It's a matter of water in a cornfield. Leland is absolutely sure that there was a culvert there 80 years ago, but since then that culvert has been black topped over and settled in and it is completely gone. I mean, it is not visible. I know Mr. Kissinger has made an effort to find it and he hasn't been able to, and, uh, we don't know how to resolve this problem other than to put a culvert in. When German Township came in and put water in, they pretty well filled in the road ditch and the culvert went away. That has been about 15 to 18 years ago. Since then, the road has been black topped at least twice, and it's raised 6" and has essentially built a dam then that leaves 6" of water in the cornfield when we get a rain. So, what we are asking for is to have the culvert, that culvert put in, or replaced, or whatever.

Commissioner Mosby: Is there, I guess I will ask this of Ralph, is there somewhere to go with this water? I mean, if we put a culvert in from one....I don't want to run it from one side of the road to the other. They will have a problem over there.

Ralph Kissinger: Ralph Kissinger with the County Highway. I have been out with Mr. Maasberg and myself, and I know that Erik Bentle went before me. I have talked to John Stoll and also with Bill Jeffers and where he originally said that the culvert went across the road there is a ditch on the other side of the road, but there is also a home right there. My concern is that we will run one problem into another, and I am trying to find out from the Engineer and maybe the Surveyor if there is another way that we can do this without running, you know, without unduly running water on to someone else's property. I know that Mr. Maasberg is going to come out and witness the problem, and I told him that I would come tonight to fill you in on what I do know about the problem, but that's the consensus I have on it that the water if we run it through a culvert where it was in the past we may trouble down the line.

Commissioner Mosby: John, I guess, then I will ask you, without running water from one side of the road to the other side of the road on somebody else, is there anywhere else that we can go with this?

Unidentified: There was a road ditch in front of this lady's house and she has filled it in, or—

Commissioner Mourdock: I'm guessing the house wasn't there previously? It is a newer house?

Bill Payne: Oh, no. It's an old place. It has been there forever, but they've just filled the ditch in, instead of the ditch going around the corner now, the ditch now starts beyond her property.

Unidentified: And they helped fill in the ditch, so that it would (inaudible).

Bill Payne: Exactly.

Commissioner Mourdock: Yeah.

Unidentified: And then run a culvert in their driveway (inaudible).

Commissioner Mourdock: Well, John, just give us an answer.

John Stoll: I have not personally gone out and looked at this site with Ralph. I guess, if we were going to do it, we would have to cut a ditch and first of all, I guess, we need to know what the right-of-way was, whether or not we have the right to go cut that ditch.

Commissioner Mourdock: Right.

Commissioner Mosby: Well, this doesn't really have to be on Drainage Board, I don't believe, can't he just come back the next Council meeting, or Commissioners meeting on June the 4th and, you know?—

Commissioner Mourdock: Yeah, I will do it real formally. I will move that we direct the County Engineer to work with Ralph Kissinger to go out and take a look at this, report back to us on June 4th, with a few sketches and just some rough drawings as to what our alternatives might be.

Commissioner Mosby: This doesn't have to appear in front of Drainage Board, so we don't have to wait a month.

Commissioner Mourdock: Right.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: The only thing that I would add to that is, uh, we do have aerial photographs that may show if there was a ditch there or not. Everyone is welcome to come down and look at those. Then, uh, depending on whose paying a ditch bill into which ditch may also indicate where the water originally went, because there is three different legal drains out there involved.

Commissioner Mosby: Maybe John can work with you then.

Bill Jeffers: Right.

Commissioner Mosby: Okay.

Bill Jeffers: That information is open to the public.

Commissioner Mosby: Thank you, Bill, I appreciate that.

Commissioner Mourdock: It really is something more of a highway plan than a Drainage issue.

President Fanello: Any other persons wishing to address the board? Seeing none, do I have a motion to adjourn?

Commissioner Mourdock: Did you have something else, Bill?

Commissioner Mosby: So moved.

Bill Jeffers: No.

Commissioner Mourdock: Okay.

Commissioner Mosby: So moved.

Commissioner Mourdock: Second.

President Fanello: So ordered.

The Drainage Board meeting was adjourned at 8:05 p.m.

Those in Attendance:

Catherine Fanello

Philip Hayes

John Stoll

Others Unidentified

David W. Mosby

Bill Jeffers

Ralph Kissinger

Members of Media

Richard E. Mourdock

Madelyn Grayson

Bill Payne

Drainage Board

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Drainage Board
June 25, 2001**

The Vanderburgh County Drainage Board was called to order at 7:42 p.m. by President Catherine Fanello.

Approval of Minutes

President Fanello: Call to order Vanderburgh County Drainage Board Meeting, June 25, 2001. Motion to approve minutes of the previous meeting.

Commissioner Mosby: So ordered.

Commissioner Mourdock: I think you make the motion—

Commissioner Mosby: Oh.

Commissioner Mourdock: —I second, and she so orders.

Commissioner Mosby: Make a motion to...I meant so moved. I make a motion to approve the minutes.

Commissioner Mourdock: Second.

President Fanello: So ordered.

Millay-Faucett Obstruction Hearing

President Fanello: Old Business.

Bill Jeffers: First order of business is the hearing of the Millay petition to remove an obstruction. The Surveyor's report on the Millay petition was submitted to the board as required by statute on April 23, 2001. The report was mailed to all the parties and their representatives with notice of the hearing, registered mail, return receipt requested. If there is a need for additional report distribution, the County Surveyor has additional copies here at the podium. At this time the Surveyor will provide the board with a map for your reference during the hearing. The road along the...the obvious road along the north end of the properties is Bergdolt Road, and the road with a curve in it is North Congress. The map shows the location of the petitioner and the respondents properties. The petitioner's being outlined in orange, respondents outlined in pink. Other features likely to be subject of the hearing, specifically, the blue shaded area is a lake, the green line is the approximate location of the natural surface water course, the double red line is the dam that holds the lake back, the red arrow is the approximate location of the outlet from the lake, some little orange dots represent sand volleyball court that you will probably see pictures of during the hearing. Rather than read the entire Surveyor's report into the record at this time, please allow a brief summary with comments to suffice. Petitioners allege an obstruction of a natural surface water course exists on the land of the respondent in the form of a lake and an earthen dam. After viewing the site, the County Surveyor confirms the existence of a natural surface water course as defined by state statute crossing the lands of the affected party shown on your map in green, the water course. The County Surveyor further confirms the existence of an earthen dam shown on your map as a double red line spanning the natural surface water course and forming a lake on the respondents property. The lake being shaded in blue. What remains for

the board to find during this hearing or after this hearing is whether the earthen dam constitutes an obstruction as defined by state statute, whether that obstruction exists as alleged by the petitioner. Two, whether the removal of the alleged obstruction will promote better drainage of the petitioners property, and not cause unreasonable damage to the respondent's property. So, that is the purpose of your hearing. If after this hearing the board does find for the petitioner in this matter, the board must then make a determination whether the respondent placed the obstruction intentionally. The statute clearly states what actions must be taken and to whom the cost of the remedy is assigned based upon the determination of your board. Legal representatives of the petitioner and the respondent are here with the petitioners and the respondents, all of whom are ready to address the board. The County Surveyor remains available during the hearing with supplemental maps and exhibits and other materials if needed by the board or the interested parties. Your board may proceed as it wishes in this hearing. I also have copies of...a limited number of copies, or I can go make more while you are listening to the parties of the statute if you need that.

President Fanello: (Inaudible- mike not on.)

Les Shively: Members of the Vanderburgh County Drainage Board, my name is Les Shively, representing petitioners, Steve and Gloria Millay. I have put together a packet this evening, hopefully, that will, I'm sorry, I only have four copies, if you don't mind, Mr. Jeffers, I am going to give a copy to Marco.

Bill Jeffers: Yeah.

Les Shively: I have three copies for the Commissioners. The....let me first of all sort of give you the facts with some pictures of what we are talking about here. The County Surveyor has done an excellent job in his preliminary report and the drawing that he has submitted here this evening to you to outline the problem from a technical standpoint. Let me try to explain it to you in lay persons terms, if possible. By the way, the reason I am doing this in summary form as opposed to having my people up here is because I don't think that we have too many disputes in the facts, and Mr. Dalucio can correct me if I am wrong, we have maybe a question of law that may have to be addressed by council, but, nonetheless, we are all here and let's take the time to show you the facts. I think it will help you in determining the legal question. If I may approach the Commissioners, or the Drainage Board. Here is the area that we are talking about. The Millay's property is right here. Immediately behind the Millay's property is a lake, a lake which was constructed approximately four years ago, I believe, is that correct, Steve and Gloria? The lake as pictured here is immediately behind the Millay's property. When the lake was constructed, a spillway which is identified here, here, here are various views of the spillway, was placed in the dam as an emergency spillway, pointed directly on to the Millay property. When I took those photographs, it was relatively dry at that particular time. Now these are photographs that were taken in 1998. The first of which I will show you is a view of the spillway, the pipe pointing towards the Millay property, towards Congress Avenue. These are photographs showing standing water and dead fish, and those are not in a lake, those are, in fact, on the Millay's property where their volleyball court is located. These are additional photographs of their volleyball court. There is water standing on the driveway from the spillway, as well as another view of the volleyball court. What has occurred in this situation is there was a construction of this lake four years ago, put in by Mr. and Mrs. Faucett. This lake, using the language of the statute, the construction of

the lake, the construction of the dam, the construction of the spillway were not accidental occurrences, but certainly were intentional in the sense that they intended to put the lake there, they intended to have their dam where they placed it, and they intended to have this spillway pipe. The parties have been endeavoring for a significant period of time here to try and seek a resolution. I have included in the materials this evening tab number one, an inspection report that was done, I believe, in August of 2000. A report that was done by the Department of Natural Resources which simply outlines the on site investigation by the DNR representative which essentially mirrors the findings that have been made in the preliminary report by the Surveyor. The issue in this case had to do with whether DNR could intervene and, essentially, that DNR had noted the same problems that the County Surveyor noted in his preliminary report, which said that this was mainly a function of a localized function of dealing with surface water drainage, as opposed to a lake...the integrity of the lake which the DNR would have jurisdiction. Also, in the packet of information that I have given you, tab number two is a letter from June of 1999, again, back in a time when the parties were trying to find a solution, is the report, a letter addressed to the Millay's by Andy Easley, Civil Engineer, well known in this particular area, who, again, corroborates the findings in the preliminary report by saying quote the spillway pipe is concentrating the storm water run off from a portion of the watershed to the west. Before the dam for the lake was constructed the run off from the neighbors property was somewhat evenly distributed "sheet flow" across the southern border, southern portion of westerly property line. This is a little historical note, we came pretty close back then to a solution, unfortunately, the solution that was designed at that particular time involved water, diverting water across a County road, which the County Highway Engineer was not too happy to embrace. So, that is why that solution was not accepted, or acceptable because we had that condition of approval by the County Highway Engineer. They did not find it to be an acceptable situation that would occur, especially in times of cold weather and things of that nature that could raise some safety concerns. The Faucetts, and you will hear from their engineer this evening, Mr. Morley, we met, Mr. Dalucio and myself and Mr. Millay met at the offices of Jim Morley on June 2nd, and, again, Mr. Morley's findings, I'm sure that you will hear from him this evening, pretty much mirror the preliminary report of the County Surveyor. Mr. Morley suggests a plan, remedial plan, which would return to the natural drainage course, those were his words, and involves putting on a box structure with a pipe turning north toward the original swale and the installation of an erosion pad, all of which can be done on the Faucett property. This is an acceptable solution in the eyes of the Millays. What I anticipate will be the position of the Faucetts is that this body does not have jurisdiction under this particular factual scenario. That is why I have attached as tab three, page four of tab three, and I say page four, there is the County Ordinance and then I have also attached a copy of Senate enrolled Act number 336 which follows the copy of your drainage ordinance incorporating the powers under this statute. If you will look at page four as enumerated from that bill, section 12 about two thirds down, it says if a petition filed under this chapter alleges the obstruction of drain or a natural surface watercourse. We believe the facts are without dispute that we are talking about a structure that was intentionally put in place, that according to the preliminary report of the County Surveyor as well as what you will hear from their own engineer, Mr. Morley, and you have also...the report of Mr. Easley, is, in fact, a structure with it's dam and spillway, that is an obstructed natural surface watercourse. So, this body has jurisdiction to entertain this matter. Now, technically speaking this body could order the lake to be removed and restored to it's original condition, which would be extremely costly on the part of the Faucetts.

What we are asking this evening to take place is that the remedial plan suggested by Mr. Morley, that I have just outlined, be ordered to be performed by the Faucetts within a reasonable period of time, and that this body retain jurisdiction, that is kind of a legal term, but, basically, sort of put this on follow up for another agenda after the work is complete and after it has been inspected again by your exofficio member, the County Surveyor, to ensure that, in fact, the remedial work as outlined by the engineer is in place and is functioning correctly at that particular point in time, and then consider the matter resolved. Again, we would ask that be part of this body's order, that that work to be done on the Faucett's property be done at their expense, and be done within a reasonable period of time. Obviously, we would like to get it done during this building season, since we are...at this particular point in time we are at least closer than we have been for some time to affecting a solution. Again, I am more than happy to answer any questions that you have. Mr. and Mrs. Millay are both here this evening to do likewise. Again, I think that the report that your exofficio member presented to you as well as the photographs pretty well tell the whole story. Again, be more than happy to answer any questions.

President Fanello: Marco.

Les Shively: Thank you.

Marco Dalucio: Thank you members of the Drainage Board. My name is Marco Dalucio. I am here this evening on behalf of Mr. and Mrs. Paul Faucett. I don't think that I am going to restate the facts, I think the facts as Les presented them to you were correct. I would note, however, that this...the flooding problem which you saw in the pictures is not a regular occurrence. It happens during periods of extreme rain. I think those pictures were taken back in 1998, I believe, probably in August, I haven't seen the pictures but that was at a time when we received probably 3" or 4" of rain in a very short period of time, so that caused the overflow. I think that it is interesting to note that all of the rain that we have had the last week, that did not cause the flooding to take...any flooding to take...there wasn't any water coming out of the spillway. Having said that, from the legal standpoint, we do not believe that this body has jurisdiction to hear this dispute. To hear this dispute, the board has to find that there, that there is an obstruction. I don't think Mr. Jeffers in his presentation concluded that there was an obstruction. He has left that to the board to make that determination. But I put it before you this evening, if there were an obstruction, we wouldn't be here. That is what the Millays want is an obstruction. They don't want any water going into their back yard. Unfortunately, in looking at the map that Mr. Jeffers provided to you, you will see that there is a natural surface course waterway that runs through their backyard. Before the lake was built, that was where the water ran. When we built the lake, that stopped the water from running in that particular direction. What we did was install a spillway, and, yeah, that was intentionally done, but it wasn't intentionally done to cause any harm to any of the adjacent property owners. Rather the contractor decided that rather than point the drain directly into the Millays backyard that it might be advisable to put it out here so that it would try to take the water away from their backyard. Normally, as we read this statute and how it's normally applied, an obstruction is where you impound water on your property which causes flooding back behind the property upstream, not downstream. There is no obstruction here. The water continues to flow through the Millay backyard. It's been rechanneled. From our standpoint there is no obstruction. We agree with Les. We are the ones that presented the proposal to channel, to extend the pipe northward across the dam, and then channel the water back through the backyard. That was perfectly acceptable to us, and we stand ready to do that

this evening. What has stood in our way is a demand that we pay an additional \$7,500 in addition to spending four to five. I think, Jim estimated \$4,000 to \$5,000 to do what we are going...offering to do the remediation of this problem. We stand ready to do that. We are unwilling to do it if we fear we are going to face continued lawsuits or litigation elsewhere. If we had assurances, and we are willing to enter into an agreement that if we do this and we do it in a way that is in conformity with Mr. Morley's plans, that we can accomplish that. Unfortunately, we don't have the ability or don't want to pay an additional \$7,500 on top of that. The problem, you see, is going to be that if there is no landscaping in the Millay's backyard that would take the water out. When their yard was built, there wasn't a big enough swale, and, I think, Jim might want to address that in a moment, but there wasn't a large enough swail to carry that water out, so there has always been water in their backyard. We think that the dam that we constructed has probably helped solve the problem, because they aren't getting water out there all the time. They are only getting it during heavy periods of rain when there would be flooding there at any rate. Jim, do you have anything to add from the drawing standpoint? I think we are in agreement with Mr. Jeffers analysis about the natural surface course waterway. We disagree with Mr. Shively that there is an obstruction here. The water continues to flow, it just flows...and it probably flows less than it did before. It only flows during heavy periods of rain. We are aware of a couple of times, probably, when that has happened. There may be more, but it doesn't happen frequently. We are here, Jim Morley, is here to answer any questions that you may have from an engineering stand point. Mr. and Mrs. Faucett are also available. Thank you.

Commissioner Mosby: (Inaudible. Mike not on.)

Commissioner Mourdock: Yeah, and maybe both of you can come up here. You have both spoken as to this pipe going along the north. Can you come up here and show us on one of these where that is?

Marco Dalucio: Yeah. The pipe that is pointed out...it's the—

Commissioner Mourdock: Comes here now?—

Marco Dalucio: —yeah, comes here now...what we are talking about is extending it back here so that it points into the...it takes it right back into the waterway, the natural course waterway.

Commissioner Mourdock: Okay, and I understand—

Marco Dalucio: (Inaudible. Not at mike.)

Commissioner Mourdock: —Okay, and I understood, Mr. Dalucio, to say that at least at one time that was an acceptable remedy that you were looking to do. It was going to be on the property of the Faucetts.

Marco Dalucio: Uh-huh.

Commissioner Mourdock: Then there was a comment about the extra \$7,500? What was that?

Les Shively: If I may.

Commissioner Mourdock: Sure.

Les Shively: With all due respect to learned counsel and his opinion and his advocacy for his clients, there is nothing within the power of this body to award damages of anything of that nature. We are...and the sole issue before you this evening is whether there has been an obstruction of a natural watercourse, and if so, what the appropriate remedy that you can order under the statute. The negotiation of parties for other matters unrelated to that remedy or involving loss of use of property is not before you—

Commissioner Mourdock: That's what the other \$7,500 is? What a claim was for damages?

Les Shively: We are not asking you—

Commissioner Mourdock: Right, I understand.

Les Shively: —to make any determination of that, because you, quite frankly, I don't think the statute confers that type of power on you.

Marco Dalucio: I would agree with that. I mean the statute does not give you that power. I simply brought that before you to let you know that we weren't opposed to the idea of that. We just did not want to do that, then also face additional litigation down the road.

President Fanello: Any other questions?

Commissioner Mourdock: Well—

Commissioner Mosby: I guess, was this acceptable, what I am hearing here to the Millays?

Les Shively: The (inaudible-not at mike) solution?

Commissioner Mosby: Yeah.

Les Shively: Yes, sir.

Commissioner Mosby: It was acceptable to them?

Les Shively: It is accep...as of, as laid out to us in June—

Commissioner Mosby: The only reason we haven't did it is because?--

Commissioner Mourdock: Because of the claim for damages.

Les Shively: Claims for damages which, again, we are not asking you to mediate this dispute, we are simply asking you to use your power in the statute of the Drainage Board. I...with all due respect to counsel, I don't think this is appropriate to delve into that this evening. We didn't bring that up, we are simply here asking you to use the powers, the limited powers, that you do have to at least affect a solution. Now that the cat's out...the horse is out of the barn, I would say to you, parenthetically, that if we are getting under way towards a solution, that may bring these parties closer together to resolving any other issues that are out there. For this body to do nothing, leaves them, quite frankly, where they are today. I think anything that you do in an affirmative way to resolving this problem, which we hope to be to order the Morley

infrastructure improvements, or remedial steps and retain jurisdiction will bring these parties closer together not farther apart. Again, it's unfortunate that we got into any of these collateral issues.

Commissioner Mourdock: Yeah, and, I guess, that's the question that we need some legal counsel from here, because as I understand the statute, and, Bill, jump in here too, but historically as we've looked at these remedies, the remedy has been, as you state in your memo tonight, to remove the obstruction. So, if the removal of the obstruction would, in fact, be the removing the dam, if we should find that this is an obstruction, then do we have before us another option that we could even try to impose, which would be the solution that Morley is presenting? Can we do anything other than just the removal of the obstruction under the terms of the statute? In other words, this is a mediation plan. This isn't simply removing the obstruction. To both the Faucett's and the Millay's, I've had a lot of folks come before us on these issues, I did not run for County Commissioner to be a Judge. We are put in this position, this statute came into being after I was elected, but, I guess, you guys had the chance, you did run to be Judges in a sense, because it was in place when you got here. This is an interesting one. This is probably the most fascinating one I've seen come before us yet.

Les Shively: Before Mr. Morley speaks, let me—

Commissioner Mourdock: Sure.

Les Shively: —say this, and I would certainly...you have counsel here this evening that can give you good advice on this, but removing the obstruction, quote, unquote, would to me be consistent with returning the situation to where the water flowed consistent with the natural watercourse, and, therefore, by doing the remedial work you have quote, removed the obstruction to the water flowing through and by way of the natural watercourse and that would be consistent with your powers and less (inaudible) than taking (inaudible-mike not on.).

Jim Morley, Sr: Maybe just a few clarifying thoughts. As you know in storm water controlled throughout various developments in the County we often are faced with the need to detain water in certain areas, and then as we discharge that water we have, as a practice, where there was a defined channel and open ditch, a clear spot that had been (inaudible-mike not on). We would have a pipe in other areas where the discharge went off on to a property that was lower than ours but didn't have a defined channel we would do a diversion structure, we would outlet it onto rip rap, we would even, in some instances, actually put it in a bleeder pipe in turn and spread it out so that what would be created on the adjoining property where there was not a defined channel was not an erosion situation. So that is really relatively common with what we have come up with. The...in the property line between the two properties there are pine trees and you can go out there and see, essentially, kind of a "v" where the land comes together, and it's really obvious where the water always did flow before the dam was constructed. Typically a dam builder is instructed that it is always safer to put your emergency overflow spillway out at the edge so that the dam is not as high there, and come back....so he wasn't thinking about, whoever built the dam, was thinking about well, the best way to build a dam and put the overflow on it is to put it at the edge, and that is a true statement, but what he wasn't thinking about is that where he discharged it, it ran out, not into the channel but across another part of the yard and then back into the channel. So, I don't believe either that if there is an obstruction here, the dam is an obstruction to the water upstream of that. It's hard for me from an engineering standpoint to

conceive that you can have an obstruction to water that is downstream before...you've got a diversion, and I have made a recommendation on how to fix it. My recommendations were only made within the last couple of months, so I am a Johnny come lately here, and suggested this is a way they could fix the problem.

Philip Hayes: Jim, if I may, from a legal standpoint, are you operating in any manner as the agent of the County Surveyor? You've not been appointed—

Jim Morley, Sr: No.

Philip Hayes: —that is not the scheme of things.

Jim Morley, Sr: No, Marco called me and asked me if I could go look at a problem and recommend some solutions.

Philip Hayes: Okay, so you were acting on behalf—

Jim Morley, Sr: Yes, right.

Philip Hayes: —of the respondents, here—

Jim Morley, Sr: That is correct.

Philip Hayes: —as an expert.

Jim Morley, Sr: Right.

Philip Hayes: Thank you.

Marco Dalucio: (Inaudible-mike not on) You just hit it on the nose. What you have here is not an obstruction, but a diversion, and that is, quite simply, why we believe that this board lacks the jurisdiction to vote for this matter. The water is still there. It still comes out, occasionally, less often than it used to, but it is not an obstruction.

Les Shively: I would only ask that...it's less often, again, I..withstanding anything that Mr. Morley has said. There is nothing in the DNR report to that effect, there is nothing that Mr. Jeffers has said in his report that says, oh, the pipe, and the dam and the lake as Mr. Dalucio suggested has improved the situation. There is nothing, I mean, this is an argument that... I knew that we would argue the jurisdictional thing, but this is the first time that I have heard that the fact that we have actually improved the situation. It does not improve the situation, and will never improve the situation when, in fact, you've changed the natural watercourse, and when you order a remedial plan that restores the natural watercourse, then you are removing the obstruction to the flow of the natural watercourse, and acting within your jurisdiction.

President Fanello: Any other questions or any other comments from the audience?

Commissioner Mourdock: Well, as I said, this is a fascinating one—

Commissioner Mosby: Yeah, it is.

Commissioner Mourdock: —it begs the question, if the dam broke and the water went rushing towards the Millay's property, would it be a drainage issue at all? I mean it

would seem to say if you want to argue that that is not an obstruction, then the sudden rush of that water going across there in the case of the break of a dam, isn't an issue of drainage, and I think, clearly, it is. To suggest that this isn't really a problem because even last week when we had some rain that didn't affect the property and it only affects it when there is times of heavy rain, to me that's akin to saying that planes only crash when they fly. You know, when they are sitting on the ground they don't crash at all. I think it is an obstruction. It would seem to me, not being an attorney, and both Mr. Dalucio and Mr. Shively are very happy of that fact that I am not an attorney, I think, but it seems to me that it does fall under the jurisdiction of this board, because it does affect what the intent of the statute was, which is people...one person's property being affected by the actions of their neighbors. For that reason, it certainly looks to me like the Morley solution, if we'll call it that, seems appropriate.

Commissioner Mosby: I would agree to that if they will.

Commissioner Mourdock: Whether they agree or not, I think, we have the authority of this board to go ahead and do it. Obviously, if they don't agree with it, they certainly can pursue it elsewhere through the building next door, through the courts. I would move that we rule this an obstruction under the intentions and the wording of this statute and order the imposition of, again, the Morley solution at the cost of the respondents, or of the, yes, of the respondents, the Faucetts.

Philip Hayes: For the record, Mr. Surveyor, are you satisfied that your finding of an existing obstruction is sufficiently in the record and that you have reported that obstructions existence to this Drainage Board? If you want to go ahead and site that to the record, I think it would be appropriate.

Commissioner Mourdock: I think the fourth bullet from the bottom is the one—

Philip Hayes: Right.

Commissioner Mourdock: —that does that, does it not?

Philip Hayes: I know you've passed out, let the record reflect that you've passed out a memorandum to the Drainage Board and to the public in this room tonight, however, I think it would be appropriate for that specific finding to be iterated into the record so that the potential action by the Drainage Board is grounded on that finding. I think it's on this...the last hand out right behind the agenda, and as Commissioner Mourdock pointed out—

Commissioner Mourdock: Fourth bullet from the bottom.

Philip Hayes: Yeah, second bullet from the bottom. County Surveyor further confirms—

Bill Jeffers: County Surveyor does confirm the existence of an earthen dam spanning the natural surface watercourse and forming a lake on the respondents property.

Philip Hayes: My question to you then for clarification is that are you reporting that as an obstruction?

Bill Jeffers: If the definition of obstruction—

Philip Hayes: Pursuant to your...pursuant to your...pursuant to your investigation?

Bill Jeffers: The definition of an obstruction is found in the statute. Nowhere in my report will I confirm that. What is defined as an obstruction exists other than to repeat, the County Surveyor confirms the existence of an earthen dam spanning the natural surface watercourse.

Commissioner Mourdock: Is it not by definition, a dam is not obstructing a watercourse?

Bill Jeffers: Definition within this statute?

Commissioner Mourdock: By definition of the English language. Is not a dam an obstruction of a watercourse? I mean, what is a dam if that's not what it is?

Bill Jeffers: An obstruction is defined as a quantity of material inside or near a drain. That is one of the definitions found in this statute.

Philip Hayes: So—

Bill Jeffers: The board finds whether there is an obstruction of a drain or a natural surface watercourse.

Commissioner Mosby: If they had put that, I'll call it overflow pipe, I'm asking you this, Bill, if they had put that overflow pipe, I'll say to the north of where it's at in line with that green line, what would you call that?

Bill Jeffers: I would call it an outlet that directly returned—

Commissioner Mosby: The water to it's natural course?

Bill Jeffers: —the storm water to it's natural watercourse.

Commissioner Mourdock: I would speculate that we probably wouldn't be here discussing it.

Bill Jeffers: You might also wish to consider that an obstruction in order to be one also must prevent or significantly impede the flow of the water. As I have not had an opportunity to view the remedy, I cannot stand here and say whether the impediment is significant, because I don't know what the outlet pipe was designed to carry, nor do I know what type of storm water is generated uphill and is collected into this lake to be discharged through the remedy.

Commissioner Mourdock: That brings up one of the arguments that happened at this board in one of the first times that we had one of these things come up three or four years ago, and that was the question of, simply, if you run water across my property and I claim it does damage, and it's not running, by definition, along the traditional green line that we see here, is that an issue before this board? In other words, if you just changed the watercourse in some way so now the water is running on a different place on my property, is that an issue under this statute?

Commissioner Mosby: I will second your motion.

President Fanello: I have a motion—

Commissioner Mosby: Yeah, to have the water returned to it's course.

President Fanello: We have a motion and a second. So ordered.

Commissioner Mourdock: That is to, in effect, to implement what we are calling the Morley option.

President Fanello: Yes. So ordered.

Les Shively: (Inaudible. Mike not on.) Is there a time limit on that recommendation for all the parties involved?

Philip Hayes: Perhaps Mr. Morley could inform the record concerning the counselors question of timing—

Jim Morley, Sr: I would think they would want to do the work here during the Summer while, when it is sufficiently dry and then rest of the landscape, you know, get grass growing back you would probably have to wait until the Fall growing season, so, you know, as long as all of the work is in place at the proper time and plant the grass, get the grass growing back, why I think would be fine.

Philip Hayes: Okay.

Jim Morley, Sr: Usually, you are not supposed to plant grass before, or any later than mid October, so, I would hope that they would be able to get the grass growing back right and try to get this accomplished by the end of September.

Philip Hayes: Okay, and, Jim, did you also have...were their plans or more detail concerning your opinion expressed tonight that ought to go in the record to inform the record as to the scope of the remedy that has been ordered by the Drainage Board?

Jim Morley, Sr: I gave them some alternatives of use of—

Philip Hayes: Them being Mr. and Mrs. Faucett?

Jim Morley, Sr: Yes. Because all of the work is going to be done on their property—

Philip Hayes: Understood.

Jim Morley, Sr: —none of the work would be done off of their property—

Philip Hayes: Okay.

Jim Morley, Sr: I have given them alternatives of rip rap that they might want to use—

Philip Hayes: Okay.

Jim Morley, Sr: —or they may want to use paving blocks, and I said it was kind of up to you how much you want to spend, because you are the ones who are going to run the lawn mower over it.

Philip Hayes: Oh, okay, not to—

Jim Morley, Sr: I gave them some—

Philip Hayes: —not to protract anything, but simply in order to inform the determination that's been made by the Drainage Board, and perhaps Mr. Dalucio would want to submit the scope and nature of this project, I think, you mentioned a gross figure of around \$4,000 that you felt was a reasonable engineer's estimate on completing this. So, you may want to submit that to the record, and if you do, I think, it would be on your request, and that would define the outward boundaries of what the remedy is that is being ordered.

Marco Dalucio: Are you suggesting prior to the next Drainage Board meeting that they submit plans (inaudible-mike not on).

President Fanello: I think that would be a good idea.

Les Shively: Right now, for the record, I repeated a little while ago that Mr. Morley is here this evening, and what he had suggested in our second meeting was put on a block structure—

Jim Morley, Sr: A structure, probably box would work better.

Les Shively: Turn pipe, turn the pipe to the north toward the original swale, and an installation of a quote erosion pad, all to be done within the Faucett's property, so whatever plan you have submitted would follow that general outline tendered by that understanding.

Philip Hayes: The County Surveyor will, of course, issue any necessary permits, I guess, approve a drainage plan, I suppose.

Commissioner Mourdock: Bill, on the question—

Philip Hayes: Is that right?

Jim Morley, Sr: I think I have already shown Bill...he's already seen...you've seen the whole sketch of what I've recommended there.

Bill Jeffers: Rough sketch.

Jim Morley, Sr: That is all I had.

Philip Hayes: Okay.

Commissioner Mourdock: Bill, on the question of the timing, we had another issue before this board a few months ago on how long it would take to do something, and you reminded us that by the statute there is some language there too as far as how long it would take, how long people were to be granted after a ruling of this board, correct?

Bill Jeffers: I'll point it out to the petitioners attorney this afternoon that we did have a precedent that was set on this one...there was some concern about the permanency of the remedy, and we made the decision, I believe, in October, the board issued the order in October and, I believe, it was asked that the Surveyor monitor the project until the following Spring and report back to you in March to tell you whether or not everything was copacetic.

Commissioner Mourdock: Okay.

Bill Jeffers: So there is...since you are dealing with a potential of going over the Winter here, I would think that would be appropriate to give them at least this construction season to install it, and possibly monitor it until we know that it is established well, possibly next Spring.

Les Shively: That sounds reasonable.

Commissioner Mourdock: Okay, so then I'll move, and I'll just pick a date in the Spring here, let's say by the April Drainage Board Meeting of 2002. This work is to be completed by the Drainage Board Meeting of April 2002.

Commissioner Mosby: Second.

President Fanello: I have a motion and a second. So ordered.

Commissioner Mosby: Okay.

Commissioner Mourdock: Les, Les.

Les Shively: Yes, sir.

Commissioner Mourdock: Here is your board and all if you want this. Your photos.

Les Shively: Phil, do you need to hang on to this for the record?

Philip Hayes: Okay. Well, they would like for you to hang on to it, but I would not be the custodian of that. Madame Auditor would be. Correct?

Madelyn Grayson: I don't have a big enough filing cabinet to put that in.

Maasberg Request for Culvert under Armstrong Road

Bill Jeffers: The next item is a brief report on the requested culvert under Armstrong Road. It's a report on Leland Maasberg's request at the last Drainage Board regarding the installation of a culvert under Armstrong Road to relieve some ponded water at the southeast corner of Armstrong Road approximately 1,100' east of State Road 65, also known as Big Cynthiana Road. The reason I came back to you, it is a Drainage Board issue. It was thought at first that it might be handled strictly with the Highway Department, but after the investigation we know now that it is a Drainage Board issue. Our findings conclude that all the land contributing surface storm water drainage to this point of study, which is the point of compliance where the water ponds, all that land is assessed to drain to Kneer Ditch. Kneer Ditch begins 200' or, excuse me, 500' due east of the point of study. In 1969 planimetric maps clearly show a defined waterway from the point of study carrying storm water directly east and into Kneer Ditch. You can see that on the copy of the 1969 planimetric which is the large copy. The defined waterway is a straight line broken by three dots indicating intermittent waterflow (inaudible) Kneer Ditch immediately above the depiction of the ditch itself. You can see that that ditch started right at the curve in Armstrong Road where Mr. Maasberg requests that you place a culvert discharging this water to the north rather than allowing it to continue to the east as

the arrows I've placed on there indicate that it naturally flows. Actually, we collect ditch assessments from this area for Kneer Ditch. The 1969 County planimetrics also indicate a road side ditch along the south side of Armstrong Road. I've drawn that in as a straight arrow, but there is clear indication that the ditch along the edge of the road there in 1969 carrying the water due east and into the beginning of Kneer Ditch and then continuing east, not to the north. Installing a culvert to drain from this point of study northward as requested by Mr. Maasberg, will re-direct storm water from Kneer Ditch to Hoefling Ditch, another regulated drain which maintenance is paid out of assessments from other ground to the north of here. Obstructions and other causes of the storm water ponding at this particular point include a rocked field entrance serving the land immediately south of the point of study. It was installed with no culvert to allow direct drainage to pass through the field entrance and into Kneer Ditch. That was done by a private land owner or a lease farmer. Secondly, ongoing land grading from agricultural field plowing has filled in the first 300' of Kneer Ditch as it was shown to exist in 1969, and an additional 500' of the previous existing waterway leading from Armstrong Road down to Kneer Ditch. It had been filled in by, uh, the way they are plowing the fields toward the ditch rather than away from it. And, some dirt work remaining after the installation of the township waterline along Armstrong Road. A hydrant from which is shown as a circle with a dot in it. There is some spoiled dirt sitting there that also blocks drainage from that area preventing it from entering Kneer Ditch. Also row crops, this year corn, has been planted so that it encroaches right to the edge of the pavement of Armstrong Road where there used to be a road side ditch, now there is (inaudible). Our recommendations include encouraging the landowners to remove and regrade or properly reconstruct their field entrance so that the land which is intended to drain towards Kneer Ditch does. We urge the landowners to restore an open, grassed waterway as was shown in the 1969 map along the section line. I have some more detailed notes from the 1990 planimetric which clearly shows it no longer exists there. So this obstruction was created between 1969 and 1990. Restore the 300' of Kneer Ditch which the County pays for the maintenance of, pays Mr. Maasberg's nephew for the maintenance of. We would like to see that restored as shown on the 1969 map that is described in our County Ditch Descriptions. Ask the County Highway Department to restore the roadside ditch along the south side of Armstrong to drain that area through and into the restored Kneer Ditch. Ask the Township Water Department to regrade their water line installation dirt spoil so that surface water can get to the drain from this ponded area. I'm not asking for a motion. I'm not asking for any action at this time other than to pass this along to the appropriate Departments. We will take care of our end of it, and if you would like me to contact Mr. Maasberg and give him a copy of the report I will be happy to do that for you. This is what we think can relieve his problem.

Commissioner Mourdock: Everything you said there is fine, Bill. It does beg one question, though. You said at one point we are paying someone to maintain that drainage way.

Bill Jeffers: Yes we are.

Commissioner Mourdock: Begs the question, what other drainage ways are we paying to keep maintained that, in fact, aren't functioning as drainage ways?

Bill Jeffers: This is the first one I've found to be—

Commissioner Mourdock: Okay.

Bill Jeffers: –closed up, and there is about 300' of it that has been closed up that I am going to risk removing payment of that 300' this year–

Commissioner Mourdock: Okay.

Bill Jeffers: –even though we have a contract to do so until the restoration is made.

Commissioner Mourdock: Very good.

Drainage Plans

Bill Jeffers: Okay, next item of business is our Drainage Plans. The first item is Wolf Creek Condominiums, which is a development located on the east side of Eickhoff Road about mid way between Mt. Vernon...Middle Mt. Vernon Road and Hogue Road. The project is immediately west of and adjacent to the west line of Key West Subdivision which was recently rezoned for apartment or condominium development. The project currently is under consideration by the Area Plan Site Review Committee. This is a condominium site. The drainage plan presented tonight is a preliminary plan. The plan includes provisions for a majority of the new roadway drainage, parking lot drainage, and housing drainage to be routed through the detention basins and released at a controlled rate into an improved channel of Wolf Creek. The design engineer, Mr. Nicholson, is here to answer any questions by the board, or by others in the audience regarding the preliminary drainage plan. All comments from the board or from the public will be addressed prior to the final drainage plan approval. The County Surveyor is recommending approval of the preliminary drainage plan for Wolf Creek Condominiums with the provisions that approval of the final plan will coincide with the Board of Commissioners approval of the projects street and drainage plans as recommended by the County Engineer. I'm asking that because most department projects don't come to you twice, they just come once. We could handle this in Site Review after John Stoll has reviewed the street and drainage plans and recommended their approval to you. The board...I have made the recommendation and the board may wish to ask for public comment prior to your motion.

President Fanello: Is there any comments?

Unidentified: I would be glad to answer any questions you might have.

President Fanello: Anybody have any questions?

Commissioner Mourdock: On prelim...oh...I didn't have a question. Bill, you are recommending on preliminary we go forward?

Bill Jeffers: Yes, sir.

President Fanello: Okay.

Commissioner Mourdock: Then I will so move.

Commissioner Mosby: Second.

President Fanello: I have a motion to approve the preliminary plans. So ordered. A motion and a second. So ordered.

Bill Jeffers: Second drainage plan is Robinwood Subdivision. It is a project located at the intersection of Buente Road and St. Wendell Road. The project consists of four large lots centered around a nice, large lake. The plan presented tonight is a preliminary drainage plan. The final plan will contain some correction...some corrected and additional plat language simply to conform to the County Drainage Ordinance with regard to maintenance responsibility. The County Surveyor recommends approval of the preliminary drainage plans for Robinwood Subdivision. The board may wish to ask for public comment prior to your motion.

President Fanello: Is there any comment? Do I have a motion?

Commissioner Mosby: Motion to approve.

Commissioner Mourdock: For preliminary?

Commissioner Mosby: For preliminary.

Commissioner Mourdock: Second.

President Fanello: Okay. Motion to approve...motion and second to approve the preliminary drainage plans for Robinwood Subdivision. So ordered.

Bill Jeffers: The next drainage plan is Cross Pointe, Section E. Which is a commercial development located immediately east of the Burkhardt Crossings, which is the development of Wal-Mart, Home Depot East. Cross Pointe, Section E is north of the Lloyd Expressway, south of Virginia Street and west of Outback Steak House. Cross Point, Section E will be using an existing drainage and detention facilities for the front half in Cross Pointe...in the existing Cross Pointe development, as well as adding some new detention facilities for the north half prior to draining into the Virginia Street drainage system. The plan before you tonight, again, is a preliminary plan. The consulting engineer for the developer is here to answer your questions. The County Surveyor recommends approval of the preliminary plan for Cross Pointe, Section E. Your board may wish to ask for comment prior to a motion.

President Fanello: Any comments?

Commissioner Mourdock: Move approval of the preliminary.

Commissioner Mosby: Second.

President Fanello: Motion and a second. So ordered.

Bill Jeffers: The next drainage plan for your consideration is Alexander Estates II. Which is an expansion to the west of the original Alexander Estates...Estates. The development is located west of Browning Road, south of Boonville-New Harmony Road, and it is adjacent to Browning Road Estates. All lots are very large and very wooded. The indicated change in storm water run off from this development is plus or minus 2% depending on the extent of driveways, patios, and landscaping improvements that are made by the individual lot buyers. We do not anticipate that these lots will develop at a rate of greater than one new home every two to five years. So, by the time there is a new home under construction, the previous one will have been well established...or have a well established lawn. Alexander Estates, at the present time, has an existing large lake that provides adequate detention to offset any anticipated new development. Consulting engineer representing the

developer is here to answer your questions. The plan before you is a preliminary drainage plan. The County Surveyor recommends that the Drainage Board waive the requirement for additional detention, and approve this plan. With that recommendation you may wish to ask for public comment. However, you want to do it.

President Fanello: Are there any comments?

Commissioner Mourdock: Bill, your comment about the fact that the lots may not sell, may not develop over a quick period of time, but may go over a prolonged period of time. I don't recall you ever making a comment like that before, and I'm just curious. So what if it does, or what if it doesn't?

Bill Jeffers: If it does, we are still within—

Commissioner Mourdock: Yeah.

Bill Jeffers: —the tolerance—

Commissioner Mourdock: Okay.

Bill Jeffers: —however, this is a special piece of ground that was acquired by Mr. Alexander for his family.

Commissioner Mourdock: Right.

Bill Jeffers: His kids, and his grandkids to buy lots.

Commissioner Mourdock: Okay.

Bill Jeffers: Alexander Estates, Section I...has one additional home in the last four years—

Commissioner Mourdock: Okay.

Bill Jeffers: —and, uh—

Unidentified: The original home, Bill.

Bill Jeffers: —oh, the original home is the only one still there. There is a desire by Mr. Alexander's son...one of Mr. Alexander's sons to build one home on this next...how many acres...39? What I'm saying is—

Unidentified: There are 31.

Commissioner Mourdock: Yeah.

Bill Jeffers: —it's basically planned to be a family compound—

Commissioner Mourdock: Okay.

Bill Jeffers: —that will kind of develop (inaudible)--

Commissioner Mourdock: Okay, but—

Bill Jeffers: –that has a history–

Commissioner Mourdock: –the timing of the development of the lots is totally irrelevant.

Bill Jeffers: I'm just putting that in–

Commissioner Mourdock: Okay. Thank you. I'll move on preliminary approval, then the Alexander Estates II plan.

Commissioner Mosby: Second.

President Fanello: Motion and a second. So ordered.

Bill Jeffers: The next item is amended final drainage plans for Eagle Crossing North. This project is located along the north side of Eagle Valley Golf Course in Earle, Indiana. The modifications made to the approved final drainage plan for Eagle Crossing North were made to preserve large, mature Oak trees and the natural separation between this project and a project to the north including Oak Meadow Country Club. The modifications included some transitional yard grading that is shown on the modif...amended final plan. This yard grading eliminates some ditches, and alternately routes some other ditches in order to preserve the trees and preserve the natural terrain that exists along the north boundary of this project. Some modifications actually caused waterways to divert outside of the plat easements so that they become natural surface watercourses. The modified final plans before you clearly depict all the drainage features that require maintenance by the property owners, and protection from obstruction in accordance with plat requirements clearly stated on the plat, and in accordance with the state statute subject of your hearing tonight. Landowners who are affected by these modifications have been notified of this meeting by registered mail, return receipt requested. A copy of the notice that they were sent is available to the board if you wish it in your record from the consulting engineer who is here along with the developer ready to answer any of your questions or any questions from affected landowners, if they have not resolved those issues prior to tonight. The County Surveyor does recommend approval of the amended final drainage plan for Eagle Crossing North. The board may wish to ask for public comment or comment from the developer, his engineer before your motion.

President Fanello: Are there any comments?

Commissioner Mourdock: I'll move final approval for the drainage plan for Eagle Crossing North.

Commissioner Mosby: Second.

President Fanello: A motion and a second. So ordered.

Bill Jeffers: The next drainage plan is Cambridge Hills replat of lots in Section One. The project is located within and on the north side of Cambridge Golf Course Development. The plan before the board tonight is a final drainage plan filed subsequent to the approval of the preliminary plan by this board. The consulting engineer for the developer is here to answer any questions. The County Surveyor does recommend the approval of the final drainage plan for Cambridge Hills replat of lots in Section One. Your board may wish to ask for comments prior to your

motion.

President Fanello: Are there any comments?

Commissioner Mosby: Motion to approve the final drainage plan.

Commissioner Mourdock: Second.

President Fanello: A motion and a second. So ordered.

Bill Jeffers: The next item is Yokel Road speculative building. This item is withdrawn from your agenda at this time as no additional drainage connections from this project, which is inside the City limits, is required to Sonntag Stevens Ditch at this time. The next item is the revised final drainage plan for Vanderburgh Industrial Park. The revisions to the approved final drainage plans for Vanderburgh Industrial Park are required and facilitate the layout of a large industrial project that is coming to Evansville. The storm water conveyance and detention requirements are met through modifications to the drainage facilities as shown on the revised plan. The consulting engineer for the developer is not here, because I told him this would be very elementary. The County Surveyor recommends approval of the revised final drainage plan for Vanderburgh Industrial Park.

Commissioner Mosby: Motion to approve final drainage plans.

Commissioner Mourdock: Second.

President Fanello: Motion and second. So ordered.

Encroachment Agreements

Bill Jeffers: Under the next item of New Business is Encroachment Agreements. The County Surveyor received two proposed Encroachment Agreements this month that appear to be in order. Forwarded them to the Auditor's Office as required with the check for Recording Fee, and asked the board's secretary to pass those along to you at this time for your signatures.

Commissioner Mourdock: How many are there, Bill?

Bill Jeffers: There should be two.

Commissioner Mourdock: Okay. I will move approval then of the...do you want to talk about these, specifically, or?

Bill Jeffers: No, sir. They are in order.

Commissioner Mourdock: Okay. I'll move approval of two drainage easements. The first being a drainage easement with MWR Investments LLP, and the second being a drainage easement with Warrick Federal Credit Union.

Commissioner Mosby: Second.

President Fanello: A motion and a second. So ordered.

Petitions and Other Correspondence

Bill Jeffers: The next item of New Business under Petitions. The County Surveyor did receive a letter that indicated at least one petition for the removal of an obstruction. It may have been filed with the board this month. I instructed the fellow who initially filed the petition that he should have it filed by the end of business day tonight...today.

Ditch Maintenance Claims

Bill Jeffers: Under Ditch Maintenance Claims the Surveyor has the claims here and recommends approval of all claims for maintenance of regulated drains as submitted to you.

Commissioner Mourdock: I will move approval of the Ditch Claims.

Commissioner Mosby: Second.

President Fanello: A motion and second. So ordered.

Bill Jeffers: Oh, I'm sorry. I have a...I wasn't following my agenda. Up here under drainage plans I do have a, uh, bullet for other drainage plans because some of them do come to me, uh, and I forget to put them on the agenda by name. We have one here tonight by Brocton Griggs. It's a very simple drainage plan. Someone within an approved subdivision that was approved by your board some years ago under the current drainage ordinance would like to pipe a ditch. The ditch is totally within this person's property. Does not affect anyone else's property. It just discharges into a branch of Carpenter Creek. I have reviewed the plans with Mr. Brocton Griggs, a registered surveyor in Vanderburgh County and recommend approval of this plan.

Commissioner Mourdock: Would...would—

Bill Jeffers: Mr. Griggs is here to discuss it with you, but, basically, it is just a couple hundred feet of ditch so they can mow the lawn—

Commissioner Mourdock: —could you just reference the property for the record, Bill?

Unidentified: Westchester Place on the—

Commissioner Mourdock: You will need to say it to the mike so that we can it get on tape please.

Bill Jeffers: It's Westchester Place in Perry Township on Nunning Court. It lies on Lot 7.

Commissioner Mourdock: Okay.

Bill Jeffers: It consists of 100' of 21" pipe with end sections in an existing 15' drainage easement shown to be platted on Lot 7.

Commissioner Mourdock: I will move approval of the drainage plan for that tract as recommended by the County Surveyor.

Commissioner Mosby: Second.

President Fanello: Motion—

Bill Jeffers: That concludes the business that the County Surveyor has brought before you tonight.

President Fanello: I have a motion and a second on the drainage plan. So ordered.

Commissioner Mourdock: Move to adjourn.

President Fanello: Do you want to second?

Commissioner Mosby: Do you think I wouldn't second that?

Meeting was adjourned at 8:50 p.m.

Those in Attendance:

Catherine Fanello

Philip Hayes

Les Shively

Members of Media

David W. Mosby

Madelyn Grayson

Marco Dalucio

Others Unidentified

Richard E. Mourdock

Bill Jeffers

Jim Morley, Sr.

**VANDERBURGH COUNTY
DRAINAGE BOARD
JUNE 25, 2001**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson

**Vanderburgh County
Drainage Board
July 23, 2001**

The Vanderburgh County Drainage Board met in session this 23rd day of July, 2001, at 6:55 p.m. in Room 307 of the Civic Center Complex with President Fanello presiding.

Call to Order

President Fanello: Call to order July 23rd Vanderburgh County Drainage Board meeting.

Approval of Minutes

President Fanello: I need a motion to approve the minutes of the previous meeting.

Commissioner Mourdock: So moved.

President Fanello: Second and so ordered.

Old Business

President Fanello: Old Business. Do you want to wait for Surveyor here to get?--

Commissioner Mourdock: Before the Surveyor comes up for his part of the meeting, the Surveyor works as our technical advisor for the Drainage Board. If you wish to speak to the Drainage Board, you need to come to the microphone, please state your name and address. All of our minutes we take down verbatim, so we need that information.

President Fanello: I don't really have anything.

Bill Jeffers: My name is Bill Jeffers, Vanderburgh County Surveyor. Your first order of business tonight is approval of the previous meetings minutes, June 25, 2001.

Commissioner Mourdock: We did that already.

Bill Jeffers: Okay. Under Old Business, I don't have any Old Business unless the board members individually may have.

New Business

Bill Jeffers: Okay, under New Business, um, is the Joint Drainage Board proposed, and it would be composed of Warrick County Drainage Board and Vanderburgh County Drainage Board. You'll find that agenda on your second page of the handout. On the third page you will find a noti...uh, a script. Following the script that I will be reading into the minutes, is the notice of this hearing sent by the Vanderburgh County Surveyor to the Chairman of the Warrick County Drainage Board and the Chairman of the Vanderburgh County Drainage Board announcing this meeting and it's purpose. Next page is a service list of those persons that received this notification and other information by mail. That's followed by copies of pages of Indiana State Code enabling this hearing. At the bottom of the first page of that copy, please notice the cause for the notice to be sent, and on the following page some yellow lined passages out of the Code that I will be referring to.

Organization of Joint Warrick-Vanderburgh Drainage Board

So, on that agenda your first item of business is the organization of the Joint Board which should be composed of two members from Warrick County Drainage Board and two members from Vanderburgh County Drainage Board, and one member from an unaffected county.

Commissioner Mourdock: Do I understand, Bill, that with Commissioner Jack Pike and Commissioner Don Williams here tonight from Vanderburgh, or from Warrick County that they are the assigned members from Warrick County?

Bill Jeffers: If they so choose. Then they could seat themselves up there if you would like to conduct the rest of this meeting. You could just form the board from those four persons.

Commissioner Mourdock: Yeah, okay.

Bill Jeffers: At a later date, I would suppose, it doesn't say that you have to have the fifth member in place to hold this meeting. Is that assumed by this statute, or...that would be in the case that there would be a tie vote.

Commissioner Mourdock: Right. It also begs the question from Vanderburgh County, yes, there are two members here, but are these the two members from this board that will serve on the joint board?

Bill Jeffers: If the Chairman-

Commissioner Mourdock: That's fine with me.

Bill Jeffers: -appoints these two.

Commissioner Mourdock: Okay.

President Fanello: (Inaudible. Mike not on.) If it will speed the process, that's fine with me.

Commissioner Mourdock: Sure. Okay.

Bill Jeffers: The purpose of...the purpose of the board is one major project that..which the funding for which would come from, uh, monies allocated by the various state legislators for the desnagging of Pigeon Creek from Heim Road to Greenriver Road to cause better drainage of agricultural lands and properties owned by the Commissioners such as roadways and bridges. There is another item I will be bringing up in a moment , but that is the primary purpose for forming a Joint Drainage Board. We have monies in hand. The members of the Warrick County Drainage Board will compose the lead agency because the length of the drain in their county is greater than the stretch of the drain in our county.

Commissioner Mourdock: Yeah.

Bill Jeffers: Their Surveyor, their County Surveyor, Ms. Karan Hargrave-Barnhill, will serve as the ex-officio member by virtue of the greater stretch of drain being in Warrick County.

Commissioner Mourdock: Okay. With the next two items to be discussing action items, I would invite Commissioner Williams and Commissioner Pike, if you would come up here and join us. That way whatever comments and votes you make, you get 'em recorded, and we will, obviously, make all of this available to you.

Bill Jeffers: I imagine you can take the same procedures you do for forming your Drainage Board at the beginning of each year.

Commissioner Mourdock: Okay.

President Fanello: I think-

Unidentified: (Inaudible. Not at mike.)

President Fanello: I think...do we need a formal motion to appoint ourselves, so.

Commissioner Mourdock: Yeah, okay. I would move from the Vanderburgh County Drainage Board that the members for the Joint Board be Commissioner Fanello and Commissioner Mourdock.

President Fanello: Second and so ordered.

Commissioner Mourdock: Okay.

Bill Jeffers: As the joint board with its lead members being the Warrick County Commissioners and Drainage Board members, they I'm sure have brought with them a copy of the report that was prepared by an engineer for DNR to show the need and the purpose for this project. After the members conclude their business relative to this Pigeon Creek desnagging process, or project, the County Surveyor, the Vanderburgh County Surveyor wants to open a brief discussion about some improvements to Williams Ditch adjacent to I-164, uh, as a lesser project that I would like to discuss.

Commissioner Mourdock: A lesser project before this same Joint Board?

Bill Jeffers: Yes, sir.

Commissioner Mourdock: The order of business here would seem to be then, and let me clarify the technical representative from Warrick County, is there one present? Okay. Okay. Do you wish to make part of the presentation as far as this particular report we have, the Pigeon Creek channel review? Or should we just go ahead and discuss it? Is there any part of the presentation that you would like to make to us?

Karan Hargrave-Barnhill: (Inaudible. Not at mike.)

Commissioner Mourdock: Okay. Alright. Oh, okay. Jack or Don any comments you have on this as far as what is being proposed here for the, uh-

Warrick Commissioner Williams: The proposal is from Heim Road in Warrick County to the Vanderburgh County line with, uh, Pigeon Creek crossing into, uh, Vanderburgh County, and out of it and back into it, two different occasions. There is...the total mileage, I'm not sure. Do you know what the total mileage is, Karan?

Karan Hargrave-Barnhill: (Inaudible. Not at mike.)

Warrick Commissioner Williams: On that project? I'm not sure what the mileage is. I know that there is...the worst part of it is about three miles long. I know that there is \$55,000 that's been dedicated to the project. I

understand that what we need to do tonight is simply form our committee and, uh, appoint a fifth member from a county who has no part of the ditch running through it.

Commissioner Mourdock: Do you have a suggestion as to who that person should be?

Warrick Commissioner Williams: I would like to recommend Richard Paul, who is the Commissioner from Gibson County, which is just north of us.

Commissioner Mourdock: Okay.

Warrick Commissioner Williams: He has agreed to sit on that committee as a ,I guess, a peacemaker should there be a two, two vote. That's the only way I would know to put that.

Commissioner Mourdock: Yeah, okay.

Warrick Commissioner Williams: Usually this is, I don't know if Vanderburgh County has other agreements like this or not, but we have them with Spencer County and with other counties and it's pretty informal and I have never known any negative issues to come up in these. It's simply getting business done in the quickest method possible. So, I would recommend to this body that we appoint Richard Paul as the fifth member from Gibson County. He is a Gibson County Commissioner.

Commissioner Mourdock: Okay. That being a motion, I will make a second to that motion.

President Fanello: Second, or we have a motion and a second. So ordered.

Warrick Commissioner Williams: Okay.

Commissioner Mourdock: Okay.

Commissioner Mourdock: As far as the, uh, well, in doing this procedurally, it is my understanding now that we need to do something jointly, formalize this, send it off to the state to help with the funding. Is that accurate?

Bill Jeffers: Yeah, I would think that you might just want to, uh, make a motion, take an action to, uh, pass this to that portion of your board from Warrick County to carry it forward. The fellow who compiled the report also offered his services in boiler plate specifications for the project. Let them finish it up over in Warrick County. Bid it out over there in accordance with whatever guidelines are required, and supervise the job, and consult with us whenever they need our assistance. When they come in and out of Vanderburgh County access from our public roads-

Commissioner Mourdock: Okay.

Bill Jeffers: -Lost Lake Drive, etcetera. Our county line road is their county line road. They will be accessing it there and, of course, they will be accessing it from Greenriver and along our banks on both sides. You know, it's just a cooperative effort, basically-

Commissioner Mourdock: Sure.

Bill Jeffers: -between the two counties to get a necessary job done.

Commissioner Mourdock: Okay.

Bill Jeffers: Benefitting from the \$55,000 that the state legislators set aside for this job.

Commissioner Mourdock: Okay. It strikes me as an organizational meeting, the thing we probably should have done first, since this is a bi-county board, is elect a President of this board. Since the majority of the project is in Warrick County, I'll move that, uh, Don Williams be the President of the Joint Drainage Board.

Warrick Commissioner Pike: Second.

Commissioner Mourdock: Okay.

President Fanello: All those in favor. Aye.

Commissioner Mourdock: Aye.

Warrick Commissioner Pike: Aye.

Commissioner Mourdock: So you get to do the all in favors and say ayes, now.

Warrick Commissioner Williams: So one nay vote won't count, right?

Commissioner Mourdock: No, no. Okay. But that way at least anyway anything that deals with the state representatives, you will be the main guy to contact.

Warrick Commissioner Williams: Okay. Any other business that we need to take care of tonight that you can think of? I can't think of anything. Basically, the money...we need to send some type of a formal letter, I guess, to the state letting them know. Have you been working on this, or?

Bill Jeffers: I was only at one meeting with Ms. Fanello, uh, and it was clearly explained to me that it was all pretty much cut and dried. All you needed was your specifications, and you-

Warrick Commissioner Williams: Cooperation in getting the bids.

Bill Jeffers: -guys go ahead.

Warrick Commissioner Pike: Basically, somebody to hold the money, and with the joint board now, we have somebody to hold the money. The Warrick County Drainage Board.

Bill Jeffers: Correct.

Warrick Commissioner Pike: (Inaudible. Mike not on and someone coughing.) facilitate getting the desnagging.

Bill Jeffers: Correct. Now, of course, we hope in the future that it might stretch farther into Vanderburgh County so we can address the same type of conditions on down to Oak Hill Road, and then we would be calling on them for their support in that.

Karan Hargrave-Barnhill: I was also at the same meeting that Ms. Fanello was at, and the way I understand it the funds are going to be sent directly to Warrick County, deposited into our Drainage Board Fund, the Joint Drainage Board Fund. They will be dispersed through us, um, with Mr. Williams being in charge since he is the President of signing the claims to make sure that it is done properly.

Commissioner Mourdock: Okay and just for the record, for our minutes, would you state your name?

Karan Hargrave-Barnhill: Karan Hargrave-Barnhill, Warrick County Surveyor.

Commissioner Mourdock: Thank you.

Bill Jeffers: I have the same understanding from that meeting.

Commissioner Mourdock: Okay. Well, I will formally move then that Don and Karan work together to draft the letter and correspondence necessary to go to the state to see that we get this funding.

President Fanello: Second.

Bill Jeffers: The only other item of business that I would like to bring before the Joint Board is a proposed project for Williams Ditch, that is the name of it in Warrick County. It has been referred to as Weinsheimer Ditch in Vanderburgh County. It runs right along the county line on the east side approximately between Lincoln Avenue due north behind the apartments up to Eagle Crest commercial development and then the, uh, INDOT realigned it under the new I-164 road bed and diagonally across the property behind Crossroads Christian Church and the new medical development, under Lloyd Expressway and then meandering through Warrick County under Eppworth Road and on to the northeast. An accumulation of silt has occurred in the twin corrugated pipes carrying Williams Ditch under I-164, immediately south of the Lloyd Expressway. This accumulation of silt is obstructing the proper flow of water drainage from Vanderburgh County and into Warrick County. This

was brought to my attention by Mr. John Dunn's attorney, and asked if we could do something to remedy. Indiana Department...I called Indiana Department of Transportation and they said they would clean out the pipes only after Williams Ditch east of I-164 in Warrick County is cleared of some young willow trees, silt bars and generally regraded to make it conform to the INDOT plans used to realign Williams Ditch during INDOT's reconstruction, uh, to facilitate the building of I-164 and the Lloyd Expressway. Since the agenda for this meeting was submitted to you, we have determined approximately 1,400' of ditch should be included in this project. The project we are asking the Joint Board to implement includes minor cleaning of approximately 250' of ditch in Vanderburgh County entering the pipes, and then approximately 1,150' of ditch in Warrick County exiting the pipes. Our preliminary estimate of the costs for sediment and small tree removal and minor repairs to the ditch banks is \$1,000 in Vanderburgh County, and \$6,900 in Warrick County. We hope the bids come in lower than that, but the Vanderburgh County, or excuse me, Vanderburgh County currently holds approximately \$8,925 in account 2340-0042. This money is collected by assessment from the City of Evansville for their water draining into Williams Ditch and then into Warrick County. We have not transferred this money to Warrick County previously, because of lack of action by the previous Surveyor. Has nothing to do with the current administration of either the Surveyor's Office or the current Drainage Board. If the Joint Board will act to initiate a project, or at least show their willingness to initiate a project to clear and repair approximately 1,400' of Williams Ditch as described above, the Vanderburgh County Surveyor will recommend during the Vanderburgh County Drainage Board's meeting, immediately following this meeting, that Vanderburgh County allow \$8,000 to be transferred from account number 2340-0042 to the appropriate fund in Warrick County to complete the project. That would leave us with an excess of \$900 and future assessments for, uh, similar purposes in the future. So, what I was...what I'm basically asking, just the board to at least show some willingness to initiate a project. The major problem we are having in Vanderburgh County is that the large lake in the Dunn development known as Eagle Crest, the flat gate is impeded from operating properly because water is being backed up by this silt in, inside the pipes owned by INDOT.

Commissioner Mourdock: And-

Bill Jeffers: INDOT claims that the reason that is happening is the condition of the ditch in Warrick County. I feel that it is just a result of siltation that is caused by recent development in both counties. I'm not pointing fingers. The fact that when it goes through the pipes and goes across this stretch behind Crossroads Church and the medical development, that it slows down sufficiently to allow the silt to deposit itself in those twin pipes, but INDOT has indicated that they are not willing to clean out those pipes until the condition of the ditch is improved in Warrick County.

Commissioner Mourdock: And absolutely, positively, for certain if we do this on either end of the pipes, they will get in there and clean out the pipes?

Bill Jeffers: That is what I've been assured of.

Commissioner Mourdock: Okay.

Bill Jeffers: I've also been assured they will not do anything until we do something first.

Commissioner Mourdock: Right.

President Fanello: Did they put that in writing?

Bill Jeffers: No, they haven't put that in writing just yet. They said they cleaned them out one time, and even cleaned some of the ditch in Warrick County and it occurred again, so they decided they wouldn't do anything until the conditions improved.

Commissioner Mourdock: Okay. Our previous meeting we had several cynical-

President Fanello: Uh-huh.

Commissioner Mourdock: -comments from a number of projects where it seems tonight is jump on the state of Indiana night for things that they should have done.

Bill Jeffers: I could provide more cynical comment, but I don't want to belabor the point.

Commissioner Mourdock: Yeah, okay. Well, I move that the Joint Board act as recommended by Mr. Jeffers to clean out both sides of I-164 in both Warrick and Vanderburgh County so that we can, hopefully, influence the state to clean out the pipes beneath 164.

President Fanello: Second.

Warrick Commissioner Williams: I will second that, and I have a question. Karan, that's what we call Howard Ditch, isn't it? Okay.

Karan Hargrave-Barnhill: It's Howard Williams Ditch.

Warrick Commissioner Williams: Howard Williams Ditch? Okay. It used to be just Howard. I wanted to make sure that was right. I have a motion and a second, all in favor?

Commissioner Mourdock: Aye.

Warrick Commissioner Pike: Aye.

Warrick Commissioner Williams: Alright. We'll take care of that then. Is that it? Any other business for us? Then I, as your newly elected President, make a motion that this Joint Board be, uh, adjourned.

Commissioner Mourdock: Second.

Warrick Commissioner Williams: Thank you all. Appreciate your cooperation.

President Fanello: Thank you.

Commissioner Mourdock: Madelyn, if you would, be sure to send a transcript of the minutes over to these folks.

Madelyn Grayson: Sure will.

President Fanello: Now, we will conclude our regular Vanderburgh County Drainage Board meeting...reconvene. See ya. Thank you. Thanks.

(County Attorney left the meeting.)

Drainage Plans

Bill Jeffers: Okay, under Drainage Plans, I have two. I have East Point Business Park, which is a preliminary plan that is quite extensive for a large development, uh, between Telephone Road to the north, Morgan Avenue to the south. Total development, when it's completed, will be approximately 107 acres, all east of I-164. The majority of the drainage is to the south and southeast, through across this land and then into the right-of-way for State Road 62, also known as Morgan Avenue, at a point east of I-164. Then it's under Morgan Avenue and into a ditch that we call Kelly Ditch, known by the state of Indiana as Lockwood Ditch. It's a regulated drain in Vanderburgh County. The preliminary plan was compiled and is certified by Jim Farney from Bernardin Lochmueller and Associates, who is here with us tonight to answer questions from the board and from neighbors. We have reviewed the plan. It makes several improvements, we think, to the current drainage, uh, pattern across the land and does direct the majority of the drainage through a series of dry basins, which then discharge it into State Road 62 as mentioned above. I say State Road 62 because the state of Indiana requires a 10-50 detention setup so that the, uh, discharge will...the maximum allowable discharge will be based on a ten year outflow from the existing conditions, and they will have to contain everything during a 50 year storm within that system of basins and release it at that lower rate. There may be the opportunity as they get into the development of phase by phase that they are able to increase the storage to a 100 year frequency rainfall. We hope that is possible, but the...at the current time, the jurisdictional limit is a 50 year storm. We do encourage them to seek ways to, uh, contain the 100 year storm and release it as a ten, and, uh, there is some indication that that might be possible as they phase this development in. I would like for the board to ask for comments from the public as I, I, uh, assume that there are

people here that would like to express their opinions and then ask for Mr. Farney from Bernardin Lochmueller to address those questions, and any questions the board might have as well.

President Fanello: Does anyone in the audience have any comments on this? Would you please come forth.

Unidentified: (Inaudible. Not at mike.)

President Fanello: Yes, you will need to come forward and state your name.

Ronda Cooper: Ronda Cooper. Just would like to see the plan. Our property is to the side of them, and we would like to know what is going on with that ditch.

President Fanello: Okay.

Ronda Cooper: I know the Ubelhors are behind me also. We haven't seen any plans.

President Fanello: Okay.

Ronda Cooper: So, just our concern is that ditch and how much of the water is going to be retained over by our property?

President Fanello: And can the Surveyor answer that question, or do we need Mr. Farney to answer it?

Bill Jeffers: Would you like to take this back to..with your neighbors while Mr. Farney is discussing it?

Ronda Cooper: Yes, yes.

Commissioner Mourdock: Before Mr. Farney makes any comments one way or the other...I'll wait for Bill here. Let me just state this is a two stage process. Tonight is...the request is for the preliminary approval. The whole purpose of doing this in two stages is so that Ms. Cooper's type of request can be dealt with. We want to make sure you have a chance to see the plans, so. Go ahead, Jim.

Jim Farney: My name is Jim Farney. I'm here from Bernardin Lochmueller. I'm the engineer for the developer. The answer to Ms. Cooper's question...she...the property that she is concerned about is south and east of this project. The watershed that she is concerned about comes from the north. If you look on the plan in front of you, in the northeast corner of the project we are proposing a substantial lake that is going to capture runoff from three of four culverts that come beneath Telephone Road. Once that water enters the lake it will remain on the property. It will be discharged on the property through a storm sewer and then it will be routed to the south. If you would, Richard, flip that over, it's routed south out of that pond, which is

called Pond Number Two into Pond Number Four, which is located on the property. Again, the Cooper property is immediately east of Pond Four.

Commissioner Mourdock: You said, Jim, a storm sewer. Do you mean a true underground pipe going down there? Or will that just be a drainage ditch?

Jim Farney: Yes, let me show you. This point down to at least this point it will be sewer, because this is a ridge.

Commissioner Mourdock: Okay.

Jim Farney: (Inaudible. Not at mike.) From this point down to the lake, we can say here that we will either continue to pipe that or put it in a swail.

Commissioner Mourdock: Okay. That Pond Number Two is a true pond? That is not a dry basin?

Jim Farney: Yes, all of those areas shaded on there are true ponds, or lakes that will hold water. There is one dry basin in the middle of the project that is labeled 1-A, but all the other ponds, one through six, are wet basins.

Commissioner Mourdock: Okay.

Jim Farney: Now, once the water enters into Pond Number Four, and needs to exit, it will exit immediately to the south. You can see the culvert coming out of the south end of that lake which is in line with a culvert, an existing culvert underneath Morgan Avenue. So, it is at that point that we will, uh, in order to satisfy INDOT we will have to have a system sized resigned, so it will not release more than a 50 year storm.

Commissioner Mourdock: Okay.

Jim Farney: Which we've done on there. So, again, the water comes from under Telephone Road, enters Pond Number Two, leaves Pond Number Two through a pipe at the south end of that lake. Yes, right where you are pointing. Heads south. Now, there may be a point there after it makes a junction with Pond 1-A where it could be a swail, or it may...we may continue to pipe it, but from there it will enter into Pond Number Four and then it will leave Pond Number Four, right there where you are pointing, and go south into the right-of-way for Morgan Avenue.

Unidentified: I've got one question for you.

Commissioner Mourdock: You need to get near a microphone, Mr. Cooper. I presume you are Mr. Cooper, wearing the same kind of shirt, or that's a heck of a coincidence.

Byron Cooper: It's hard to tell. Um, right now the properties are pretty much divided by another drainage ditch, our property and the other property. I'm

assuming that Pond Two and the drainage will pretty much replace that ditch. Is that correct?

Jim Farney: No, they don't. That ditch will rema...the ditch that runs north-south will remain intact, because there is almost none of it that is on this property. It immediately wanders or meanders into the Ubelhor property. Ubelhor property being due north of the Cooper property. There is one culvert up there, the one right in line with that ditch that will not go through the lake. Okay?

Unidentified: Is that this one?

Jim Farney: No. The...to your right. Up and to your right.

Unidentified: The one that goes pretty much here.

Jim Farney: Yeah. Right. Yes. That culvert...now there are three other culverts where you were pointing, right there. Right now those go into a road side ditch, go to the east and go again through the Ubelhor property. Those will be intercepted. It will no longer be routed through the Ubelhor property. So, three of those four culverts-

Unidentified: (Inaudible. Not at mike.)

Commissioner Mourdock: Ma'am, you need to...you need to come to the mike, please and identify yourself.

Marilyn Forston: I'm Marilyn Forston. I have property over there on the north side of Telephone Road, right about where those three culverts are.

Jim Farney: Okay.

Marilyn Forston: That is what I'm worried about, uh-

Jim Farney: Those culverts will be directed-

Marilyn Forston: Is that going to drain into that ditch?-

Jim Farney: -into the pond. Yes.

Marilyn Forston: -where the City water is...the main goes for that, and then drains down into that. When we have a hard rain, that area will stand a little bit now. Is...are you taking that into consideration? So it don't back up onto us.

Jim Farney: Yes, we are. The pull level on that lake will be at elevation 392. The center line of Telephone Road at that point is at elevation 400. So, the pull of that lake will be roughly eight foot below that road. So, the 100...the 50 year storm will not...will only rise to an elevation of 396. That is still four

foot below the road. So, we don't anticipate anything backing up through them culverts. If that's a concern.

Marilyn Forston: What...do we have any stand on this? Uh, the...that subdivision is going to take care of this? If after they develop it with all this-

Commissioner Mourdock: Do you mean by that-

Marilyn Forston: -water that comes back?

Commissioner Mourdock: -well, there's no extra water. Let's start with that. I mean, the water is what the water is.

Marilyn Forston: Well, with all the buildings on that ground the rain that comes down-

Commissioner Mourdock: That's right.

Marilyn Forston: -is not going to drain off-

Commissioner Mourdock: Agreed. That drainage will change, but the whole purpose of this process is every drop of water that falls on this property, on the subdivision, the commercial subdivision, they are accounting for in their drainage plans, and, Jim, correct me if I say this wrong, and they are funneling it through one of these basins to one of these outlets. Is that correct?

Jim Farney: That's correct. Everything is flowing from north to south.

Commissioner Mourdock: Right. So, if you're question was what happens if it doesn't work and somehow water backs up through there, then, obviously, that is a civil matter that anybody can sue anybody in this day and age, but this process, you know, we've...the process is designed, when you hear them talk about a 10-50 or 50-10 and the 100 year storm and all that, it is designed for those types of events. So, hopefully, that will never happen. I heard the County Surveyor say in his comments, " it makes several improvements to the current drainage pattern and directs the drainage through a series of dry basins", which isn't happening now. So, when our technical expert tells me that that is an improvement to the area, that's a good thing.

Ronda Cooper: I had another question.

Commissioner Mourdock: And, and...go-

Ronda Cooper: (Inaudible. Not at mike.) How are you hooking up to the new INDOT sewage plan that they are doing eventually, someday?

Jim Farney: The new storm sewage plan?

Ronda Cooper: Uh-huh.

Jim Farney: The road improvements...we are putting the water back into the right-of-way directly in front of existing culverts. They've got two sets of culverts. They've got a twin set of 3 X 5 culverts that are further east of your property, or I'm sorry, west of your property, and then there is a 43 X 38, I think, elliptical pipe near your southwest corner. That's the pipe that this lake will dish through. The east run will discharge immediately in front of. So, it's in line with what their culverts are today.

Ronda Cooper: Do you know if they are in line with what they are planning?

Jim Farney: I'm not..I'm not familiar with what they are planning. I would assume that they are putting very...they are either leaving those culverts in tact, or they are replacing them at the same location.

Commissioner Mourdock: Yeah. Certainly their capacity will be not less. I mean, everything that we have had in drainage in the past few years goes to a greater and greater scale. So, if they replaced them, they won't be getting them smaller, they will be getting larger.

Jim Farney: They will be getting larger because their standards have become stricter.

Commissioner Mourdock: Exactly.

Jim Farney: Another thing worth noting is the, the east drainage basin that we've got, the exiting pipe at the very end is only a 24" diameter pipe, due to the storage that we can compile in those lakes. The existing culvert that is under the highway there is more than twice that size.

Commissioner Mourdock: Right.

Jim Farney: Again, the one at the west location, our exiting pipe is, uh, I'm sorry, I misspoke, the one on the east side is a 30" pipe, and the one that we are exiting with behind what we call Pond Number Six is a 24" pipe, and they are in the highway. There is two 3' X 5' elliptical culverts, so I'm sure INDOT will see very quickly that there is no way that we are putting any loading on their project.

Commissioner Mourdock: Right.

Jim Farney: None whatsoever.

Ronda Cooper: Looks nice. Looks very nice.

Commissioner Mourdock: Very good.

Ronda Cooper: It looks like it's going to take care of the water. More water than (Inaudible. Not at mike.)

Jim Farney: It's designed to...we had some concerns about the ditch that ran through the Ubelhor property. We don't have a history on that ditch, well enough to be certain that we wouldn't have any impact on it. Therefore, that's the reason we are routing a significant amount of water through this site, through Pond Two, to ensure that we don't cause them any aggravation whatsoever. They are the only person, we feel, could potentially be impacted by this to any degree. Them and the Coopers, of course, who are downstream from them. The adjoiners on the east side, I should say. Everyone along the north side of Telephone Road is above the project-

Commissioner Mourdock: Uh-huh.

Jim Farney: -geographically. So, there should be no impact on them whatsoever. There is a gentleman on the...that lives closer to, uh, Boonville Highway, in the first lot there. There is a culvert under the road there, a single culvert. He's asked that we, uh, either not touch that culvert or reinstall it at a lower elevation. We probably will replace that culvert due to it's condition when we do the Telephone Road improvements, and I've informed him that there is enough fall that we can easily lower that culvert. He's concerned because he's got a drain coming out of his basement-

Commissioner Mourdock: Mmmm.

Jim Farney:-that empties right in front of that culvert. He just wanted to make sure that we knew that drain was there and didn't raise that culvert.

Commissioner Mourdock: Okay.

Jim Farney: I, you know, I told him, if anything, we would lower that culvert. That is stated in the report. Then there is a gentleman at the southwest corner. I don't know if he is here or not, Mr. Lannert, I don't see him. He's actually got a small pond on his property that is shown shaded, again, on the drawing, and he has asked that we actually do not take water away from there because his pond actually drops four to five feet in the Summertime if the rains stop. He has asked that we put a pipe leaving the property with a valve on it where we could bypass the water if he decided he didn't want to take it on. I told him we were willing to install the pipe and put the valve on it, but it would be his responsibility to control the valve. Because he is the one that wants or does not want the water.

Commissioner Mourdock: Okay.

Jim Farney: That is also discussed in the report.

Commissioner Mourdock: Okay.

Ronda Cooper: Very nice.

Commissioner Mourdock: Okay. Very good. Okay, again, as I said this is a preliminary process. This will come back to us, I presume, next month, but if you have any questions Mr. Farney, I'm sure, can give you his business card and you can talk to him about it in more detail. So, on preliminary approval then, I'll move approval of the drainage plan for, uh, East Point Business Park.

President Fanello: I'll say second and so ordered.

Bill Jeffers: Unless there is another drainage plan, or other drainage plans coming from you...to you from the floor, the only other one I have tonight is a plan for Alexander Estates II, which received preliminary approval last month. Mr. Easley, has that gone to APC yet?

Andy Easley: No, we need to have this approved before we can go to the first meeting in August.

Bill Jeffers: It hasn't been to any other APC meeting?

Andy Easley: No.

Bill Jeffers: Okay. So, this will be a preliminary plan-

Andy Easley: No, this is final. Shouldn't it be final? We need final approval.

Bill Jeffers: Okay, in order for it to be final there were two things I pointed out last month. One was an access easement from the existing lane onto what I think is Lot Five, uh, so that a driveway can be built from the lane directly to the only buildable home site without having to cross the spillway channel, uh, that is immediately, uh, northeast of where I think the, uh, access easement should be. Number two, I had talked to Mr. Easley's engineer about a note being added to the plat along with the other drainage notices that always appear on all plats. This note would prohibit the direct discharge of concentrated flow from rooftops or from any other added hard surfaces, which discharge should be made onto...wait...it would prohibit any direct discharge onto unturfed wooded land, because of erosion concerns, or would not be allowed to be discharged within any greater than...or any closer than 25' to an individual property line. That would allow 25' for the water to spread back out before it crossed onto another's property. There is no need for detention here. There wasn't...there was like a plus or minus 2% increase in overall, uh, water depending on which method you used it came out less than or slightly greater than existing conditions. There is no reason for detention. They already have a large lake they are using for detention of the rest of the project. If those two, uh, additions to the current plan were added before this plan was reported, uh, the County Surveyor will recommend approval. That is the addition of an access easement so that the driveway doesn't have to cross the spillway channel and a note to prohibit direct discharge onto neighboring properties. Hold it back 25' and, hopefully, discharge it onto a grass surface. Would you like to see that? I had talked about both of these items to, uh, Tom Keith at Mr. Easley's office, but, this was the only set of plans I had to look at.

Andy Easley: We could now...if you could approve it subject to those two conditions, we'll add that to the plat that gets recorded and you can see it prior to recording.

Bill Jeffers: That would be fine. Before you take action, I think, you might have a comment from a neighbor.

Commissioner Mourdock: Yeah, I think so.

President Fanello: Go ahead.

Brian Hatfield: My name is Brian Hatfield. I, uh, I'm a property owner adjacent to the, uh, Lot number nine.

Bill Jeffers: Which lot is it here?

Brian Hatfield: This right here.

Bill Jeffers: Okay.

Brian Hatfield: Currently there is a, uh, a creek or ditch that runs-

Bill Jeffers: This is his house back here.

Brian Hatfield: -between properties, that once it has gotten...once the ditch goes west of my property line, it disappears. It is from sand and silt from construction that is, that is east of my property. Being a lower spot, being 100' from the proposed building site and downhill, this is an added concern of mine-

Commissioner Mourdock: Let me be-

Brian Hatfield: Sure.

Commissioner Mourdock: -sure we're clear, Mr. Hatfield. Maybe you can come up here and look at this map. When you talk about your property...Bill just circled these as being apparently your property, is that right?

Brian Hatfield: Um, this is the creek. This, this is my property. This is my neighbors.

Commissioner Mourdock: Okay. The area that you are concerned about is over here?

Brian Hatfield: Right now, right now, this creek here is, is, uh, has disappeared.

Commissioner Mourdock: Okay.

Brian Hatfield: It, it now this creek no longer exists.

Commissioner Mourdock: Okay. So let me just assume that's a given for a moment.

Brian Hatfield: Okay.

Commissioner Mourdock: And, Bill and Andy, you are welcome to deal with this one too. If in fact this is plugged over here, how is it going to be affected by what's within this plan as far as what's before us here as the board? I'm not negating your problem-

Brian Hatfield: Certainly.

Commissioner Mourdock: -I just want to make sure that what we are dealing with here is gonna have some effect, or not have any effect on what happens here.

Brian Hatfield: Okay.

Commissioner Mourdock: I just need that clarified.

Brian Hatfield: My, my concern is right now I have water that is backing up with, with backing up to the back of my property. Um, the last two rains that the, uh, the, uh, 9th and the 17th of this month-

Commissioner Mourdock: Uh-huh.

Brian Hatfield: -I ended up with water, with muddy water coming up to, up to and near my house. My concern is if, if construction sand and silt from, from the building site, from, from develop...from road development and the like further, further closes some of my drainage options-

Commissioner Mourdock: Uh-huh.

Brian Hatfield: -I think that is going to directly impact my house.

Commissioner Mourdock: Okay. I understand the question now, and Andy or Bill, do you want to take a shot at to how this plan effects that aspect?

Bill Jeffers: Okay, um, there is some history involved in this. I'll have to assume that this gentleman's description of the creek behind his house is accurate. We received several complaints some years ago to that regard. We were able to go inspect this problem from it's source in Hunters Ridge Subdivision, which Mr. Mourdock will remember.

Commissioner Mourdock: I do indeed.

Bill Jeffers: There was a complaint that there was a huge amount of sediment leaving Hunters Ridge and traveling down this branch of the creek and,

indeed, it was. It was identified as a type of soil that's made...that's composed of, uh, a composite of sand and clay particles. When it goes into suspension the clay separates from the sand. The clay is held in suspension for quite a distance because it is such a fine type of clay, but each time the sand...each time the water comes to a place where, uh, a pipe or natural vegetation slows it down it immediately drops it's sand content. There was huge volumes of sand at Oak Gate Road on each side...on the upstream side of the pipe. In any other place we did view where there was any type of restriction that slowed down the water, there were huge volumes of sand. So, I will assume that the gentleman's description of the creek behind his house is accurate, because it is very choked with, uh, trees and other vegetation, and I assume it's been filled up with sand. We were able to remove the sand from those areas that were within the right-of-way for roads like Oak Gate and other roads that crossed this creek. The private developers were instructed to remove the sand from portions of the ditch which remained on their undeveloped property. Most of the sand was removed, however, behind this gentleman's house, the ownership of the land was other than his and other than the private developers and it was not accessible to us to remove the silt from that natural creek. Apparently the property owner was not willing to remove it. The Soil and Water Conservation District is aware of the problem. They were involved in seeking a remedy. It is a soil erosion issue predominantly and not a drainage issue. Although, it did cause my comments to be made relative to any point discharge from this new project which I anticipate will be a very slow process of development. One house at a time, not all five or seven or whatever it wants. Alexander Estates has been sitting there for several years without any additional houses being built. It is a family project. Intended to continue to be a family project. There are extremely large lots involved here. There is ample opportunity to spread the water out into a broad sheet before it crosses the property line, either onto this gentleman's property or any other adjacent property. That is why the note is being requested, because the Alexander Estates soil is very similar or exactly the same as Hunters Ridge and all the other properties out there. We are very apprehensive about an erosion problem. I would like to add in closing that, uh, we now have an Erosion Control Ordinance monitored by the, uh, Soil and Water Conservation District, which we did not have at the time of, uh, Hunters Ridge. I understand that IDEM and, uh, which is the Indiana Department of Environmental Management, as well as, uh, Indiana Department of Natural Resources is considering reducing the jurisdiction from five acres of disturbed ground to one acre of disturbed ground. So, that would mean that just about any lot clearing to accommodate a large house as would be anticipated for any lot in this subdivision would require a permit.

Commissioner Mourdock: Does rule five, though, Bill, as it is currently stated, if, and I should know this, but I don't. If construction begins in this subdivision, since it is greater than five acres, does the entire boundary or discharge areas have to have a silt fence put around it? Or is it only lot by lot as it's done?

Bill Jeffers: It's only if the area to be disturbed in any one part of the project equals five acres or greater. They are considering lowering that to one acre or greater.

Commissioner Mourdock: Right. Okay.

Bill Jeffers: So, if you went out there and built...today if you went out there and built one house, and you were only going to disturb an acre or acre and a half with the streets and the driveways, etcetera, you would not need...rule five would not kick in. Only the local ordinance.

Commissioner Mourdock: So, to deal with Mr. Hatfield's question here, just looking at the topography, it would appear to me that if there was a sediment fence constructed during the time of construction here, somewhat in line with what your note says, that that ought to alleviate the concern he has. Would you agree with that?

Bill Jeffers: If, if the, uh, erosion control that is currently required for home building were implemented and maintained properly, it would alleviate his concerns.

Commissioner Mourdock: Okay.

Bill Jeffers: I would like to also point out that Mr. Alexander and Mr. Easley are aware of the concerns of the people like Mr. Hatfield, and forwent the option of extending Oak Gate Road up into this subdivision, which would have, uh, accelerated or, or increased the, uh, potential for severe erosion. You can see where that would enter right...in other words, had this been another developer, he may have decided to take Oak Gate Road straight up into here to access these lots because there is a sewer pump station right here. Had they done that, the soil erosion potential from this ridge would have been increased down against his house. Where as now, I think, the soil erosion that will have to be controlled will be primarily back to this stream-

Commissioner Mourdock: Right.

Bill Jeffers: -but which, as Mr. Hatfield pointed out, that erosion could further-

Commissioner Mourdock: Right.

Bill Jeffers: -impact-

Commissioner Mourdock: Is this just a cul-de-sac here?

Bill Jeffers: Right now, it's just like a hammer head.

Commissioner Mourdock: Yeah, I see it there.

Bill Jeffers: It goes like this.

Commissioner Mourdock: Okay.

Bill Jeffers: This isn't a very clear picture. It's more clear on the one...that would be all that I have to say that, uh, the erosion provisions would have to

be put in place according with the current ordinance and monitored very closely by, uh, Soil and Water Conservation District. If Mr. Hatfield were to notice a problem, he should immediately call 867-0729 and ask for Mike Wathen. To, uh-

Commissioner Mourdock: W-a-t-h-e-n.

Bill Jeffers: -W-a-t-h-e-n. To come out there and enforce the provisions of the Erosion Control Ordinance. Mr. Easley may have additional comments, or Mr. Hatfield.

Brian Hatfield: Mr., uh, Mr. Jeffers' comment about how several year ago there was, uh, there was a complaint is accurate. It's, uh, the, the lack of, of continuing complaining, doesn't mean...I don't want that to seem like the, uh, the problem no longer exists. There are,uh, with each, with each rain my problems are, are impacted.

Commissioner Mourdock: Uh-huh.

Brian Hatfield: The current, the current layout shows nine lots, and they are large lots and it is intended for a family as a, uh, it's a family subdivision. With a lot that size, uh, and with, with movement within families, and transfers and births and relocations and the like, the chances of somebody else building or subdividing a lot, I think, is high. Granted that's, that's, that would be a future issue. I understand that, but I, but a, a five and six and seven acre lot, wooded lot has a lot of value to it. I can't-

Commissioner Mourdock: But you realize if, and if as you are suggesting as they change it from nine lots to 30 lots, just picking a number-

Brian Hatfield: Yes.

Commissioner Mourdock: -if they did that, this whole process would start over again.

Brian Hatfield: That...my understanding of the process is then, then we would have..I would be back here asking for, asking for help or consideration.

Commissioner Mourdock: Okay.

Brian Hatfield: It's just the poten...the potential for there being additional construction on these lots is high.

Commissioner Mourdock: Oh, I'm sorry.

Bill Jeffers: I think all of Mr. Hatfield's concerns are legitimate and I, I can't remember, but if I did not point it out to Mr. Hatfield, and I believe his wife called once or twice, at least. If there is an obstruction in that creek downstream of you, you may file an obstruction petition after requesting the property owner to, to clear the obstruction, and he fails to do so, you may file an obstruction petition with this board. However, I anticipate the result would

be that it would be an unintentional obstruction that was caused by a natural condition, and the board's ruling would be that if the obstruction is cleared, which would be the existing silt that has filled the ditch behind your...the creek behind your house, and removed the trees that have..that nature allowed to grow in that ditch, that the billing for the cost of that would be spread between, not only the landowner who did not intentionally allow his ditch to become full, but would also, uh, be spread on...the cost would be spread out on to your property and other neighbors of yours who's land would better drain if the, uh, if the obstruction were cleared. That's the state statute.

Brian Hatfield: That, and that's-

Bill Jeffers: You do have that option.

Brian Hatfield: -I'm looking forward, I'm looking forward thinking that someday I'm going to be here with, with a problem that was created by this development.

Commissioner Mourdock: Step a little closer to the microphone, please, so we can get ya.

Brian Hatfield: My concern, and my concern is that the ditch is going to get worse or there will be another ditch that, that is going to fill up with construction sand and silt, and then I'm going to have water coming from a different direction. That is my concern. Whether, how, how the, the repair or fix is financed...it's always going to be...I figure I'm going to have some part in it somewhere.

Bill Jeffers: Right.

Brian Hatfield: That's...I'm trying to keep those costs down tonight.

Bill Jeffers: Sure. That's understandable.

Commissioner Mourdock: I remember the whole onset of this situation right after I came on the board as with the Hunters Ridge and the sand dropping out and all that. I do recall those discussions, and I'm not in anyway making light of your point. I think you've got a very valid point. As far as the specific project we're looking at tonight, I would hope some of the safeguards that we now have as part of the Ordinance Bill referred to that were not in place at the time that Hunters Ridge, uh, was developed would help prevent further sedimentation down your way. But, I think, Bill's last comment there about what you might do under the state statute does remain an option, forgetting for the moment, not that it's not important, but it's less important who's going to pay for it than it is to make sure it gets done. I don't know the name of the property owner upon whom this deposition has taken place, but I would encourage you to try and work with him or her or them to see if that can't be cleaned out on some basis. Certainly, uh, the cost of sharing that may seem expensive, but I'll guarantee you it's cheaper than trying to dry out your house. There is nothing more aggravating than water, obviously, in a house.

If you can work with them in advance, uh, you know, this board, speaking for myself here but I think Catherine would agree, given the presentation you've made here tonight, um, I don't know that if it would be appropriate for us, but, certainly sending a letter to those folks saying you've expressed a concern and we'd like for you to talk about it. Have you had any discussions with them at all? Or, I mean, is it a good relationship? Or is there any relationship there?

Brian Hatfield: There is no relationship.

Commissioner Mourdock: Oh, neither good nor bad.

Brian Hatfield: Neither good nor bad. No, no, just indifferent. I don't know.

Commissioner Mourdock: Yeah. Okay.

Brian Hatfield: Granted that's looking backwards, that particular project. The damage is done. In looking forwards, it appears that, um, if they, if they take and, or if you give them guidelines or if we follow the guidelines, it's going to be, it's going to be up to me to police their compliance?

Commissioner Mourdock: That's not totally true. In the sense that once they start this Soil and Water Conservation folks, as Bill was mentioning, do come out and they do inspect routinely. Now, if you call them, certainly, they will get out there that much faster, but that is part of their routine operation too. They're there to make sure that is enforced and done correctly. 90% of the time the things they visit, never have a problem. Then occasionally they get a call from a neighbor, so.

Brian Hatfield: Thank you.

Commissioner Mourdock: Uh-huh. Thank you.

Bill Jeffers: What he did describe is accurate. I did respond to his wife's call one time when there was water cutting out of the creek and very close to his house back in '96 and all when we had those heavy rains.

Commissioner Mourdock: Yeah, and I'm trying to be fore thinking too, not just looking backwards. I mean, I would like to, if you can work with those folks to get that cleaned out and it never becomes an obstruction case under the statute Bill was referring to, and the three of us never hear it, we'll be all the happier for it, because then the right thing's been done.

Brian Hatfield: In regards to the letter. What would I need to do? You said the letter would come from your office?

Commissioner Mourdock: I was raising that as a possibility that, uh, given your presentation here, if we, and we would have to work with Bill somewhat finding out who the property was and just make mention that, you know, we

had this conversation and asked them to possibly work with you and give them-

Brian Hatfield: (Inaudible. Not at mike.) there are other neighbors that have similar concerns-

Commissioner Mourdock: Okay, again, have you ever tried to contact these folks?

Brian Hatfield: I have not.

Commissioner Mourdock: Okay, well, why don't you try that, initially, and see if it works. If you get no response at all, let us know by letter or give us a phone call.

Brian Hatfield: (Inaudible. Not at mike.)

Commissioner Mourdock: Okay. I'm sure Bill can, Bill can help you there.

Bill Jeffers: I'll find out, and then I'll-

Brian Hatfield: This is a large...this is a large undeveloped tract of land-

Commissioner Mourdock: I understand.

Brian Hatfield: -that, that where this...where the creek is, and it has disappeared.

Commissioner Mourdock: Okay. Thank you, Mr. Hatfield.

President Fanello: Do you want to approve the plans based on-

Commissioner Mourdock: Well, I think we had the question-

President Fanello: -contingent on-

Commissioner Mourdock: -still pending-

President Fanello: Uh-huh.

Commissioner Mourdock: -and, and Mr. Easley had said that he would be willing, correction, he would like to see us approve this on final with the condition that the several notes the Surveyor had made would be included, and, Bill, what's your reaction to that?

Bill Jeffers: If Mr. Easley agrees on behalf of Mr. Alexander to include those notes indicated by my handwriting, I would recommend that you approve the final plan. I will tell you that I will not sign off on the plat for it to be recorded until adequate notification is found on the plat.

Commissioner Mourdock: Okay. Mr. Easley, you need to come forward.

Andy Easley: That's agreeable. We'll put the notes that Mr. Jeffers wants on the final plat.

Commissioner Mourdock: Okay. I'll move approval of, uh, Alexander Estates II? Is that right?

Bill Jeffers: Yes, sir.

Commissioner Mourdock: Alexander Estates II, final drainage plan pursuant to Mr. Easley's commitment to accept the notes formally.

President Fanello: Second and so ordered.

Brian Hatfield: (Inaudible. Not at mike.)

Bill Jeffers: My phone number is, uh, 435-5117. The office number is 435-5210. Call me and make sure I remember. This is on my desk, and this is the front desk.

Brian Hatfield: Oh, I see.

Bill Jeffers: Call me and make sure that I remember to find out for you who that property owner is, and work with you and your wife to contact them.

Brian Hatfield: Mr. Jeffers, thank you very much.

Bill Jeffers: Sure, and thanks for coming down and pointing that out to us.

Commissioner Mourdock: Yeah, thank you, Mr. Hatfield.

President Fanello: Thank you.

Brian Hatfield: (Inaudible. Not at mike.)

New Business

Bill Jeffers: Okay, under New Business we may have an Encroachment Agreement, which I understand is in proper order for the board to sign. I recommend you sign it.

Receive Petitions or Other Correspondence

Bill Jeffers: Ask if you've received any petitions for the removal of obstructions or is there anyone here in the audience who has a petition to present to the board specifically for the removal of obstructions? Please step forward at this time and present it to the board.

President Fanello: Don't see any.

Ditch Maintenance Claims

Bill Jeffers: We have some ditch maintenance claims-

President Fanello: Wait a minute-

Commissioner Mourdock: Wait a minute. Jim Farney coming back.

Jim Farney: (Inaudible. Not at mike.)

Bill Jeffers: No. We have some ditch maintenance claims which are all in order, ready for you to sign. Paperwork properly attached and the Surveyor recommends that you-

Commissioner Mourdock: Any comments from other than the Surveyor on the ditch maintenance claims?

Bill Jeffers: Those are for the regular maintenance of regulated drains in Vanderburgh County for the year 2001 completed up to date in accordance with the contracts.

Commissioner Mourdock: Okay, I'll move approval of the ditch maintenance claims as submitted.

President Fanello: Second. So ordered.

Bill Jeffers: I do have some correspondence from the Indiana Department of Environmental Management, which I don't want to read into the minutes. I want you to mull over it for a month.

Commissioner Mourdock: Is that what we may have received at the Commission meeting as well regarding?...that looks like the same letter.

Bill Jeffers: (Inaudible. Not at mike.) we are not going to particularly enjoy.

President Fanello: Yeah, this is it.

Commissioner Mourdock: Yeah, this is the same one. We got this in the Commission meeting.

Bill Jeffers: Right.

Commissioner Mourdock: Okay.

Bill Jeffers: Just enter that into the, uh, the record and we can discuss it at your leisure.

Other Persons Wishing to Address the Board

Bill Jeffers: We have some, uh, residents of Rode Road and adjoining neighbors who are here at this time that came before your Board of Commissioners earlier to discuss Ivy Meadows and a related drainage situation. I think they would like to address you at this time. Before...and after they are finished, uh, we have another person wishing to address the board with regard to Stofleth Ditch.

Commissioner Mourdock: Okay, just to formalize something. The Encroachment Agreement you have, Madelyn?

Madelyn Grayson: Yes.

Commissioner Mourdock: Okay, so I need to move approval of the-

Bill Jeffers: Is there just one, Madelyn?

Madelyn Grayson: Yes.

Bill Jeffers: And that's for?

Madelyn Grayson: Red Bank Development LLC.

Commissioner Mourdock: Okay.

Bill Jeffers: That's correct.

Commissioner Mourdock: So, I will move approval of the Encroachment Agreement as recommended.

Commissioner Fanello: Second, so ordered.

Commissioner Mourdock: Okay.

President Fanello: Now, would anyone like to approach the board?

Commissioner Mourdock: Before you get started, do you have a map or something that we can look at here?

Randall Carnal: All I have is pictures. I didn't bring a map.

Commissioner Mourdock: Okay. Do you have anything, Bill?

Bill Jeffers: I wasn't aware that they were going to be here tonight.

Commissioner Mourdock: Okay. Go ahead.

Randall Carnal: I'm Randall Carnal. I live at 3110 Rode Road. That's the east end of Rode right near Oak Hill Road. Ivy Meadows Subdivision is going in on, uh, Oak Hill Road. They have...the holding pond at the east end of their property, uh, cut a ditch through an empty lot on the south side of Rode Road, the crew dug a drain pipe underneath Rode Road and then from that point down to Oak Hill Road, which runs along in front of my house. Um, I don't know if you want to look at any of these pictures, or. This is just their holding pond.

Unidentified: It's a flag there, Randy.

Randall Carnal: There's one where you can see the flag, I think, that is supposed to signify 2' deep. It's just that deep. I think it's supposed to be deeper than that at a minimum. This is the ditch that they've cut through the empty lot. This is where they've gone under the road. Then this, uh, this pipe runs along in front of my house, and this is where it comes out. What's going here...this pipe is 4" above the current ground level. They are expecting me to keep dirt on that and grass and that is going to send the water back towards my house, I'm afraid. That's just another picture of that. But, uh, one of our main problems is that they have this large elliptical pipe, which they are running into this drain here, this is the drain that the County put in, oh, it's probably been what six months ago?

Unidentified: About a year ago.

Randall Carnal: About a year ago at the corner of Oak Hill and Rode. This pipe is, we think, about 18", and that turns and goes down Rode Road all the way, or sorry, down Oak Hill Road all the way to the corner of St. George and Oak Hill, which this is the pipe that runs under Oak Hill. Now, um, we've always had water problems to some extent down there, but now they are adding all this water from the subdivision. During a recent rain that we had...these are some of the pictures. This is their ditch. This is, uh, this is another view of the ditch that runs through the empty lot. This is water coming out of their holding tank. This is the water running across Joe's side yard, across his driveway.

Joe Gronotte: That's mine. Yeah, that's of my driveway.

Randall Carnal: Across the front of your house and driveway. That's the same...this is the....this is the ditch on my side of the street. This is where

this pipe is going to empty into. This is the empty lot that is between my house and Brian Jewell's house, which lives on the corner of Oak Hill and Rode. This is just what's some left in landscaping-

Joe Gronotte: Silt.

Randall Carnal: -mud and straw. We just don't think that it is going to handle all that water.

Commissioner Mourdock: Okay.

Randall Carnal: Okay. Is there anything that we can do about it?

Commissioner Mourdock: Um, Bill, can you give us an update as far as Ivy Meadow, how that plan was processed, or where are we-

Bill Jeffers: You mean the-

Commissioner Mourdock: -(Inaudible. Talking over each other.) Have you seen these, Bill?

Bill Jeffers: I've briefly looked at some of the pictures, not all of the pictures. I responded to a complaint immediately...the day after it rained, and went out there and looked at it and saw evidence that the water that came out of Ivy Meadows' basin stayed inside its channel until it got closer to the, uh, to Rode Road, and when it got down to Rode Road, the pipe had not been put in yet, that crosses Rode Road, and nothing was there to handle the flow of that immense quantity of water, so it went up over Rode Road, it went down across Mr. Gronotte's driveway and lawn depositing silt and, uh, straw. It went across Rode Road and left mud and straw on the road, and then did exactly what this gentleman described that it did. Uh, when this project was approved, we had...notification was sent out to all the neighbors, and there was apprehension on the part of, uh, some of the neighbors, and due to their working with the developer and his engineer, they routed all the water from this subdivision into the basin and did not, uh, release it at any other point on to any other people's ground before it was routed to the basin.

Commissioner Mourdock: Are you saying those conversations took place-

Bill Jeffers: In the Drainage Board-

Commissioner Mourdock: -after the plan?

Bill Jeffers: No. After the first plan was presented-

Commissioner Mourdock: The preliminary.

Bill Jeffers: -there were several neighbors that did not want one drop of water from the land within the subdivision that previously had, uh, flowed across their property at various points...even the pass through water that came from above this ground, uh, towards Baumgart Road, it would have normally been

allowed to pass through undetained, the neighbors did not want that, so it was all routed through this pond-

Unidentified: Where does Baumgart...where is Baumgart Road in relation to?-

Bill Jeffers: Or is it...Bergdolt, I'm sorry.

Unidentified: Bergdolt.

Bill Jeffers: There are several acres between Ivy Meadows and Bergdolt Road that drain through this site that are not a part of Ivy Meadows, and the water that was passing through, uh, was going to be allowed to pass straight on through into somebody's back yard, and they didn't want that, so it was all routed into this pond, and-

Unidentified: (Inaudible. Not at mike.)

Bill Jeffers: -released into an easement and carried down to Rode Road and this large elliptical pipe was designed to carry under Rode Road, turn it into the ditch along the north side of Rode Road and carry it offsite in that manner. Which eventually it all did arrive at the same point. There are some undersized pipes under the lot at the northwest corner of Rode and Oak Hill Road. I don't know who installed them.

Unidentified: I do.

Bill Jeffers: The gentleman here tonight are representing that the County installed them, I don't know who sized them, and I don't when they were installed, but they are not large enough to handle the previous flow that came down through there during intense storms. Rode Road has a history of flooding, and we would hope that, uh, the situation would be addressed in the future to up size those pipes between the outlet from this elliptical pipe that's been referred to tonight, and, uh, all the other pipes downstream from there would be enlarged all the way to St. George Road. The reason pipes are put in ditches is because people don't want open ditches. Open ditches, obviously, carry more water than the pipe can, however, due to, uh, property owners requests, the County does oblige property owners by helping them install pipes into previously open roadside ditches, and, uh, these particular pipes are undersized. So, I would encourage the, uh, County, uh, through whichever department they choose to inspect the downstream pipes from the outlet of this elliptical concrete pipe, which it was approved as a part of this drainage plan, to analyze them and determine what size pipe would be needed to convey this water on down to, uh, Firlick Creek at, uh, St. George and Oak Hill Road.

Commissioner Mourdock: But, I'm hearing you say, I think, two different things. Is the problem the sizing of that pipe? Or is this, basically, kind of an in process construction problem? When it start-

Bill Jeffers: It's both. It's a combination-

Commissioner Mourdock: Okay.

Bill Jeffers: -the project is not completed. I've notified the, uh, developer and his engineer. The engineer agrees that all, all parts of the, uh, drainage plan are not properly in place at this time. It is...the soil and erosion, or the, uh, water...Soil and Water Conservation District has been out there and they have made some, uh, recommendations through Mike Wathen as to how the, uh, detention basin should be used as a temporary silt trap until the, uh, construction is at a stage at which it can be, uh, excavated back out. All the silt removed from it and converted it back to it's intended use as a ,uh, lake, wet detention basin. The emergency overflow is not in place at, at, during my inspection, and there is some other, uh, I mean, it was just an unfinished situation.

Commissioner Mourdock: Okay.

Bill Jeffers: So, it's a combination of the two. It was an unfinished situation, and even when it's...even when the pipe is in place, there remains a downstream restriction, which are the undersized pipes, uh, along Rode Road and along Oak Hill Road.

Commissioner Mourdock: John Stoll. John, do you have any information on these several pipes that the County is getting credit for?

John Stoll: I don't specifically recall when they were put in. I got a phone call from Mike Wathen, it's probably been about a week and a half ago, when he met with the neighbors, and he said that they needed checked, but I haven't gone out and gotten the sizes of all the pipes yet.

Commissioner Mourdock: Okay, would you do that for us?

John Stoll: Yeah.

Commissioner Mourdock: John is the County Engineer, if you don't know.

Brian Jewell: I'm Brian Jewell. I live at 5300 Oak Hill Road, the property that we are talking about. The County, um, there was an accident at that corner...there was a guardrail there, someone hit the guardrail, tore the guardrail up, the County came back to put a guardrail in, decided there wasn't enough shoulder there because the erosion from all the water, I'm assuming that I am saying that correctly, uh, from all the water, both...it was straight up and down, so they ended up putting a pipe in, the 18" round pipe, is what they ended up doing last year. I don't know who put it in. I don't know if it was the garage, or if it was-

Unidentified: Yeah.

Brian Jewell: -yeah, I do know it was the County.

Unidentified: I know that for a fact.

Brian Jewell: I don't...I don't know under what jurisdiction they did put that in.

Commissioner Mourdock: Did they shut down Oak Hill Road to do this? Is it going under Oak Hill, or under Rode?

Brian Jewell: Actually, it's the corner of Oak Hill and Rode. I don't think they shut Oak Hill down.

Unidentified: It doesn't cross the road. (Inaudible. Not at mike.)

Commissioner Mourdock: It crosses under Rode?

Unidentified: My name is-

Unidentified: Not here, not where he is talking about-

Commissioner Mourdock: This is why I like a map, okay.

Joe Gronotte: Joe Gronotte, I live at 3105 Rode Road. The County did come in, like Mr. Jewell said, and put the pipe in. They did not close it down. They did resurface probably 30' of Oak Hill Road at that time, and about, what, probably 15' of Rode.

Commissioner Mourdock: Okay.

Joe Gronotte: I mean, we've been putting up with this, I mean, I've cleaned my driveway I don't know how many times. I mean, 15 times probably, of silt. I mean, how much longer am I going to have to do this? I mean.

Commissioner Mourdock: Well, the quick answer tonight, and I'm not sure this is the easy answer, but, obviously, we will check, have the County Engineer check and see on the sizing of the pipe to make sure that that is up to whatever the standard needs to be out there based on the size of the drainage basin. The second thing I heard Bill say was that part of this was unfortunate timing with the development of the ,uh, new subdivision, and, apparently, maybe everything wasn't in place, all the safe guards that we hope to work eventually, that we plan to work eventually may not have been in place yet. Is that accurate, Bill?

Bill Jeffers: That is correct.

Commissioner Mourdock: Okay. So, hopefully, that would mitigate this... or situation from happening, happening again.

Bill Jeffers: It's the developers responsibility to maintain the erosion control, and if it fails, it's his responsibility to clean up the mess that it's made.

Unidentified: Well, he...he just put up the fencing that you were talking about earlier. He just put that up after, what about two rains ago, on part of his

road to try and keep it from washing on one of his roads, and he ended up with about 3" to 4" of mud on one of his roads. That's the only fence that's been up in that whole subdivision since it was started probably, what, two years ago?

Unidentified: Two years ago.

Commissioner Mourdock: Okay.

Brian Jewell: Something that I would like to ask, is he also responsible for cleaning out some of the pipes that are, that are there that he is dumping into? That have, uh, a build up of silt in them.

Commissioner Mourdock: For the record, that speaker was Mr. Jewell. Bill, do you want to?

Bill Jeffers: Yeah, the question would have to be asked of, um, Water and Conservation District. That's an erosion control issue.

Commissioner Mourdock: Certainly he is responsible for the net sum working total of his, uh, drainage plan. So, if it's on his property, and it's his drainage plan, he's responsible to make sure that drainage plan is working.

Randall Carnal: If his plan, like I was saying awhile ago, the pipe comes out in the yard is above the grade, I know that he's saying that's the way it's got to be for the grade there, do I have any recourse against that? You know that puts a hill in the front of my yard. Makes a very thin place of dirt that I try to grow grass on-

Commissioner Mourdock: Again, for the record, that is Mr. Carneal?

Randall Carnal: Carnal.

Commissioner Mourdock: Carnal. I'm not an attorney, so I'm not going to play one here, but, I don't know the answer to that one. It's on-

Randall Carnal: Well, okay then that's what I'm saying. My only recourse is to have an attorney. I mean, there is nothing here that would say-

Commissioner Mourdock: Yeah, within the Drainage Board that is right. That is well beyond our jurisdiction.

Randall Carnal: What it changes, the drainage in my yard isn't. I mean, that is going to put water back toward my house, so that doesn't, nothing to do with this?

Commissioner Mourdock: He's working in a easement that he has?

Randall Carnal: Yes.

Commissioner Mourdock: His easement...the activities of his easement cannot affect the drainage of your property, so, if , in fact, there is a question as to the, uh, depth that he put that pipe in, that is something we would need to check. Certainly, the drainage plan approved was not approved with the intent, in any way, of causing what he does within that easement to affect anyone else's property, other than positively.

Randall Carnal: Uh-huh.

Commissioner Mourdock: So-

Joe Gronotte: Mr. Gronotte. On the inlet and outlet of these pipes that he installs, should he put a grate on there to keep...I have two small girls at home, the neighbors have kids, animals, is he responsible to put grates on the ends of these pipes?

Commissioner Mourdock: Yeah. Again, he's responsible for his drainage plan and all the aspects of that drainage plan. As far as if there is an engineering standard, which I think you might be asking, is there an engineering standard for the application of such grates? I don't know the answer to that, and, John or Bill-

John Stoll: The ordinance doesn't require it?

Commissioner Mourdock: Who does not require it? Oh, the ordinance doesn't require it.

John Stoll: (Inaudible. Not at mike.)

Bill Jeffers: The County Ordinances don't require a grate on the end of pipes because it gives the opportunity for an obstruction to gather on the grate and cause exactly what happened when there was no pipe there at all. Going over the top of the road. Uh, there are many culverts in the County that cross under roads, none of which, I'm aware of, have grates on either end of them.

Commissioner Mourdock: I was just looking a minute ago at my notes from the meeting when this was originally done, it was April 3, 2000. Is there a Mr. Feitsel here tonight?

Unidentified: No. He lives on Oak Hill.

Commissioner Mourdock: Okay.

Joe Gronotte: So, can we say, as of now, Mr. Stoll is going to come out and inspect the pipe-

Commissioner Mourdock: Right.

Joe Gronotte: -from the corner of Rode and Oak Hill down to St. George?

Commissioner Mourdock: He's going to inspect the pipe that you're saying the County put in to make sure it's sized properly for the watershed that is out there. Yes.

Joe Gronotte: What about the other pipes in the-

President Fanello: Well, if we didn't...they're not our pipes, we don't-

Commissioner Mourdock: The only other question I've heard of the other pipe that may be in question at this point is the one that Mr. Carnal just raised as far as if that pipe is higher than what the plan was, uh, designed to be.

Randall Carnal: When I brought that up to him, he said (Inaudible. Not at mike.) Well, it's still...it's above the ground level. The top of it is.

President Fanello: No, you'll have to turn it on.

Bill Jeffers: There was some question as to whether the pipe...there, there's a tentative question as to whether the pipe was installed at the planned grade because of a gas pipe they may or may not have encountered in the, uh, installation of this pipe, but we have not been able to verify that at this time.

Unidentified: They didn't have to move my gas line, I know that. They did have to move the main water line.

Bill Jeffers: What I'm saying is the gas...not moving the gas line may have caused them to, uh-

Commissioner Mourdock: Raise the elevation.

Bill Jeffers: -raise the elevation of the pipe. Is that the one you are referring to that has a level?

Randall Carnal: Yeah. There's a (Inaudible. Not at mike.)

Bill Jeffers: They may have encountered something at this point that caused the outlet of this pipe to be higher than planned grade, uh, and I suspect it might be a gas line. Which is your house? This yard here?

Randall Carnal: Uh, back here. Right back in here, this yellow house, or tan house. This house is mine.

Bill Jeffers: Okay.

Randall Carnal: Another thing, the old pipe, as you can see here, extended down to here, and they had told me that the new pipe would be to the same length or within a foot or so, and it's...if he continues with this pipe at this

elevation it is going to be a foot out of the ground by the time he gets down there.

Bill Jeffers: Well, there may have to be some modifications made to this plan. Occasionally, in the field you run into conditions that require modifications to be made, and we'll look into that. This piece of ground here between this house and your house is vacant, is that right?

Unidentified: Right.

Bill Jeffers: Okay, and that is owned by Mr. Biggerstaff?

Unidentified: Uh, Mr. Bussing.

Unidentified: Bill Bussing.

Bill Jeffers: We may be able to work something out there, uh, to either extend the pipe down or look at some options of building a, uh, berm over here to contain the water in the ditch or something like that. We may have to look at some of them..some more options.

Commissioner Mourdock: So, it sounds like you've got two things happening. John Stoll is going to look at the pipe, and Bill is going to look at those conditions of the, uh, approved permit and see if there is something else that can be done.

Bill Jeffers: If there are some modifications that could, uh, make this better.

Commissioner Mourdock: Okay.

Unidentified: Do we need to come to the next meeting to find out, or what?

Commissioner Mourdock: I would say contact Bill, and he could probably give you the best information there.

Bill Jeffers: You know my number, don't ya? Okay.

Unidentified: I know a bunch of numbers.

Bill Jeffers: Okay.

Madelyn Grayson: Excuse me, we are going to need to make a tape change.

Commissioner Mourdock: Okay.

(Tape Changed)

Madelyn Grayson: We're ready.

Unidentified: You can have mine, and Brian-

Unidentified: He can have mine.

Commissioner Mourdock: Okay, thank you, gentleman.

Bill Jeffers: Thanks for coming down tonight to share.

Unidentified: Thank you for your time.

President Fanello: Okay, I believe we have someone else wanting to address the board. Is that correct, Bill? Is that correct, Bill, we have someone else wanting to address the board?

Bill Jeffers: Yes. Yes, ma'am. This, Mr. Joe Ream would like to address the board.

Joe Ream: (Inaudible. Not at mike.)

President Fanello: Thank you.

Commissioner Mourdock: Thank you. Jim Farney.

Jim Farney: Jim Farney with Bernardin Lochmueller. I'm here on behalf of the Hirsch's, who own a strip of property along Vogel Road, and along the Stofleth Ditch. They are here tonight to ask, preliminarily ask, about the possibility of them doing a small piece of ditch realignment of the Stofleth Ditch just south of Vogel Road. The purpose being to be able to make the frontage of their property which is.. they own this strip right here. This narrow strip, and the marketing map of, for the property for which they own calls for the possibility of putting two entities along Vogel Road that would have frontage on Vogel Road. In order to do so, they would like to move the ditch, a piece of the ditch to do so. Currently, today, the ditch runs..this is the bridge. The ditch kind of runs at an angle...it starts down here and it flows right on the property line, and then it kind of runs diagonally through here, under the bridge, once it gets on the north side of the bridge, uh, maybe about a year or two ago, uh, Woodward came in and developed this piece of property and there's a Colonial Bread store at this location-

Commissioner Mourdock: Uh-huh.

Jim Farney: -and a Cherokee Windows store here, and a skating rink behind it, and he asked for permission to take the ditch that did run like this, and move it to make his development more attractive on that side.

Commissioner Mourdock: Did that happen?

Jim Farney: Yes, that happened. You can ask Bill if there has been any problems with it since. Basically, we are asking for a similar situation. We would like to take this ditch from this point...it runs diagonally through here to the bridge and reposition it like this so that we can create two lots with

frontage along Vogel Road at that location. We would like to come back next month, if possible, with an engineer plan demonstrating exactly how we would like to do that.

Commissioner Mourdock: Seeing, again, what happened on the north side-

Jim Farney: Uh-huh.

Commissioner Mourdock: -his relocation currently comes clear to here then?

(Inaudible. Talking over each other.)

Jim Farney: To the bridge now, let me try and show you on this sketch here-

Commissioner Mourdock: Okay.

Jim Farney: --I just did a few minutes ago.

Commissioner Mourdock: Oh, okay.

Jim Farney: This is the same thing. This is the Colonial Bread store, Cherokee Windows, skating rink, and he's got another lot here that is not built on yet. The original ditch ran about like this-

Commissioner Mourdock: Okay, I got ya.

Jim Farney: Okay? What he's done, or did a year or so ago, is did this. What we would like to do is take this piece here and realign it like this.

Commissioner Mourdock: Okay, if this happened, Bill, is there any need for any more rip rap protection or anything out here on the outflow side? Or is that adequate? In other words, if we do this on this side, is it going to have any negative affect on what's happened on the north side?

Bill Jeffers: No, I don't...that's not a very fast moving stream-

Commissioner Mourdock: Okay.

Bill Jeffers: -and, uh, what Mr. Farney has prepared for you there, uh, is an adequate depiction of what they would like to do. I would like you to instruct me to advertise, not advertise, but notify all affected property owners, uh, that there will be a reconstruction hearing at the next drainage board meeting in August, and allow Mr. Farney to prepare the plans to present to you for that reconstruction. Then go forward with it.

Commissioner Mourdock: So moved.

President Fanello: Second. So ordered.

Bill Jeffers: Are you ladies, are you with?

Unidentified: The Hirsch's.

Commissioner Mourdock: Oh, okay.

Bill Jeffers: The property owners that are affected are here in the audience representing the Hirsch's.

Commissioner Mourdock: Okay. Do you have anything that you would like to add? That just took care of it? Okay.

Bill Jeffers: I told them to go to Turoni's. I am not discussing anything with a dry mouth.

President Fanello: I would assume that's no more business, and, uh-

Commissioner Mourdock: Know that that was just audio streamed to everyone on the Internet that was listening, Bill.

President Fanello: Yes, it was. Everyone in Evansville knows you-

Bill Jeffers: I love that Turoni's lemonade.

Commissioner Mourdock: Motion to adjourn.

President Fanello: Second.

Meeting was adjourned at 8:40 p.m.

Those in Attendance:

Catherine Fanello
Richard E. Mourdock
Philip Hayes*
Madelyn Grayson
Jack Pike
Don Williams
Joe Gronotte
Brian Jewell
Randall Carnal
Brian Hatfield
Andy Easley
Karan Hargrave-Barnhill
John Stoll
Bill Jeffers
Jim Farney
Joe Ream
Marilyn Forston
Ronda Cooper
Byron Cooper

Others Unidentified
Members of Media

VANDERBURGH COUNTY DRAINAGE BOARD

David W. Mosby, President

Catherine Fanello, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson



**Vanderburgh County
Drainage Board
August 27, 2001**

The Vanderburgh County Drainage Board met in session at 7:00 p.m. this 27th day of August, 2001 in Room 307 of the Civic Center Complex with President Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Drainage Board.

Approval of Minutes

President Fanello: I have approval of minutes of previous meeting.

Commissioner Mosby: So moved.

Commissioner Mourdock: Second.

Old Business

President Fanello: Old Business. Mr. Jeffers, have any Old Business?

Drainage Plans

President Fanello: Drainage plans.

Bill Jeffers: Bill Jeffers, Vanderburgh County Surveyor. First drainage plan is on the Area Plan Commission docket 7-S-2001, Tzchoppe Sub, Telephone Road. It's a preliminary drainage plan submitted by William Bivins, land surveyor and engineer sitting here in the audience to represent the plan if need be. Vanderburgh County Surveyor has reviewed the plan and found it substantially complies with the requirements for a preliminary drainage plan, and recommends approval.

Commissioner Mourdock: I'll move approval of the preliminary plan for Tzchoppe, is that how you say that?

Bill Jeffers: I believe so.

Commissioner Mourdock: Tzchoppe Subdivision.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: Second drainage plan on the agenda as Area Plan 16-S-2001, Spring Valley Sub, on Shaeffer Road one quarter mile west of St. Joe Avenue, is a preliminary plan prepared by Fred Kuester, professional engineer and land surveyor, sitting here to represent the plan if need be. The developer is also in the audience with us tonight. I have reviewed the plan. It substantially complies with the requirements of the drainage ordinance and the County Surveyor recommends approval for the preliminary plan for Spring Valley Sub.

Commissioner Mosby: Motion to approve.

Commissioner Mourdock: On preliminary I will so move.

President Fanello: So ordered.

Bill Jeffers: The third item on the agenda 19-S-2001, Grant Hill Commercial Park, Boonville-New Harmony Road. I haven't finished review of that plan because, it is a preliminary plan, it has been withdrawn from the Area Plan Commission agenda for one month. I would rather give the neighbors more ample time to comment if need be. So, that is withdrawn from our agenda tonight.

Commissioner Mosby: Do you need a motion to that affect?

Bill Jeffers: If you like.

Commissioner Mosby: Motion to hold.

Commissioner Mourdock: Second.

President Fanello: So ordered.

Bill Jeffers: The next item is Cross Pointe, Section E. It's a final drainage plan represented by Dave Schmenke here in the audience tonight as the professional engineer that drew the plan. The Vanderburgh County Surveyor has reviewed the plan and recommends approval.

Commissioner Mourdock: This is final?

Bill Jeffers: Yes, sir. This is final.

Commissioner Mourdock: With the Surveyor's recommendation, I'll move final approval of Cross Pointe, Section E.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: The next item is private property owner Gayle Stevens' request to pipe a ditch previously, or an open ditch in Edinborough Subdivision. Again, Dave Schmenke is here to represent the project. I had asked Mrs. Stevens to provide letters from her neighbors indicating their approval of the proposed plan that adjoins their property. I have received letters from the adjoining property owners stating that they have reviewed and approved the proposed drainage plan for the drain that adjoins their property, have discussed it with Ms. Stevens, and see the need for the drainage work in order to make it easier to maintain the water course and provide for more safety of children in the subdivision that play in and around the area, and agree that it would be more aesthetic and will not affect their property adversely. I have, if anyone would like to see a copy, otherwise, I would ask that the two letters be entered into the permanent record.

Commissioner Mourdock: Bill, is this the one that we heard about a couple of years ago?

Bill Jeffers: No, sir, this is a different location.

Commissioner Mourdock: Okay.

Bill Jeffers: The one we heard a couple of years ago I had determined that if the pipe became obstructed it would run down into the back yard of an adjoining property.

Commissioner Mourdock: Right, right. Okay, that's the one I was thinking of, but this is different, so, this one is a little bit different, this is, this is not a final drainage plan, this is just a request—

Bill Jeffers: This is a modification to a final drainage plan, and the County Surveyor is recommending approval of the modification.

Commissioner Mourdock: Okay. Is there anyone here to speak to this other than Mr. Schmenke?

Bill Jeffers: Oh, neighbors, if there are any neighbors of Ms. Gayle Stevens to speak to it, now would be the time.

Commissioner Mourdock: Yeah, and seeing none, I'll move approval of the modification of the drainage plan as requested by Gayle Stevens for the Edinborough Subdivision.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: Next item of business under other drainage plans, we have Jacobs Village, Phase One. I'm sure you are familiar with Jacobs Village on Vienna Road. This is the first phase, it's a mixed use residential, commercial and recreational. It does, it has had preliminary drainage approval, but it is going to Area Plan Commission next month as a PUD, and I am simply asking that the Drainage Board reaffirm, and I am recommending that they reaffirm, the original preliminary drainage plan for Jacobs Village at this time as an administrative procedure to move it forward on to the agenda for Area Plan Commission.

Commissioner Mourdock: I know there are several folks in the audience here tonight on this one, so.

Bill Jeffers: There are?

Commissioner Mourdock: Yes, there are. I don't know if they wish to speak or not.

President Fanello: Does anybody have anything to say?

Commissioner Mourdock: Folks in the back row.

Bill Jeffers: Jacobs Village, any comment from the public on that? Okay.

Commissioner Mourdock: Okay. Again, this is just reaffirmation of the original—

Bill Jeffers: Of the preliminary.

Commissioner Mourdock: –okay, of the preliminary, because we are going to the PUD route, which–

Bill Jeffers: Yes, sir. It will come back for final approval after the PUD is approved by Area Plan Commission .

Commissioner Mourdock: Okay, the acronym has just gone out of my head, it's Public Use?

Bill Jeffers: Planned Unit Development–

Commissioner Mourdock: Planned Unit Development–

Bill Jeffers: –I believe is what (Inaudible. Talking over each other.)

Commissioner Mourdock: –yeah, leaving original green space.

Bill Jeffers: Right. For used, mixed usage on a shared lot.

Commissioner Mourdock: Right.

Bill Jeffers: Shared ownership lot.

Commissioner Mourdock: Okay.

Commissioner Mourdock: I'll, since this will be at APC ,as Bill said, I will go ahead and move approval of, or reaffirmation of the original preliminary approval afforded by this board for the Jacobs Village preliminary drainage plan.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: Also under other drainage plans, there is a request tonight from Mr. Joe Ream and others, owners of property along Stockfleth Ditch, a regulated drain in Vanderburgh County on Vogel Road, approximately one quarter mile west of Burkhardt for the reconstruction of Stockfleth Ditch to accommodate commercial development. Mr. Ream is here with the plan if you need to see it. Basically, this is an administrative procedure to facilitate private financing of the development. The private financing will also pay for the reconstruction of the ditch. There will be no public funds used. The area that the ditch will be reconstructed on lies totally within the ownership of one trust or group of people, who will be paying for the development and reconstruction. I prepared a notice of reconstruction per Indiana Statute that I am asking you to sign tonight and allow the developers engineer to proceed with advertising this reconstruction and supplying us with plans so that if any interested party might wish to view the plans, they will be available in the County Surveyor's Office, Room 325 of this building. Or at the offices of Bernardin Lochmueller Associates, 6200 Vogel Road, Evansville, Indiana for public viewing. Then put this on the docket for a hearing at or about 7:00 p.m. local time Monday, September, 24, which is the next regular meeting of this board for the public hearing of the reconstruction. Again, Mr. James Farney will be representing the developer. He will be preparing the reconstruction plans. He will be making them available to the public at his office. He will give us a copy to make available for public viewing at our office. I fully expect this to move forward on September 24th with a positive

recommendation. If you have any questions, Mr. Farney, Mr. Joe Ream and the owners of the property represented by Mr. Farney and Mr. Ream are both, are all here in the audience for questions.

Commissioner Mourdock: The drainage easement encroachment agreement that is in our packet now, we do not have to advertise that? We can go ahead and sign that tonight, is that right? If we vote to accept that?

Bill Jeffers: Is that in there for Stockfleth Ditch?

Commissioner Mourdock: Well, it's in there for Decem Investments.

Bill Jeffers: That's a different parcel, but a part of this same, it's a part of the same development, but it's not...that isn't the easement along Stockfleth Ditch.

Commissioner Mourdock: Okay.

Bill Jeffers: He will be back with a request to reduce the right of entry along Stockfleth Ditch at 25'. What you have in your packet tonight is for a separate parcel over behind Los Bravos for a real estate office that requires encroaching an easement, I believe, is that not true, Joe?

Unidentified: That's right.

Bill Jeffers: They need to encroach that easement for parking purposes. That will come up later in the meeting.

Commissioner Mourdock: Okay.

Bill Jeffers: So, I am asking you to simply make a motion to allow the preliminary plan for the reconstruction and relocation of Stockfleth Ditch to move forward to a hearing on Monday, September 24, and to sign this notice of reconstruction so it can be mailed to the affected property owners.

Commissioner Mourdock: So, we need to advertise the hearing for next month's meeting?

Bill Jeffers: Yes, sir, and I have—

Commissioner Mourdock: Okay, first thing I would do then is move a motion to advertise that hearing as requested by the County Surveyor.

Commissioner Mosby: Second.

President Fanello: So ordered.

Commissioner Mourdock: Secondly, then I would move approval of the reconstruction agreement, or is that premature until we have the hearing?

Bill Jeffers: The preliminary horizontal alignment, and then the details will come in at this meeting on September 24th for final review.

Commissioner Mourdock: Okay, so the construction plan needs to be approved is what you are saying?

Bill Jeffers: The horizontal alignment plan, yes, sir.

Commissioner Mourdock: Okay, I'll move approval of the horizontal alignment plan as recommended by the County Surveyor.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: It doesn't show all the details of connecting the bridge--

Commissioner Mourdock: I understand. Yeah.

Bill Jeffers: --the vertical and sloped walls and that type of thing. Then we need your signatures on this and Suzanne and I will also sign it before it's actually advertised.

Encroachment Agreements

Bill Jeffers: Now we come to encroachment agreements that have been received by the Auditor's office up to this time of the month. We generally have one or two. I have examined them and they are all part of, basically, the commercial development of Vanderburgh County generally requires that parking, the necessity for parking on commercial lots generally requires the encroachment of some part of a drainage easement. I've reviewed all of them and recommend approval of each.

Commissioner Mosby: Motion to approve the encroachment agreements.

Commissioner Mourdock: Wondering if for the record since there are several of them we need to note them here. Let me just look here. There are just the two, Bill?

Commissioner Mosby: Bill?

Bill Jeffers: There was a third one but it might not have got a check attached to it for the recording fee, so it might come next month.

Commissioner Mourdock: Okay.

Bill Jeffers: So, just Decem and the other one.

Commissioner Mourdock: Yeah, Charlton, is that the other one?

Bill Jeffers: Yes, sir.

Commissioner Mourdock: Okay, I'll second the motion to approve the two drainage easement encroachment agreements for the Charlton, C-h-a-r-l-t-o-n, property and also the Decem Investments property.

Commissioner Mosby: I made the motion, he seconded.

President Fanello: So ordered.

Receive Petitions for Removal of Obstructions

Bill Jeffers: The next item would be to receive petitions for the removal of obstructions for water courses and drains. I am not aware of any that the County Drainage Board has received at this time unless the board received them directly from their Executive Assistant.

Correspondence

Bill Jeffers: Under other correspondence, the Warrick County Surveyor has sent our office copies of three letters that they are sending out to property owners adjoining what we call Williams Ditch they call Howard Ditch. This is a part of your Joint Drainage Board that was discussed last month for improvements along Williams Ditch. We hold approximately \$9,000 in assessments collected from Vanderburgh County property owners, and I believe we agreed to send them somewhere between \$7,000 and \$8,000 to encourage the cleaning of Howard Williams Ditch by the Warrick County Drainage Board. Their County Surveyor, Karan Hargrave-Barnhill, has sent me copies of letters that have been sent out notifying people that the project is proceeding. I just wanted to bring that to your attention so that some time when we see the plan, whether it be between now and the next Drainage Board or after, we will be transferring the funds discussed in your Joint Drainage Board to the Warrick County Drainage Board for the purpose of cleaning Williams, Howard Williams Ditch.

Ditch Maintenance Claims

Bill Jeffers: Under Ditch Maintenance Claims, these are the claims that represent work finished in 2001 by our ditch maintenance contractors with inspection reports and other necessary paperwork attached. The County Surveyor recommends that the board approve the blue claims for payment of maintenance work as shown on the blue claims.

Commissioner Mourdock: I would move approval of the claims.

Commissioner Mosby: Second.

President Fanello: So ordered.

Other Persons Wishing to Address the Board

Bill Jeffers: I have no further business other than to tell you that under other persons wishing to address the board, I do expect you have some in the audience from the area of Ivy Meadows who experienced a rainfall event Saturday that they might want to share with you.

President Fanello: Would anyone like to come forward and speak?

Greg Feistel: My name is Greg Feistel. I live at 5121 Oak Hill Road. My property directly abuts the retention basin for the Ivy Meadows Subdivision. I know it's impossible for you to keep up with each subdivision and I've gone ahead and made some copies of the overall plot. The last time I was here was April 3, 2000 and April 24, 2000 when this project was approved, expressing concerns of drainage and soil erosion. Which at the time, representatives for the developer assured us that there would be no problems. I'm back here 15 months later because there are problems.

Some of the photos, as you can tell, we had a little over a 2" rain Saturday. They disturbed that soil right at 11 acres, back in the Summer of 2000. It was my understanding that some 45 days later they should do some type of soil erosion control, or seed it. The first time they seeded this was the first week of this month, 15 months after. We've been fighting mud and rain, and, finally, started taking photos. What has happened is, the retention basin is filled with silt, causing the drainage to become inadequate, whether it was a problem with the drainage lay out to begin with, or the soil erosion. Mr. Jeffers has been kind enough to take time, he was out there on his own personal time Saturday, I was out there, he stopped, we sat in the rain for 45 minutes and talked. I've called Mike Wathen, he was out there for almost 2 hours today, and with the developer and not to say that things aren't moving in the right direction, but it's been going on for so long that what I'm afraid of is that they've waited this long to see anything, they've only got a month, month and a half to get seed down, we're going to be back into Winter weather with more rain. We're already 2" under expected rainfall, if we get, and we haven't had any hard rain yet. If we get a hard rain, Mr. Jeffers and Mr. Wathen both agree, that we are going to have a real mess out there. Basically that's, I just wanted to be here, to be on record to let the board know that there is a problem. I don't—

Commissioner Mourdock: Is the nature of the problem, Mr. Feistel, is it primarily the mud? I mean, is it water backing up on you? Is it mud running on to you? Is it a combination of the two?

Greg Feistel: What happened, the latest that brought me down here, the retention pond filled up. We're at the base of a hill. When the water was unable to go into the retention pond, it came back to a water inlet that is adjacent two doors down from my property and caused water to shoot out of that inlet a foot. So, the water that should have gone in the basin came down and then across our ground, with mud and water.

Commissioner Mourdock: The water coming out that is that high, is coming out of the retention pond?

Greg Feistel: No. The retention pond, the mud has gone over the inlet and it's, basically, too much silt and mud in the retention pond. The water is forced past the retention pond, we're actually at a lower level and they've got a water inlet. These curb in, these holes they've got in the curbs, is supposed to catch the water. There was so much water pressure missing the retention pond that it was shooting out of that—

Commissioner Mourdock: Right, I got ya.

Greg Feistel: —high and then down on us, and eroding the banks. Mr. Jeffers, you know, he was saying that it was a soil erosion problem. In all due respect, Mr. Mike Wathen was saying that it's a drainage problem, and that they can't fix the drainage problem until, or they can't fix the erosion problem until the drainage problem is fixed. They can't fix the drainage problem until the erosion problem is fixed. So, I'm not an expert, we'll leave that up to them, but I appreciate your time.

Commissioner Mourdock: You mentioned Mike Wathen was there today and met with the developer. Do you have any idea what the feedback from that was? I realize that is second hand, if you can tell me anything.

Greg Feistel: He said we'll work on it. We'll...he's got your best interest in mind. My

question was, is sometimes maybe an incentive, and I'd suggested to Mike that there was, what, a rule five that they could enforce as far as a penalty. Mike said that he was reluctant to do that. He would rather work with him. I said, well, 15 months has gone by. Does another Winter go by? How long do we give the man to fix the problem? That's about it. I think there are also some other neighbors here. I know there are from that area. Thanks.

President Fanello: Thank you.

Commissioner Mosby: Bill, did you want to fill us in?

Bill Jeffers: I can wait. I can wait until you hear from the residents.

Commissioner Mosby: Oh, okay. I didn't know anybody. Okay.

Bill Jeffers: What Mr. Feistel is describing (Inaudible. Not at mike.)

Joe Gronotte: Joe Gronotte. I live at 3105 Rode Road which is right next to the ditch that Ivy Meadows...going out to Rode. I guess, the County okayed a 30" pipe to go across Rode and through two yards on the west side of Rode, which is Mr. Carnal and Ms. Williams. So, you have that 30" pipe draining from the retention basin and it's going through an open ditch of two lots. Then the County installed an 18" pipe at the corner of Oak Hill and Rode last year, which, I mean, you can't take a 30" pipe and reduce it down to an 18 without having a back flow of water. This last rain I wasn't home when it went on, but I don't know how many hours I've spent cleaning up my driveway from silt and straw and debris. I think Mr. Jeffers and Mr. Stoll were going to check on running a larger pipe from Rode down to the ditch at St. George. I don't know where that is right now. That's about all I have to say. I just want to—

Commissioner Mourdock: What's the name of the developer?

Joe Gronotte: That's Charles Murphy.

President Fanello: Is there anyone else who would like to say something?

Randall Carnal: My name is Randall Carnal. I live at 3110 Rode Road. We were here last month, shortly after they had put the pipe down in front of our house and I was complaining about the pipe being, the top of the pipe is above my grade in my lot. Then they covered it all up and, the main concern I had tonight was that it had been 30 days and they had not come back and touched it. I mean, it's still, it's got grass growing on it and everything else. Although, today, I don't know if they've had conversations with someone else, but they were there today and assured me that they had planned on starting on that today but it was too wet. They would have to wait until it dried out. So, now I've got some assurance that they are, they haven't completely forgotten me and that they are going to come back and do something about it. My other concern was that I thought the pipe was too high and that it was, that it didn't extend as far as the old pipe did. I know I've talked to Mr. Jeffers about that and he had, I don't know if there was anything ever determined on that, or where it was. Rose wanted me to bring up, she...about this box that they put in front of her house that sticks up out of the ground. She wanted to know if they could do anything about that. I know Mr. Jeffers told me they were going to take the dome lid off of it and put a flat lid on it, but it still sticks up several inches above the street and the grade of her property.

Commissioner Mourdock: Just for the record, Rose's last name is?

Randall Carnal: Rose Williams.

Unidentified: Williams.

Commissioner Mourdock: Okay, thank you.

Randall Carnal: We were also wondering when they were going to repair the street, where they've cut to go across the street?

Unidentified: (Inaudible. Not at the mike.)

Randall Carnal: Yeah, they kind of left us hanging. That's all I've got to say.

Commissioner Mosby: Is this the (Inaudible)?

Commissioner Mourdock: I don't know. I don't think so.

Commissioner Mosby: This isn't a developer?

Rose Williams: My name is Rose Williams. I live next door to Mr. Carnal and across from Mr. Gronotte. My house happens to be where this hideous looking box is. It's at least 6" above the property. I was in California when this was laid. That was the first week I was in California, I was there because my brother is terminal with cancer. I came home and I saw this. In my driveway were great big, black drainage pipes, paint or tar cans, I mean, it was terrible looking. I don't know when, I do know when they came, about three days after I got home somebody finally came and got it. I don't know whether Joe or Randy called to tell them to clean my driveway up, so I could get in it or out of it. But this box devaluates my property, as you can see the picture. It devaluates my property. I would like to know who made the decision to put it there in that yard when they could have gone two lots down where there is no property owner. It is very ugly looking. Anyway, I invite any of you to come see, I'll even offer you a coke or something, just to have you look at that box. It's at least...I've talked to Mr. Jeffers and he was very kind to try to suit me. I tried to be very calm when I was talking to him. I'm trying to remain calm right now. My one son said, mother, be sure that you are calm when you talk, the other one says, jump into it. Well, I'm not that kind of a person, but it is very ugly. Cars go up and down the road and invariably they will stop or slow down and look at that. It is terrible looking. Then the whole front of my yard, like Mr. Carnal said, has never been finished. It's been over a month, or a good month and nothing's been touched since I came home, and I was gone almost three weeks. So, it started the first week, so that means close to six weeks. No grass, no leveling. The dirt in places is sinking down, there are holes there, but I'm mainly concerned about this box. Why was it put on property there? When Mr., let's see I talked to a director from Sitecon, they were going to leave an open ditch there. I said, no, we had already had pipe put in 40 years ago. I've lived out there 40 years. I have lovely neighbors out there. We've had very concerned people about the property there. He talked to Mr. Murphy, and Mr. Murphy said, well, he wanted to be a good neighbor, but this is not being a very nice neighbor. The neighbors do not like this box in my front yard, and I certainly don't like it. So, I live at 3100, and I invite any of you to drive by and see it. Mr. Jeffers has seen it. Thank you also for being so kind to me the other day on the phone.

President Fanello: Thank you.

Bill Jeffers: Is there anyone else who would like to speak to the issue, or add to what has been said? Okay, what Mr. Greg Feistel described to you, the first gentleman to speak, is correct. Basically, the reason why the original drainage pattern was collected the way it exists as he described it, and taken to the drainage basin is that the neighbors adjacent to Mr. Feistel had expressed a desire that the 16 acres of property that originally drained through their back yards, that the water from that now be, that would have been pass through water, that would have been off site, not associated with this development. It would have continued to pass through this development undetained and through their back yards and they had expressed the desire that it be routed to the drainage basin. One gentleman who is not here tonight, entered into negotiations with the developer to see that that was done as a part of relinquishing some right-of-way to the development. He succeeded in making sure that all that water was diverted to the drainage basin. One reason why the water was geisuring out of the curb inlet is because there is some two by fours which may show up in the pictures, that had found there way through the drainage system and are partially blocking that inlet that need to be removed. Also there is a substantial quantity of dirt and gravel in this drainage system, not only where Mr. Feistel described it in the basin and at the outlet of the pipe, but in the pipes themselves. It needs to be removed so that we have a more efficient flow. Not during this storm, but during previous storms, water has topped the bank of the detention basin and gone through Mr. Feistel and his neighbors backyards, including Mr. Gronotte. There was not an emergency overflow notch originally placed, as it was supposed to be placed, at the outlet. That is there now, but it is not in total confirmation with the approved plans, and needs to be. The embankment around the lake needs to be raised in certain lower areas.

Commissioner Mourdock: Bill, do you have any comments regarding the statement that the retention pond has lost a lot of it's capacity because of the erosion, and has it filled in?

Bill Jeffers: Yes, that was covered in my original statement that Mr. Feistel's comments are accurate.

Commissioner Mourdock: But, I meant do you have anything isometrically?

Bill Jeffers: Specifically, there is so much erosion from this site. So extensive and erosion over such a long period of time that the basin which originally was supposed to be a minimum of 4' deep below the pool elevation is essentially filled–

Commissioner Mourdock: Really?

Bill Jeffers: –to the pool elevation in almost all areas. Excuse me. The silt bars that are continuing to grow in size have extended above, horizontally above, the pool elevation and are, in fact, displacing the, substantially displacing, the detention capacity of the basin, so that the basin fills up with water much more quickly than it should if it were excavated properly.

Commissioner Mourdock: Let me interrupt you for just a second. Obviously, there is some jurisdictional issues here, but at the very latest, or at the very least it seems to me, and I'll make this in the form of a motion, that the President of the Drainage Board send a letter to this particular developer telling them that the plans that were approved by this board have not been either met initially or more specifically been

maintained, and that we want to know within 48 hours of receipt of that letter what his time table is, what his plans are to restore the drainage plan back to it's approved status. Bill, is there anything I should add to that?

Bill Jeffers: That seems to cover it shortly and sweetly.

Commissioner Mosby: I'll second that.

President Fanello: A motion and second. So ordered. I'll ask for Mr. Jeffers' assistance in drafting that letter.

Bill Jeffers: I'll be happy to compose that for your signature.

President Fanello: Thanks.

Bill Jeffers: Okay, I may not have covered, well, Mr. Feistel also alluded to the fact that Mike Wathen and I may disagree on who's jurisdiction this falls under. The erosion control, the erosion that is apparent and the off site siltation, which is excessive, falls under the Soil Erosion Control Ordinance and under the jurisdiction of representatives from the Water and Soil Conservation District, and the Building Commissioner who can enforce it up to and including fines. There is a substantial amount of responsibility on the County Surveyor and the Drainage Board to see to it that the approved drainage plan is implemented and maintained and there are issues that fall to the fact that I recommended approval of this plan and I'm willing to address those at any time in an open and fair forum and move towards a resolution of that. So, he is correct, there are some items that Mike and I might disagree on who's jurisdiction it falls under, but the ordinances clearly state who's jurisdiction it falls under. So, whether we argue about it or not, it's clearly written. The next person to speak was Joe Gronotte. He also told you a clear and accurate story. The 18" pipe was not there when we approved the plans. It was an open ditch that was later piped. I have been told, and I have no reason to disbelieve because school busses were turning the corner at Rode Road coming off of Oak Hill and their wheels were going into the ditch and it was a safety measure that the, apparently, the County Highway Department took to secure the safety of the school children in the busses, and to prevent an overturned bus. Unfortunately, an 18" pipe, as Mr. Gronotte said, will not carry what a 28" pipe discharges. This is an item that Mr. Stoll and I are addressing. Mr. Stoll is more active in addressing it than our department is at this time, because that will be included in your improvements of Oak Hill Road and St. George Road. There will be drainage improvements in addition to lane width and traffic light improvements, etcetera.

John Stoll: (Inaudible. Not at mike.) The area shown in red are where we have existing 30' rights-of-way, and the areas shown in yellow are existing 25' rights-of-way. Like Mr. Gronotte said, and like Bill said, there is an 18" pipe right at the intersection of Rode Road and Oak Hill Road, but the problem is further compounded on further as you head toward St. George Road because there are 15" pipes in that ditch even further downstream. So, I'm not saying what the County did was right, but there's was bigger than what the people that piped the ditch did on further downstream. All the lots there...all the lots in this area have, basically, all piped the ditch, and 15" was about the biggest pipe we could find. So, if funding was approved for this intersection project, one of the things I told Mr. Gronotte was that the County could look at coming up with a suitable size pipe out there. The problem is, getting a pipe to fit. Similar to what the issue is out in front of Mr. Carnal's house. There is not a whole lot of room to play with and you are going to need a pretty good

size pipe to take the flow, but, there again, it's, unfortunately, it would be the County having to foot the bill for replacing sub-standard pipes that the property owners put in down here. But, it would be a possibility if we do get funding approved for that project.

Commissioner Mosby: Where does all this run to? Which way are we going?

John Stoll: It runs north and then there is an elliptical pipe underneath the intersection of St. George and Oak Hill that runs diagonal to the northeast and then it eventually ends up in the creek up here.

Commissioner Mosby: (Inaudible. Mike not on.)

John Stoll: Then goes east, correct.

Commissioner Mosby: So, are we sufficient then down here? (Inaudible. Mike not on.)

John Stoll: It's overgrown, but there is an open ditch there.

Bill Jeffers: Okay, that gets us down to comments made by Mr. Carnal. Again, accurate comments. The landscaping along Rode Road after the pipe was installed by one contractor, the landscaping is under contract with a different excavating company. They have lagged for a substantial period of time. The pictures you see accurately reflect the condition of the landscaping in front of Mr. Carnal and Mrs. Williams house as of Saturday when I last viewed it in a totally unfinished condition. The ditch itself at the outlet of the end of this 28" pipe, well, it's an elliptical pipe, so some of us are describing it as 28" and some of us as 30", but it's basically a 28" pipe. The ditch needs to be shaped. The erosion control fabric needs to be applied. The dirt fill over the top of the pipe needs to be brought in and leveled, landscaped, seeded, matted, and finished. The box that sticks up is an eyesore, as you can see. Because the dirt grade has not been brought up to the edges of the box and properly compacted, seeded, and protected with straw, so that grass can grow there up to the lip of that box. We've asked that the dome lid be removed and a flat lid be put on to lower the profile, so that it is not so noticeable in Ms. Williams' front yard.

Commissioner Mourdock: Bill, when I picture that area, that area...when I picture the area, the area is very flat—

Bill Jeffers: Yes, sir.

Commissioner Mourdock: —if they put in the several inches that is needed to otherwise get that box to grade, are they still going to meet general grade?

Bill Jeffers: There will be a visible rolling cover from the edge of the pavement. It will roll up at least 6" to 8" in height before it rolls back down to their yards. That cover will be within the right-of-way for Rode Road. The reason that there is that hump there, or that pipe cover that rolls up like that, it appears to be almost a levy along side the road, is due to the flat grades and absolute necessity that this pipe...well, you know it had the problem, because it's an elliptical pipe, which are far more expensive than round pipes. But we had to have that size pipe to carry the flow—

Commissioner Mourdock: But if that soil is put in to meet the top of that box—

Bill Jeffers: Yes, sir.

Commissioner Mourdock: –as shown in the photograph, the rest of Ms. Williams' property will still grade into that ditch?

Bill Jeffers: It falls–

Commissioner Mourdock: Grade into that cover, rather?

Bill Jeffers: No, it will not go in...that was not intended as an area drain–

Commissioner Mourdock: Okay.

Bill Jeffers: –that's a junction box. The reason that we asked for a graded lid rather than a solid lid was because graded lids are lighter, easier to take off when you go down into this junction box to clean it out from time to time. Also gives you the opportunity to look down into the box to see if there is an obstruction before you open the lid. It was never intended to be an area inlet. Are you still? The tape?

Madelyn Grayson: That's fine. It just switched.

Bill Jeffers: Okay. The box does protrude above the ground approximately 6" as described by Ms. Rose Williams. The reason for that is to make a proper connection between the box and the incoming and outgoing pipes, you have to have a certain amount of concrete to which, which to fit the pipe to. That's just the way it turned out because of the extremely flat grades out there. I will say that in hind sight I would have liked to have asked for a custom cast box that had beveled edges, that wouldn't have been quite as noticeable as pointed out by Ms. Williams in the pictures. Possibly we can do something to landscape around that that will make it look less monolithic and plainly ugly. Or as Ms. Williams' describes, hideous. I do take issue with Ms. Williams' one comment about no property owner and an empty lot. Everybody owns a piece of property. That property is owned by Mr. Biggerstaff. I am going to approach Mr. Biggerstaff about an emergency overflow from the current ditch through his lot until this situation stabilizes. The water naturally goes through there. That's a natural surface watercourse. There have been ongoing, long term, chronic flooding problems at this exact spot for as long as I've worked at the County Surveyor's office. It's one of the first projects I was sent out on. This property that is vacant next to Mr. Carnal, the current Deputy Surveyor and myself went out there in 1982 and tried to run level circuits through that property, because the property owner back then, Mr. Rode, was willing to give us an easement for a ditch to address this chronic flooding problem at this exact same point. However, when we got to the back of Mr. Rode's property, which is now owned by Mr. Biggerstaff, the next property owner would not allow us to come across his property with an open channel. Even though there was, at that time, and still is today, a natural surface watercourse that carries this water to the corner of Oak Hill and St. George. I will still pursue that, because the water was going down there Saturday full force. The only other thing I have to say is that I really appreciate all of these property owners restraint, good taste, and accurate information. They have not exaggerated anything to you here tonight or in the past. This project needs a great deal of follow up, enforcement, and taking it to finish. In closing, I would say that Mr. Wathen, representative from SWCD, Soil and Water Conservation District, has been out there on numerous occasions and is working very closely with Chuck Murphy, the developer, to implement proper erosion control. Erosion control seems to be concentrating on areas where the developer wishes to initiate new housing starts.

I think it should be extended to all areas of disturbed ground. Mr. Wathen has a very good idea that he's presented with regard to establishing a temporary erosion control basin by utilizing the current drainage basin, and installing a riser with a sub surface drain so that that can be taken down to a dry basin, hopefully, 4' to 5' deep as it should have been, and then using that as a temporary erosion control and storage basin until the rest of the project is brought under control. I suggest that Mr. Murphy be encouraged to pursue the idea that Mr. Wathen came up with by instructing his engineer, Mr. Keith Poff at Sitecon, to design this riser and drain system and present it as a modification to the approved final drainage plan. If it needs specifications, I will be happy to recommend that it be included in that plan and used until the rest of this can be brought under control. Then I will work with Mr. Stoll to see if we can't complete this drainage project as a part of your improvements if funded. In the meantime, I will go back to Mr. Biggerstaff and ask him if we can approve the emergency overflow through his property in a temporary construction easement that would revert to Mr. Biggerstaff when he wished to sell that property for residential development.

Commissioner Mourdock: I trust that suggestion about the riser will be in Catherine's letter? What you just said.

Bill Jeffers: Oh, yes, sir. I'll include that in Catherine's letter. Thank you. I have nothing further tonight, unless someone else does.

President Fanello: Anyone else have anything to say?

Commissioner Mosby: Motion to adjourn.

Commissioner Mourdock: Second.

President Fanello: So ordered.

The meeting was adjourned at 7:50 p.m.

Those in attendance:

Catherine Fanello

Jay Ziemer

John Stoll

Greg Feistel

Others Unidentified

David W. Mosby

Madelyn Grayson

Randall Carnal

Rose Williams

Richard E. Mourdock

Bill Jeffers

Joe Gronotte

Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Drainage Board
September 24, 2001**

The Vanderburgh County Drainage Board met in session this 24th day of September, 2001 at 7:00 p.m. in Room 307 of the Civic Center Complex with President Fanello presiding.

Call to Order

President Fanello: I would like to call to order the Vanderburgh County Drainage Board meeting of Vanderburgh County for September 24, 2001.

Approval of Minutes

President Fanello: Approval of minutes of the previous meeting.

Commissioner Mourdock: I'll move approval.

Commissioner Mosby: Second.

President Fanello: So ordered. Motion and a second. So ordered.

Old Business

President Fanello: Old Business.

Linda Freeman: Okay, this is my first time for the Drainage Board this year, so bear with me. Linda Freeman from the Vanderburgh County Surveyor's Office because Bill, hopefully, is enjoying himself in Florida. Although he called and talked to me for about an hour today. Okay, on Old Business we've got the Stockfleth Ditch reconstruction hearing. I'm just going to read what Bill's got scripted out for me. We've got, the developer is Joe Ream, the engineer is Jim Farney, who is in attendance. The affected landowners include all parties holding interest in proposed Hirsch Meadows Commercial Sub and Vanderburgh County, the Commissioners as owners of Vogel Road and caretakers of Vogel Road right-of-way and the right-of-way for Stockfleth Ditch. All affected parties have been notified per statutory requirement. The plans for the reconstruction have been available for viewing at the County Surveyor's office and at the office of Bernardin Lochmueller. The cost of the reconstruction shall be borne by the petitioning developer, petitioning developer and owners of Hirsch Meadows. Are there any affected landowners or other parties here present or represented by others here present who have objection to the reconstruction as shown on the plans? On Hirsch Road and Stockfleth Ditch? Okay. Nobody is objecting. If there are no objections to the planned reconstruction of Stockfleth Ditch as shown on the plans, the County Surveyor recommends proceeding with the reconstruction. If it is in the board's pleasure to proceed, the following motions are in order, move approval of the plans for the reconstruction of Stockfleth Ditch within the limits shown within proposed Hirsch Meadows Commercial Subdivision. Move to relax the right-of-way of entry along, I'm sorry, that's right-of-entry not right-of-way of entry. Right-of-entry along both the east and west bank of Stockfleth Ditch to 25' from the top of the reconstructed—

Commissioner Mourdock: Let me go back to the first one.

Linda Freeman: Okay.

Commissioner Mourdock: Because I think all of those things are in order—

Linda Freeman: Okay.

Commissioner Mourdock: —but for the first issue that Linda suggests as a motion I will so move.

President Fanello: Do I have a second?

Commissioner Mosby: Is that on the approval of plans?

Commissioner Mourdock: Yes.

Linda Freeman: Yes.

Commissioner Mosby: Second.

President Fanello: Motion and second. So ordered.

Linda Freeman: Okay, the second would be to move to relax the right-of entry along both the east and west banks of Stockfleth Ditch to 25' from the top of the reconstructed banks of the ditch.

Commissioner Mourdock: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

Linda Freeman: Okay, and then we need to move to designate James Farney as the special deputy to the board to perform the statutory duties of a special deputy associated with the reconstruction of the ditch.

Commissioner Mourdock: And just want to make sure that Mr. Farney is in agreement with assuming that duty.

Jim Farney: Yes.

Commissioner Mourdock: Okay. Then I would so move.

Commissioner Mosby: Second.

President Fanello: So ordered.

Linda Freeman: Okay, next item is the Ivy Meadows work schedule. The developer for Ivy Meadows Subdivision has been notified, see the notice that is attached to your things there. That was on September 17th that this was sent to Mr. Murphy. If you will notice in the stapled sets, the second stapled set of copies, there is a copy of his letter, and then return receipt and everything for proof of mailing. The letter just came from Mr. Murphy today that is in your packet. The return, the response, so I don't, haven't perused through that. I just got that in my hand just a few minutes ago. The developer for Ivy Meadows Subdivision has been notified, and like I said see the attached, to supply the board with a work schedule showing his plan to complete the entire storm water drainage system and erosion control provisions, all

in compliance with the approved plans. He's also been asked to maintain the completed system in accordance with approved plans for the project. The work schedule must demonstrate the ability of the developer to complete, stabilize and maintain in stable condition all of the components of the storm water drainage system prior to November the 15th, the nominal end of this construction season. The County Surveyor strongly encourages the developer to proceed immediately and complete the work in a correct and timely fashion before the end of this construction season. Additionally, the developer was notified to submit modified plans prior to the October 22, 2001 Drainage Board meeting showing all existing or planned changes to the storm water drainage system and the erosion control facilities not currently depicted on the approved plans for the project. If the County Surveyor becomes aware of failure to comply with the work schedule or a violation of the drainage ordinance likely to cause loss or damage to off-site property, the Surveyor will recommend the board take action to suspend issuance of building permits for the subdivision until the complete storm water drainage system is operating in compliance with the county storm water control ordinance. Like I said, in your packet there you have the letter that was sent to Mr. Murphy and we do have proof of his receipt of that and his engineer was faxed that the same day that Bill and Catherine Fanello, the President, drafted that. Then, if you notice, there is a copy of Mr. Murphy's letter, it is topped off with Murphy Builders, Incorporated. Yeah, and like I said, I just received this so I'm not sure what is contained within that. Mr. Murphy's engineer is here, right? Keith Poff brought this to me, like I said, just a short while ago and I made copies for your review.

Commissioner Mourdock: So, Linda, what and we sent Bill Jeffers off on this mission, if you will, because we had gotten so many complaints from the neighbors and, obviously, there were a lot of unacceptable conditions there.

Linda Freeman: Uh-huh.

Commissioner Mourdock: This letter is dated what Thursday, I guess? Or Friday, maybe?

Linda Freeman: Um.

Commissioner Mourdock: Yeah, Friday with—

Linda Freeman: Well, the one's the 17th. Then Mr. Murphy's return is the 21st.

President Fanello: Yeah.

Commissioner Mourdock: Right, that's the one I'm referring to. He's saying in his letter of the 21st, that he has already dealt with some of the issues that were laid out in Bill's letter.

Linda Freeman: Okay. I'm sure Bill probably, that will probably be one of his first things he will go look at when he gets back from Florida.

Commissioner Mourdock: Right. Then the other things that have not yet been completed are stated in the second page of the Murphy letter, and that's assuming all those things on the first page are in fact in compliance, so—

Linda Freeman: True.

Commissioner Mourdock: –so what is it we need to do as a board at this point with this issue? Is this anything other than advisory at this point?

Linda Freeman: I would say it's advisory, because Bill did mention that ,what, October, additionally the developer was notified to submit his plans prior to the 22nd Drainage Board meeting showing all existing or planned changes. So, I'm thinking that Bill was looking at when he is back for that meeting–

Commissioner Mourdock: Yeah, the October 22nd.

Linda Freeman: –if any further activity needed to occur.

Commissioner Mourdock: The last item that Mr. Murphy has in his letter says that they are going to begin some of that work on October 22nd. While most of it should be done, the last item he is just stating would start the 22nd, so sounds like this is simply–

Linda Freeman: I think it's more advisory–

Commissioner Mourdock: –advisory for us, yeah.

Linda Freeman: –in nature than anything at this point. Then if it continues to, or if, or if the (inaudible) I'm sure he will be, he'll make you aware of that.

Commissioner Mourdock: Okay.

Drainage Plans

Linda Freeman: Hirsch Meadows Commercial Sub. It's a preliminary plan. It's Monday today, my brain is not engaging completely with my verbal motor. As a preliminary plan it may be altered to include improvements and resubmitted as a final plan in response to public comments made at this meeting or at the APC meeting on Wednesday, October the 3rd. This is assuming reconstruction of Stockfleth Ditch is approved, the County Surveyor finds the plans for Hirsch Meadow Sub substantially compliant with the requirements and recommends approval. Do you guys recommend approval then based on Bill's recommendation?

Commissioner Mourdock: I just want to make sure, is there anyone here to discuss this preliminary drainage plan for Hirsch Meadows? Okay. Yeah, I don't–

Jim Farney: (Inaudible. Not at mike.)

Commissioner Mourdock: With the County Surveyor's recommendation of the preliminary approval, I would so move.

Commissioner Mosby: Second.

President Fanello: So ordered.

Linda Freeman: Okay, item 3B, Grants Hill Subdivision. It's also a preliminary plan for a commercial subdivision proposed on the east side of U.S.41 at it's intersection with Boonville-New Harmony Road. As a preliminary plan it may also be altered to include improvements addressing public comments made at this meeting or at the

APC meeting on October the 3rd. If we don't have any problems with it, as far as any comments at this point, the County Surveyor finds the preliminary plan for Grants Hill Subdivision substantially compliant with requirements and recommends approval.

Commissioner Mourdock: Anyone here wishing to speak on the Grant Hill Subdivision? And seeing no one rushing to the microphone with the—

Commissioner Mosby: (Inaudible. Mike not on.)

Linda Freeman: There's a gentleman—

Commissioner Mourdock: Okay.

President Fanello: Go ahead and come forward. Please state your name for the record.

Kenneth Rickard: It's Kenneth Rickard and I live at 601 East Boonville-New Harmony Road. That's directly across the street from where this development is going to take place. I have not seen any plans so I really don't know what plans they have. I know that all...I'm downhill from all this that's going to happen. There is already two lakes that drain into the drainage that comes across my property. It runs directly across my property and then goes up under the highway, and I guess up back around the 4-H Center. The water now already backs up there when it rains hard. Across my ditch it will be 20'-25' in width, even with the lakes up there, or retaining pond, you know, they are going to get full, they are going to run over and they are going to run down on me. So, I do have some concerns about that.

Commissioner Mourdock: Linda, who is the engineer on this one? On Grant Hill? Mr. Farney? Jim, do you have any plans with you tonight to show Mr. Rickard?

Jim Farney: I assume you all have a copy of this or (Inaudible. Stepped away from the mike.)

Commissioner Mourdock: While Jim is unfolding that let me just explain the process here. The drainage plans work through two separate steps. There is a preliminary hearing which is what's proposed right here, and then there is a final hearing. Typically what happens between the preliminary and the final is what's happening at the microphone right now, which is the landowners have a chance to talk to the engineer or to a developer to make sure that their concerns are addressed. Typically when we have a preliminary plan come before us, the final plan comes a month later, so that you've got a full 30 days to work with the developer and vice versa. If, in fact, there is still some conflict, you are certainly welcome to come back a month from now. So, go ahead, Jim.

Jim Farney: Basically, I will try to explain to Mr. Rickard (Inaudible) adjusted the plan, his plan which if he wishes to have copies of this, he can acquire those in our office or Bill Jeffers has copies here in the county.

Linda Freeman: (Inaudible. Not at mike.)

Jim Farney: Sure, you can have this one. You can take a set with you tonight if you wish. You can have the one I brought. Basically the water shed that is under discussion is for Grant Hills, and there are basically three retention basins proposed for this site. They are shaded on the drawing. The one that has the largest shading

which is against, or next to Highway 41, actually will drain across 41 through a culvert beneath 41. So, actually that particular basin which will satisfy the drainage for the area directly below it and all of the area above it actually goes across 41 and completely away from Mr. Rickard's property. This is your property, Mr. Rickard, over here. The other two areas that are being addressed for drainage that are routed toward the area where he would be concerned is the area that would be in the southeasterly lot that's still north of Boonville-New Harmony Road, which would be this lot right here. Located in the northeast corner of that lot is a small crescent shaped basin which addresses the storm retention requirements for that lot. Once the basin is satisfied then it will drain out of that lot through a storm sewer that will come and will tie into the existing large culvert that lies beneath Boonville-New Harmony Road. As part of the widening improvements for Boonville-New Harmony Road, that culvert will also be lengthened both at the north and south ends. Then the third area that I think—

Kenneth Rickard: And that is the one that does come across my property?

Jim Farney: Yes, this swail right here is on your property. Then the third parcel that Mr. Rickard's, would be immediately west of Mr. Rickard, and that's the one south of Boonville-New Harmony Road, and there is a separate facility for it. It basically will discharge at this southeast corner of that lot which would also be the southwest corner of Mr. Rickard's property. All three basins are designed in accordance with the ordinance and all three basins are also capable of holding the 100 year storm. They are designed to release the 10 year undeveloped. Normally we are required to hold 25, but they also are capable of holding , they have the capacity to hold the 100 year storm also. Basically all that is the detailing. There will be more detail in the report. All the calculations and everything are presented in the report. I don't think I necessarily want to go into all of those tonight, unless someone has a specific question, then I will try to answer it.

President Fanello: Are there any other questions or comments?

Commissioner Mourdock: Did I hear you say, Jim, that Mr. Rickard can have that copy—

Jim Farney: Yes.

Commissioner Mourdock: —to take with him?

Jim Farney: Yes, he can have this copy and a report. The large basin captures or is responsible for roughly six and a half acres of the development. Again, it goes across 41 to the west. So, it should not present any kind of problem or loading at all whatsoever to the ditch that Mr. Rickard is concerned about. The parcel north of Boonville-New Harmony Road that goes through a basin and then will be released into the ditch that he is concerned about—

Kenneth Rickard: Yeah, I'm concerned about where it goes in at the Highway, because that is where it seems to back from.

Jim Farney: Well, it's, the highway that Mr. Rickard is talking about though is, again, once the water goes south beneath Boonville-New Harmony Road, it goes through another culvert under the highway further south.

Commissioner Mourdock: Under the highway meaning 41?

Jim Farney: That's where you're concerned about. Right, this is a culvert south of Boonville-New Harmony Road. The six and a half acre goes through a culvert north of Boonville-New Harmony Road, goes across the highway and actually traverses along the Triple T property and then south and west into the ditch.

Kenneth Rickard: I understand where that is at.

Jim Farney: Okay, so you understand that.

Commissioner Mourdock: But that's north of Boonville-New Harmony.

Jim Farney: That's north, right.

Commissioner Mourdock: And you're south of Boonville-New Harmony?

Kenneth Rickard: Yes.

Jim Farney: Yes.

Kenneth Rickard: He's going across the street to Three T's and then down, I guess, behind the new Buy Low's and up through there.

Jim Farney: Yes.

Commissioner Mourdock: Right.

Jim Farney: That's where the six and a half acres will go.

Commissioner Mourdock: Oh, oh, gotcha.

Jim Farney: Okay. The east central basin which is the one north of Boonville-New Harmony that will drain through his property encompasses 1.07 acres of development. The south basin, what we call the south basin, or the one south of Boonville-New Harmony Road that will discharge at the southeast corner of that lot or the southwest corner of Mr. Rickard's property is 1.76 acres. So, basically, there is 2.8, 2.83 acres of development area that will be detained, and will be, once it's detained and released into this swail that he is concerned about. One near the south end of his property and one actually coming through Boonville-New Harmony.

Kenneth Rickard: Do these, are they like a lake? Or how do these retention ponds work?

Jim Farney: All three of these basins on this proposed developments are what we call dry facilities. They are dry basins. So, they will only have water in them if it is raining substantially such that if the amount of incoming flow exceeds that, that we are allowed to release.

Kenneth Rickard: Okay, and then—

Jim Farney: So, other than during a very heavy storm they will be dry.

Kenneth Rickard: They will just dry up? They will not hold water like a lake will hold water?

Jim Farney: That's right. That's correct. Only when it's raining.

Philip Hayes: Detention.

Jim Farney: Detention.

Philip Hayes: They are detention?

Jim Farney: Yes, they are detention facilities.

Philip Hayes: Okay.

Jim Farney: So, if you went out there tonight and it was filled, and you went out there tonight, all you would see is a grassed area. It wouldn't have any water in it at all.

Kenneth Rickard: Let's say like it rained two or three days in a row, I mean, it would probably overflow?

Jim Farney: It has a lower release level that will let the water out as soon as it starts raining, but at a regulated rate.

Kenneth Rickard: Uh-huh.

Jim Farney: So, probably if you had a very heavy storm, it may hold water for a half hour or an hour is all. Then it would be gone again. If you have a , if you have a three day rain where it is just like (Inaudible. Someone coughing.) or it's not, nothing, you know—

Kenneth Rickard: Like Spring and Fall?

Jim Farney: Well, just what you would call a normal rain, chances are it's not going to hold any.

Commissioner Mourdock: There's enough topography, I would think even in this area, that even if the ground were saturated, those basins wouldn't be standing full very long. Is that true?

Jim Farney: Because of?

Commissioner Mourdock: There's enough topography there and enough grade that it is still going to be draining out of there.

Jim Farney: Within the ditches? Yes.

Commissioner Mourdock: Right. Within the detention basins.

Jim Farney: Within the basins, yes. They have slope in the bottom of them, so—

Commissioner Mourdock: Yeah.

Kenneth Rickard: So right now I can take a post hole digger and dig down where my ditch runs and I've got water, you know, it's just wet down there all the time. That's, and I just don't want it to get worse.

Jim Farney: The basin that is at the south side of Boonville-New Harmony Road, because the swail or the ditch actually is on his property. His basin has to really be built into the side of the back of the fill for that development.

Commissioner Mourdock: But your—

Jim Farney: Basically it will be perched in nature.

Commissioner Mourdock: Okay, alright that was going to be my question then. Because with what Mr. Rickard just said, if you went out and dug that down in the lower area, it's not going to be a dry basin, because it would fill with water. So you are saying you are actually going to perch it up above the present level—

Jim Farney: Up above, right, yes.

Commissioner Mourdock: —so that it maintains that ability.

Jim Farney: Right.

Commissioner Mourdock: That's good. That's good. Okay. Again—

Jim Farney: This is, as Mr. Mourdock has stated, this is for preliminary approval. So if you have any, if you want to take this and read it and if you don't have anything, if you understand, if you want to contact me at any time, I would be glad to go over with you and explain.

Kenneth Rickard: Alright.

Commissioner Mourdock: Linda's comments were, in essence, that as this has been submitted this is pursuant to all the drainage ordinances that are in place, and it fits the law, so.

Linda Freeman: Yes, as far as a preliminary plan. I've given Mr. Rickard Bill's phone number at work and when he will be back from vacation. I also wrote Jim Farney at Bernardin Lochmueller's phone number down so if he has any more questions or concerns that he bring them to...he can ask Jim about any of the plans he's got, and then if you have any specific concerns that you want to make sure that we look at, just give us a call at the office.

Jim Farney: That's me and my number.

Kenneth Rickard: Thank you.

Jim Farney: Thank you.

President Fanello: Thank you.

Commissioner Mourdock: For preliminary approval then, unless there is anyone else to speak to it? For preliminary approval I would move approval of the Grant Hill Subdivision plan.

Commissioner Mosby: Second.

President Fanello: So ordered.

Linda Freeman: Okay, next on the agenda is the Spring Valley Subdivision with a final approval recommendation. This is a final drainage plan for a subdivision containing three lots, two and one half acres each on Shaeffer Road north of Mohr Road. The County Surveyor finds the final plan for Spring Valley sub compliant with requirements and recommends approval. Also, just a note, there was a letter attached behind Mr. Murphy's, or actually I think it is just loose. It was an agreement that Bill wanted to see prior to his approval of this that the adjacent property owners were fine with a pipe and inlet that is now situated on the property that drains Spring Valley, is that right?

Unidentified: (Inaudible. Not at mike.) on the property line.

Commissioner Mourdock: Come to the mike, Fred.

President Fanello: State your name please.

Fred Kuester: Fred Kuester, the engineer on this project. Bill had asked us to get a letter from the property adjoining to the south of this project. There is an inlet and a drainage pipe that is, I'll say the property line is pretty well splitting this structure, and it's a small structure like 24", I believe, or a 12" pipe, I'm not even sure. But Mr. Adler did get the neighbor to sign off on that, and the letter says I agree to leave the above inlet and pipe as now situated including the portion which is on my property and we refer to his deed and card number. It is my understanding that the owners of lots two and three of the proposed Spring Valley Subdivision are responsible for the maintenance of said structures. So, we did get that signed.

Linda Freeman: That was part of the, part of a concern of Bill's, and since we have that he's recommending approval for Spring Valley.

President Fanello: Are there any other comments from the audience? Or questions?

Commissioner Mourdock: I'll move approval for the preliminary drainage plan—

Linda Freeman: No, final.

Commissioner Mourdock: Oh.

Linda Freeman: Spring Valley, final.

Commissioner Mourdock: Okay, it's listed. Oh, you're right. I'll move approval for the final plan for the Spring Valley Subdivision.

Commissioner Mosby: Second.

President Fanello: So ordered.

Linda Freeman: Like I said, it's Monday. I don't know if it's the weather or what, but it's just....okay next item is Windham Hill, Section One, revised final plan. The revisions shown on this plan depict modifications necessary to install additional erosion control features in the outflow channel from the subdivision. The plans are compliant with the county's drainage ordinance and manufacturer's recommendations for the materials used. The County Surveyor recommends approval of the revised plan, of the revised final plan for the Windham Hills, Section One.

President Fanello: Any questions or comments?

Commissioner Mourdock: On final, I will move approval.

Commissioner Mosby: Second.

President Fanello: So ordered.

Linda Freeman: Okey doke. Last, well last as far as the subdivision stuff. Ashton Park, lots one through four, modified final plans. The modifications shows on the plans for installing a pipe and other specified materials along an existing open channel at the rear of lots one through four in Ashton Park demonstrate the wishes of the property owners to improve their back yards. Part of this has kind of changed. We have one of the property owners here and representatives of the other two lots that are talking about getting this pipe. I will read what Bill has said and then, like I said, a lot of this, a little bit of this has changed. At the time that Bill wrote this the pipe was going to be just covered by a nominal half foot of soil, potentially limiting healthy grass growth and exposing the pipe to possible frost heave, which it still is going to be possible. The County Surveyor recommends the individual property owners retain all responsibility for the installation and repair and then Bill was recommending approval based on the fact that the recording of a document for each of the four lots signed by the property owners and affirming acceptance of responsibility for the installation. Then a receipt of "as built" drawings of the completed project. Additionally, the Surveyor recommends the property owners take special precautions when locating fences, out buildings, etcetera, on or near the pipe. But, like I said, there has been some changes along the recommendations that Bill has here, one of which is that the property owners have agreed to an additional 4' easement onto this 25' original easement that's been platted to put this pipe in that would allow the county to come in if they had to for the repair with the per foot price agreement that they have. That additional 4' would allow the county to go in and maintain it. Based on that, Bill would still recommend approval without the responsible, without the responsibility of the property owners. Ms. Julie Baker, okay. She is the lot owner on three, which is one of the lots that were going to be piped. I got it right here. I'm looking in the wrong place. I'll give you a quick run down. (Inaudible. Not at mike.) We're talking about these four lots. Lots one, two, three and four in Ashton Park. Lot four is just going to be regraded. Okay. We are talking about these four lots in Ashton Park. Which is lots one, two, three and four. Lot four really isn't a concern. The 25' easement would be fine. All they are going to do is regrade the swail and ditch and resod it. Which should provide enough protection for it. Then from that point it looks like just 5' south of that line, yeah, okay make sure north is up here. 5' south of the lot four south line they are going to start with a flared end section of pipe and pipe the ditch all the way down to almost the lot line, 16' in from the lot line of, the south lot line of lot one with a 12' pipe at a .8 percent grade. Based on the existing structure here that crossed Ashton Park and is, has a 12' reinforced concrete pipe, the invert elevation there it precludes being able to get more than 6" of cover along the length of the pipe, because there is going to be a pipe plus a smaller swail, basically to try to make the backyards of these lots a little more aesthetic. Right now it's kind of a messy situation from what I understand.

Commissioner Mourdock: Where are we gaining the 4' easement?

Linda Freeman: From the property owners themselves. For lots one, two and three. Ms. Julie Baker is current owner of lot three and she is willing to give another 4' attached to this 25' easement that is now currently there. The other two lots are

under Jagoe's.

Julie Baker: They will be on the east side of the (Inaudible. Not at mike.)

Commissioner Mourdock: Okay, so instead of having a 25' easement, we end up with a 29' easement?

Linda Freeman: 29' easement, but with the understanding that that additional 4' is strictly for—

Julie Baker: Special (Inaudible. Not at mike.)

Linda Freeman: Especially for just the maintenance of this particular pipe if there is a problem. So, it's not going to be like a public utility easement where, you know, if SIGECO or somebody wanted to come in.

Philip Hayes: Maintenance easement.

Linda Freeman: It's strictly a maintenance easement for the pipe. That would allow the county to get in there. Based on the different design parameters of this drainage system with Ashton Park and talking to Bill today, the pipe couldn't be moved because then they would have to do some other things and it just would end up redoing a lot.

Julie Baker: It would cost a lot more (Inaudible. Not at mike.)

Linda Freeman: Cost a lot more money, so, basically, Bill was fine with this idea. This was one of the options that he presented to me when I talked to him this morning. Like I said, Ms. Julie Baker is here. She is the lot owner of number three. Like I said, one and two are owned by Jagoe and, obviously, they are not going to have a problem with it. I mean, they are the one's submitting the—

Commissioner Mourdock: They are in agreement with the 4' additional—

Linda Freeman: Right. With the additional 4'.

Commissioner Mourdock: Okay. Ms. Baker, do you have anything else to add?

Julie Baker: (Inaudible. Not at mike.) That's pretty much it. I mean, my preference was, you know, (Inaudible. Not at mike.) and back further, but, I mean, (Inaudible. Not at mike.) I think that this is feasible and doable.

Commissioner Mourdock: Okay.

Julie Baker: Especially if you'll approve it and they will maintenance it.

Commissioner Mourdock: And I, I don't want to start a firestorm, I just want to say this for the record. You understand with the 4' easement that that means if you wanted to put in a, I don't know what you call it—

Linda Freeman: A swimming pool or—

Commissioner Mourdock: Yeah, a swimming pool, a yard barn, or whatever, that you wouldn't be able to put that out there.

Julie Baker: Yes.

Commissioner Mourdock: So that we would be able to have maintenance.

Julie Baker: Right.

Commissioner Mourdock: Okay. I just wanted to make sure that was clear, because sometimes people don't understand that. So, okay.

Julie Baker: I understand.

Commissioner Mourdock: Okay, on final approval then, or with the modification of the final plan for Ashton Park, I would move approval.

Commissioner Mosby: Second.

President Fanello: So ordered.

Encroachment Agreement

Linda Freeman: Okey dokie, then I think we just have some claims and things. Oh, we have an encroachment agreement that Madelyn has in her possession. We have blue claims, some claims for you to sign. And I think that's got it covered.

Commissioner Mourdock: Can you reference the encroachment agreement for us so we can officially act on that?

Linda Freeman: Is that Kelly Johnson? Is that?

Madelyn Grayson: Michael and Kelly Johnson.

Linda Freeman: Yeah, and that's in Cambridge? It is the property address is 1239 Haverhill Drive. It's K. Michael Johnson and Kelly S. Johnson, and it affects lot 58 in Cambridge, Section One. They have attached the, they did submit their money for the recording fees, and they have a copy of the insurance policy here.

Commissioner Mourdock: So, they are encroaching on us.

Linda Freeman: They are encroaching, yes.

Commissioner Mourdock: Okay.

Linda Freeman: It's a driveway, concrete driveway.

Commissioner Mourdock: I'll move approval of the encroachment agreement for lot 58 in Cambridge, Section One as requested.

Commissioner Mosby: Second.

President Fanello: So ordered.

Commissioner Mourdock: It says plural. Were there other agreements?

Linda Freeman: No, I think he just kind of left it like that–

Commissioner Mourdock: Okay.

Linda Freeman: –just in case and then if there were any petitions or anything or any correspondence, which I know of none besides what I’ve mentioned in the record already from Mr. Murphy and the Liley’s on the Spring Valley Subdivision.

Commissioner Mourdock: Okay.

Ditch Maintenance Claims

Linda Freeman: So then we have drainage claims. Yeah, the County Surveyor by signature recommends approval of all the claims for ditch maintenance submitted with required documentation attached.

Commissioner Mourdock: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered. Anybody else have any comments?

Linda Freeman: I think we have a filibuster.

Commissioner Mourdock: Motion to adjourn, quick.

Commissioner Mosby: Second.

President Fanello: So ordered.

The meeting was adjourned at 7:35 p.m.

Those in attendance:

Catherine Fanello	David W. Mosby	Richard E. Mourdock
Philip Hayes	Madelyn Grayson	Linda Freeman
Jim Farney	Kenneth Rickard	Julie Baker
Fred Kuester	Others Unidentified	Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Drainage Board
October 22, 2001**

The Vanderburgh County Drainage Board met in session this 22nd day of October, 2001 at 8:30 p.m. in Room 307 of the Civic Center Complex with President Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Drainage Board, October 22, 2001.

Approval of Minutes

President Fanello: Do I have a motion to approve the minutes?

Commissioner Mourdock: So moved.

Commissioner Mosby: Second.

President Fanello: Motion and second, so ordered.

Commissioner Mourdock: And now we wait, but we do have you at the top of the agenda—

President Fanello: These poor people have been here forever.

Commissioner Mourdock: –(Inaudible. Talking over each other.)

Commissioner Mosby: Has it been interesting, though?

President Fanello: Have you learned a lot?

Unidentified: (Inaudible. Not at mike.)

President Fanello: Usually, yeah.

Commissioner Mourdock: I shook my head no.

President Fanello: It's not normal?

Unidentified: Look, I've sat in a few of these. It is normal, too.

Commissioner Mourdock: Alright.

President Fanello: There he is. We've already approved the minutes, Bill.

Drainage Plans

Commissioner Mourdock: And because we've had some of these folks sitting here for quite some time, Bill, we've asked that we move Ivy Gardens to the top of the list

Bill Jeffers: Okay. Bill Jeffers, Vanderburgh County Surveyor. First item tonight will be Ivy Gardens. Do you all have the two page, well, it's more than two pages, but

it has the script of? Okay. Ivy Gardens Subdivision, preliminary drainage plan. This preliminary plan is for a proposed subdivision located immediately north of the Lloyd Expressway off Dorothy Drive, east of Carpenter Creek. The information supplied by Morley and Associates, who is representatives are here to answer your questions, is sufficient for a preliminary plan, but does indicate that some very detailed investigation, on-site investigation and design work will be required to complete a final plan for this site. We would ask the design engineer to give special attention to existing off-site conditions, including; the restricted capacity of Carpenter Creek, the annual and frequent Ohio River backwater, additionally, flat grades within the project may pose special problems with regard to cover over top of the pipes, flat ditch grades and minimum required flow velocities. Our office will scrutinize the final drainage plan, most likely, next month, when it's submitted, for these details, answering all the requirements and issues that may be raised tonight. The County Surveyor recommends the preliminary plan for Ivy Gardens. As you indicated, Mr. Mourdock, there are people in the audience who may wish to speak to this project, as well as the design engineers from Morley and Associates to answer their concerns.

President Fanello: Would anyone like to come forward and speak?

Commissioner Mourdock: Don't all rush.

Unidentified: (Inaudible. Not at mike.)

Commissioner Mourdock: Sure, and have all of you or any of you seen the preliminary drainage plan at this point? I presume you have not.

Unidentified: (Inaudible. Not at mike.)

Commissioner Mourdock: Okay. Okay. While he's coming to the microphone, one of the reasons we do this in two steps, with the preliminary drainage plan and, usually, a month, sometimes two months later, the final plan, is to make sure the concern of neighbors can be addressed as a practical end of the plan, so.

David Russell: David Russell, 30 Dorothy Drive. That was our main concern is the drainage of Carpenter Creek. Several times throughout the year that water does back up. It is considered a flood zone, flood plain. So, there is substantial water there back in that area. We feel that, you know, there would be a lot of upgrading that would have to occur that would put a lot of water towards Dorothy Acres or Dorothy Drive right there if they were to block or put anything, obstructions or anything like that, try to divert the water a little bit. Like I say, we are here tonight just wanted to come down and see what the master plan was. We had gotten a certified letter which is very hard to read, so, basically, we just wanted to come down and see if anybody had any other larger diagrams or anything.

President Fanello: Do we have a larger one for them to?

Ron London: My name is Ron London with Morley and Associates.

President Fanello: Okay. Is there anyone else who would like to come forward and ask any questions or?

Unidentified: (Inaudible. Not at mike.)

Commissioner Mourdock: You are certainly free to come forward and look at the

map he is showing here.

Unidentified: I just had one question. I want to know what kind of buildings they are planning to put in this area?

Commissioner Mosby: I'm getting ready to ask that, so I'm about as curious as you are.

Unidentified: This is what we got.

Ron London: (Inaudible. Talking to neighbors away from mike.) The water is going to empty out into the (Inaudible) I think it drains like 300 acres upstream. We do plan on, I believe, there is a 6" pipe there, I don't know if that was filed as an obstruction or not, but that (Inaudible) be removed.

David Russell: It can (Inaudible. Discussing with Ron London away from mike.)

President Fanello: Excuse me, can you speak up a little, or—

Ron London: I'm sorry.

Unidentified: (Inaudible. Making comments away from mike.)

David Russell: Over the course of time, the land owner had put a culvert in there looking to utilize both pieces of property, and that has been obstructed. You guys (Inaudible)--

Commissioner Mosby: Are you familiar with Carpenter Creek? It's a problem isn't it?

David Russell:—(Inaudible) kind of dammed up at times. So, this is a retention pond here that you will bring into the creek, is there any upgrading of the creek itself?

Ron London: No. No, all we are going to do is eventually, we'll take out that pipe, that 6" pipe and clean that and make the ditch about the same size as what's already there.

Unidentified: A couple of years ago, the retaining pond there, even though this was not, it was ditch, the retaining pond all of a sudden it started flooding some of the areas on Dorothy Drive, how are you guys going to prevent that happening, when everything that is happening over on Dorothy Drive across the street at Owen's place?

Ron London: The only thing what we are going to do is, we have designed it underneath the ordinance of, we followed the rules and regulations set forth in front of us, and we made this dry basin here, which whenever it rains will fill up with water and the capacity of that basin is more than double what we have to store, so, I mean, we are going to be storing two and ½ times the capacity that we are actually required to.

Unidentified: What kind of fill are you going to put in there? Are you going to fill that? Elevate it?

Ron London: Yes. Definitely. The elevation that we came up with for the (Inaudible)

or the 100 year flood, I believe, due to the back water of the Ohio River is 378, and the homes will have a minimum finished floor of 380.

President Fanello: Excuse me, I need for each one of you to state your name and address so that she knows who's speaking whenever you speak.

Jack Grisham: My name is Jack Grisham. I live at 22 Dorothy Drive.

Connie Russell: I'm Connie Russell. I live at 30 Dorothy Drive.

Ann Abney: I'm Ann Abney, and I own the property next to this, (Inaudible), but I live on the north side, 615 Concord.

David Russell: So, what was the elevation here, as far as where it's at now and how far you are going to have to bring it up?

Ron London: The elevation, this is based off the county topo map, but the elevation currently down there is 372 ½, and it will need to be raised so that the homes themselves, the minimum finished floor will be 380. So, we are looking at 71/2' of fill in that area.

Jack Grisham: Okay, then may I ask another question?

Ron London: Uh-huh.

Jack Grisham: Once you put the fill there, at Mr. Dennis Owens (Inaudible) next to the highway, over on Dorothy Drive, 29 Dorothy Drive is setting back by itself, the first time we get a very good rain and Carpenter Creek starts backing up, you are going to put 4' of water in that house.

Ron London: No, sir.

Jack Grisham: (Inaudible) that house went under water and that wasn't 100 years ago.

Ron London: I'm just saying the reason why I say that is because DNR has done a study through there, that is what we have to base our information off of. We are not touching the flood way in anyway. We are not filling in the flood way. We are filling in a flood plain. That is allowed. If you do not fill in a flood way, supposedly, it's not supposed to raise the water elevation whatsoever out there. So, what I'm saying is that we're not filling in an area that we are not supposed to fill in that should affect anyone upstream or downstream.

Jack Grisham: I didn't say it was not something you were not supposed to do, I'm saying that if on one side of this gentleman that is living in this house and has had water in it before, if they are putting a 7' land fill and they are going to come up that cliff coming down his property, and you go on the other side, you create a valley where he lives, and when water comes up, I live at 22 Dorothy Drive and I've seen the water come within about 11' of my house. At 25 Dorothy Drive water has hit the house. 29 Dorothy Drive, water was in the house, and this hasn't really been all that long, but I've only been there about 33 ½ years, but I've been there that long to see this water come up, so are they really doing a true study, or do they know what they are talking about? Because I've seen the water come up, and I thought it was going to come on up to where I live at.

David Russell: Over the course of the few years that we've lived there—

Connie Russell: 13.

David Russell: —13 years, water has really come up to where, you know, you have to be concerned.

Ron London: You know, I can see the elevations here. You're at 377 ½ right there, back water of the Ohio is at 378, so if the water is to back up, I can see where it would get within a couple feet of your—

Connie Russell: Well, we are considered not flooding (Inaudible). That's what the City Council said. Another question, when you guys came over to our property and you did your surveying and, when we had our property surveyed three years ago, for some reason now we are close to like two foot from when we had it done.

David Russell: It seems like it shifted over two feet.

Connie Russell: For some reason we lost two foot of our property.

Ron London: I can't answer that, I don't have the surveying part down. I'm sorry.

Connie Russell: Wherever they put the stick with the orange thing—

Ron London: Right.

Connie Russell: —is at the end of our property.

Ron London: Right.

Connie Russell: And we lost two to three foot from what—

David Russell: What kind of homes are they putting in here? Are they going to be the patio type? Are they going to be homes?

Ron London: Honestly I don't know. I really don't know what type of homes they are going to put in. I know the developer isn't here tonight, but I honestly don't know what type of home they are putting in. (Inaudible. Someone coughing.) Excuse me?

Unidentified: What size are those lots?

Ron London: I believe they are 60 by 110. They are close to the minimum.

Connie Russell: All the lots are going to be that size? Or just different sizes?

Ron London: Well, the ones here where the retention basin are. Of course, that's longer to be able to put the basin in, but overall the average size is about 60 by 110.

Commissioner Mosby: So how many homes are you putting in here?

Ron London: 31.

Commissioner Mosby: 31 homes?

Ron London: Yeah.

Commissioner Mosby: And you are doing this north of the Expressway, west of Dorothy Drive? I mean, I know where Dorothy Drive—

Ron London: Yes.

Commissioner Mosby: —is and I know where the car wash is up here, and it evidently has got to be that ground—

Ron London: It's north, it's north of Dorothy Drive.

Unidentified: (Inaudible. Everyone talking over each other.)

Commissioner Mosby: Off of where?

Unidentified: Hogue.

Unidentified: Off of Hogue Road.

Commissioner Mosby: Oh, I know where, yeah.

Unidentified: (Inaudible. Everyone talking over each other.)

Commissioner Mosby: I've got to see this. Uh-huh. I know where that is. Okay, so you are going to put this road in there—

Ron London: Right and there is an existing house against this right here—

Commissioner Mosby: Okay, then where is the Lloyd, down?

Ron London: The Lloyd is up here.

Connie Russell: Our concern, the reason why we are here today, is (Inaudible) fill in, I mean, Dorothy Drive is in an alley. We are going to lose our homes eventually, because we are going to get flooded out. There is only six houses that are, but still those are our homes. We've got grandkids, our kids have been raised there. If they don't put the correct sewage in or whatever they are planning, we are going to lose our homes. A lot of our neighbors cannot afford to move. They are older or retired couples (Inaudible. Someone coughing.)

David Russell: The property is going to be east of Carpenter Creek? In other words, you are going to expand on the other side of Carpenter Creek?

Ron London: Well, this is eventually going to be closed off right here. This right here will most likely be a place where they will take (Inaudible) to fill this side over here. There may be a lake there or—

David Russell: Well, there again, you can't put a lake in that little area there—

Commissioner Mourdock: Ron? Mr. Russell? Can I ask you Ron to do something here? Since this is preliminary, and obviously these folks haven't seen the detailed plan until this evening. Would you mind either mailing them the detailed plan?

Unidentified: We got that (Inaudible) map.

Commissioner Mourdock: I'm talking about something, you said you can't read it, I'm talking about something (Inaudible. Everyone talking over each other.)

Ann Abney: Because we own the property next to that.

Commissioner Mourdock: I understand.

Ron London: If I could get their names and addresses—

Commissioner Mourdock: And I think they all signed in, so we can get you that information.

Ron London: Sure.

Commissioner Mourdock: But that would, maybe you could deal with some of their questions individually between now and next month.

Ann Abney: Where are you going to get your city sewers at?

Ron London: There is a sewer located right on the other side of Carpenter Creek.

Ann Abney: And that's our property. It's on our property.

Commissioner Mourdock: But, ma'am that doesn't matter, if the sewage, if the utility has an easement there—

Ann Abney: It doesn't have an easement. It ends at our house. It's on our property. No easements.

Ron London: I believe it's in the right-of-way.

Ann Abney: I don't think so, no. It's across the ditch. It runs across the creek to get out to our property.

Jack Grisham: Everybody there in our area has septic systems.

Ann Abney: We got the sewers because they put the sewer—

Commissioner Mourdock: Just one at a time. This is—

Jack Grisham: (Inaudible. Talking over each other.) comes in like you are doing, during dry system, or dry season we are okay, but in the rainy season, everything comes up. If that water does what I think it's going to do, (Inaudible), but if it does what I think it's going to do, then the people that have septic systems, which is everybody on Dorothy Drive, because the city won't put the sewers in because they are too low and they have to put in a pumping station to pump the sewage out—

Commissioner Mosby: Uh-huh.

Jack Grisham: —then what is that going to do to our septic systems? Has anybody even looked at that? Or given it a thought?

Ann Abney: See that sewer is on our property.

Ron London: Based on studies...all I can say, is that based on the study by DNR, this site should not affect anybody upstream or downstream.

Ann Abney: Oh, well that's what we were concerned about.

Ron London: That's all I can say. I can only base things off of what information I'm given from the state agency, so.

Jack Grisham: (Inaudible. Talking over each other.) in place, what repercussions do we have, or recourse do we have if my septic system no longer works? Do you say, oh, you've got a septic system.

David Russell: (Inaudible) Especially if you put some kind of a retaining pond here. I mean, that's going to set my (Inaudible) over here.

Ron London: It shouldn't back up though.

Jack Grisham: If you saturate the ground around it enough, it can. The field bed can.

Ron London: I know that a field bed should be able to drain naturally into that lake. We're not building up an area for a lake here, we're cutting down the natural drain.

Commissioner Mosby: Ron, I'm going to ask you to have a meeting, I guess, maybe at your location or a location of their choice with them on this with, I guess, more presentation of what you are doing and maybe a solution to their problem. I think the one thing I want to make you very aware of is I'm very aware of the problems in Carpenter Creek. They might not lie with just where you're at, or where you're talking about, but, I mean, through the city five or six years ago when we did the \$40 million upgrade, Carpenter Creek was one of the main problems.

Ron London: Okay.

Commissioner Mosby: The only reason that we haven't upgraded Carpenter Creek is because it belongs to the county and the city. In order for the city to do something to their side of Carpenter Creek, the county needs to do something to their side. So, I mean, I would be watching very closely when you bring this back, because I have in the past not to do much more to Carpenter Creek until we can get a solution there.

Ron London: Sure.

Commissioner Mourdock: The County Surveyor did recommend to this board tonight for preliminary approval that we go ahead and act to approve this, and, obviously, he said between now and when final request comes, there are some technical things that he needs to see. When you all have that meeting, please understand, you are free to talk about whatever you want to talk about, but when it comes back to this board, this board only deals with the drainage issue, as David was just pointing out. The sewer issue, even the—

Unidentified: (Inaudible).

Commissioner Mourdock: —yeah, that doesn't, isn't something that gets—

Ann Abney: I was just curious about, you know.

Commissioner Mourdock: –and it's a fair question, I'm just saying our board won't review that one, so.

Ann Abney: Okay.

Commissioner Mourdock: Okay.

Ron London: It will be two to three months before this comes back.

Commissioner Mourdock: Okay.

Ron London: It won't be next month.

Commissioner Mourdock: So, they are not rushing to push this thing through over night–

Commissioner Mosby: Who's the developer?

Commissioner Mourdock: –they are obviously taking some time.

Ron London: Randy Johnston.

Commissioner Mosby: Randy Johnston. Okay.

Unidentified: (Inaudible.)

Ron London: I think so, yes. Local.

Commissioner Mosby: Rose Drive? Okay.

Commissioner Mourdock: Randy, thank you for agreeing to meet with these folks and work through these issues.

Ann Abney: Yeah. I'm just curious.

Commissioner Mourdock: I'll move on preliminary that we go ahead and approve the plan.

Commissioner Mosby: Oh, I second your motion.

President Fanello: We have a motion and a second–

Commissioner Mosby: Sorry about that.

President Fanello: So ordered.

Commissioner Mosby: It has been too long. Okay.

Bill Jeffers: Did you all move to approve the?

President Fanello: Yes.

Bill Jeffers: That allows it to go to Area Plan Commission, so you all can discuss some of your other concerns in front of the Area Plan Commission the first Wednesday of November, is that the 8th?

Unidentified: The 7th.

Bill Jeffers: The 7th of November, on a Wednesday night at 6:00. So, there are other concerns that you have about traffic and density and sewers and so forth, you can address those at the Area Plan Commission. Then bring your drainage concerns back to Ron at his office or a place of your choosing on the west side and let us know what you have resolved. Then our next item would be Hirsch Meadows Commercial Subdivision, final plan. The final plan for Hirsch Meadows reflects the reconstruction plans for Stockfleth Ditch that the board approved last month, plus all the necessary details and calculations for the final plan of this two lot subdivision. The County Surveyor recommends approval of the final drainage plan for Hirsch Meadows Commercial Subdivision. I will be going out there tomorrow or Wednesday to view the final construction of the reconstruction of Stockfleth Ditch so that this plat can be recorded subsequent to your approval of the final drainage plan. I will consult with John Stoll before I sign off on the ditch reconstruction because a portion of it is within your right-of-way for Vogel Road that will have to be maintained by the County Highway Department.

Commissioner Mosby: (Inaudible. Mike not on.)

Commissioner Mourdock: Second.

President Fanello: Motion and a second. So ordered.

Bill Jeffers: Next item is Lot D26, Cross Pointe Section 7A, final plan. The final plan is for a large, single lot, commercial. It complies with all the requirements prior to a site plan for this individual commercial lot. The County Surveyor recommends approval of the final drainage plan for Lot D26, Cross Pointe Section 7A.

Commissioner Mosby: I'll make a motion to approve the final plan.

Commissioner Mourdock: Second.

President Fanello: Motion and second. So ordered.

Bill Jeffers: Next item is Lockwood Ditch improvements at Enterprise Park. This is a project which is in the process of attaining a construction permit from the Indiana Department of Natural Resources so that the developer of Enterprise Park can make some improvements at his expense to Lockwood Ditch. We call the ditch Kelly Ditch. DNR calls it Lockwood Ditch. DNR requires the County Drainage Board to commit or to make a commitment to maintain the ditch and preserve it's repaired flow line and embankments after this project is completed. Since Kelly Ditch is a regulated drain, we do maintain it on an annual basis, and repair it as needed. The improvements that are going to be made by the developer, represent a great savings of money that would otherwise be at the expense of your board and the property owners in this water shed. The affected property owners have been notified and we are awaiting confirmation of their receipt of the notification and their comments after viewing the plans. Attached to the back of the comments that I have given you tonight, if you have the packet, is the Indiana Department of Natural Resources request for your board's commitment to maintain the improvements. A sample of a

letter of similar commitment from Lake County and a copy of the letter prepared by the County Surveyor is attached for your signature. I'm going to give the original to your Recording Secretary. Okay, basically, what's going on here is DNR is going to issue a permit on these ditch improvements, the developer is going to make them at this expense. This will improve the ditch that we have already improved from the point of beginning upstream of the county line, and it will take those improvements down to I-164. From I-164 to Burkhardt, the improvements have already been made by another developer. The plans have been sent to Norfolk Southern Railroad, who is the only affected property owner, for their concurrence with the plans. Morley and Associates is asking you to write a letter to the Indiana Department of Natural Resources, just confirming that the Drainage Board will continue to maintenance after the improvements are completed. I've given the original copy for your signature to your Recording Secretary, and I—

Commissioner Mourdock: The original copy of that letter, Bill?

Bill Jeffers: —of the letter for your signature.

Commissioner Mourdock: Okay.

Bill Jeffers: I'll give you the original copy of the letter from Morley as well. (Inaudible. Comments made away from the mike.) for the other members. Do you all have this in your packet?

Commissioner Mosby: Uh-huh.

President Fanello: Uh-huh.

Bill Jeffers: Okay. I'm asking you to sign that original. Let's see, the Surveyor recommends your action be taken now, but that we withhold forwarding this signed letter to DNR until Norfolk Southern Railroad responds to their notification. What I'm trying to do is still get it in this construction season so they can go ahead and do the improvements without having to come back to you on November 26th for action. I will make sure that Norfolk Southern has responded affirmatively saying they have no objection to the work being done within the old Wabash and Eerie Canal, basically, which they own.

Commissioner Mourdock: Can they get a response to you in a timely enough fashion to meet your deadline?

Bill Jeffers: I certainly hope so.

Commissioner Mourdock: Okay. I'll be amazed. I'll move that we go ahead and sign the letters as requested by the Surveyor.

Commissioner Mosby: Second.

President Fanello: So ordered.

Philip Hayes: Subject, subject to—

Commissioner Mourdock: Pardon?

Philip Hayes: Subject to.

President Fanello: Subject to?

Philip Hayes: Subject to the notification–

Bill Jeffers: Affirmative response from Norfolk Southern.

Commissioner Mourdock: Okay, thank you, subject to that response, yeah.

Bill Jeffers: We've done Ivy Gardens. I'm going to skip Mc Cutchan Court Subdivison because there is no one here to represent it. I'm going to ask if there is any–

Commissioner Mosby: Do you want a motion to defer? Do you want a motion to defer until next meeting?

Bill Jeffers: I'll recommend a preliminary plan, but I've sent them a long list of items that I will not, that I must see changes on before I will recommend a final plan.

Commissioner Mosby: Okay, I'll move to approve preliminary plan.

Commissioner Mourdock: Second. Second.

President Fanello: So ordered.

Bill Jeffers: It will come back to you next month as a final.

Commissioner Mosby: Okay.

Bill Jeffers: Other drainage plans to be submitted from the floor. Are there any? Do you want to talk about?

Unidentified: (Inaudible. Not at mike.)

Bill Jeffers: Okay.

Encroachment Agreements

Bill Jeffers: Are there any encroachment agreements that came to the Auditor's office over the last 30 days?

Madelyn Grayson: No.

Petitions

Bill Jeffers: Are there any petitions that the Drainage Board has received or removal of obstructions?

Correspondence

Bill Jeffers: Okay, a piece of correspondence which I have–

Ron London: Can you make me a copy of this?

Commissioner Mourdock: Oh. Sure. Do you have the names and addresses for Ron? Did you get the names of the folks, so you know...we'll have more names there, I think, than what were involved specifically with that discussion. Do you have the right names? I can give you the names that spoke. At least the ones I had. I didn't get them—

Ron London: (Inaudible. Away from mike.)

Commissioner Mourdock: Yeah, I had David Russell, Jack Grisham, Connie Russell and Ann, I think she said, Nabney. Then there was also a Mrs. Russell. So there were the five of them, so that should get you there.

Philip Hayes: Check your plat book.

Commissioner Mourdock: Yeah, that would get him there too.

Philip Hayes: Just look at your plat book in the morning.

Bill Jeffers: Morley Associates is asking that we will at least consider this plan which is, do you remember an obstruction hearing where we had the owner of a lake named the Faucett's agreed to have Mr. Morley design a discharge pipe and channel that would not, no longer adversely affect Steve—

Philip Hayes: Is that Millay?

Bill Jeffers: —Steve Millay.

Commissioner Mourdock: Was that the one off Congress over there?

Bill Jeffers: Right.

Philip Hayes: Yeah.

Bill Jeffers: Here's the plan, and the question I posed to them, because I hadn't had time to review the calculations is, does the overflow handle the 100 year storm without allowing water to go across their sand volleyball court and their driveway? They can't answer that at this time because neither of these fine engineers were a party to the calculations and the engineer who did the calculations is not here tonight, and I'm hesitant to recommend this plan to you until I know all the water from the lake returns to the natural surface water course before crossing the property line as we agreed. They just want to start moving it forward.

Commissioner Mosby: Is it something that you can, or they can find out, and I guess we could do next week—

Bill Jeffers: Could you make a motion to have the final hearing on this plan at our next regular meeting?

Commissioner Mourdock: Sure, schedule it—

Bill Jeffers: —and I'll (Inaudible) as a preliminary to the Millay's and let their people look at it.

Commissioner Mourdock: At the next regular meeting of the Drainage Board?

Bill Jeffers: Yes, sir.

Commissioner Mosby: That's fine.

Bill Jeffers: To have the final action taken, take it as a preliminary, let me take it to the Millay's as a preliminary—

Commissioner Mosby: Okay. I accept that as a preliminary plan—

Bill Jeffers: —and we'll come back in the hearing—

Commissioner Mosby: —and you'll come back next month for final.

Bill Jeffers: Okay. So, that will give me time to notify the various attorneys and other folks.

Commissioner Mourdock: So moved.

President Fanello: So ordered.

Commissioner Mosby: I made the motion.

Commissioner Mourdock: Okay, I didn't hear the word motion, so it's second, whatever.

Commissioner Mosby: We got a motion and a second and a so ordered.

Commissioner Mourdock: I'm asleep.

Bill Jeffers: Under correspondence I've got a letter in your packet from Corradino Group, who are the designers of Evansville Regional Airport Runway Expansion Project. Point number one on this, storm water drainage from this project is directed into INDOT right-of-way, not county right-of-way. INDOT design criteria exceeds county design criteria and supercedes it, because they require 10-50 instead of 10-25. INDOT jurisdiction supercedes our jurisdiction since it's their state road. Federal Aviation Agency criteria also supercedes county's criteria with regard to drainage, and their jurisdiction supercedes ours with regard to ownership. If you will read number six to yourselves, I don't want to read that into the microphone, but I would like to say that the County Surveyor recommends the Drainage Board waive the requirement for review and approval of a drainage plan for this Airport runway expansion.

Commissioner Mourdock: (Inaudible. Mike not on.) I move as recommended by the County Surveyor.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: Thank you. I do have some claims that are all in order for your regular maintenance of regulated drains in the year 2001 signed, and with the necessary paperwork attended to them, and ask you to take them into your office and sign them at your convenience, and return them to the Auditor for payment.

Commissioner Mourdock: I will move approval of the claims.

Commissioner Mosby: Second.

Bill Jeffers: Thank you.

President Fanello: So ordered.

Bill Jeffers: I'll bring your staff those claims in the morning.

President Fanello: We don't have them.

Commissioner Mourdock: (Inaudible. Mike not on.)

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: Is the meeting closed?

Commissioner Mosby: Yeah.

The meeting was adjourned at 9:04 p.m.

Those in Attendance:

Catherine Fanello

Philip Hayes

Ron London

Ann Abney

Members of Media

David W. Mosby

Madelyn Grayson

David Russell

Jack Grisham

Richard E. Mourdock

Bill Jeffers

Connie Russell

Others Unidentified

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**Vanderburgh County
Drainage Board
November 26, 2001**

The Vanderburgh County Drainage Board met in session this 26th day of November, 2001 at 7:15 p.m. in Room 307 of the Civic Center Complex with President Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Drainage Board meeting, November 26, 2001.

Approval of Minutes

Commissioner Mourdock: I will move approval of the minutes of the previous meeting.

President Fanello: Second and so ordered. If I can do so.

Drainage Plans

Bill Jeffers: Second item, Bill Jeffers, Vanderburgh County Surveyor, under heading 2, Drainage Plans, Item 2A, Hirsch Meadows Lot 1, final drainage plan, the board has approved the preliminary plan for Hirsch Meadows commercial subdivision last month. The overall plan requires a reconstruction of a portion of Stockfleth Ditch. The reconstruction is finished in good condition. The developer is ready to proceed with the final plan for Lot One to accommodate construction of Riverside Orthotics. Because of the small lot size and the requirements of the business for access and parking, the plan includes some amount of underground detention. The Board has already relaxed the maintenance right-of-entry to twenty-five (25) feet along the east bank of Stockfleth Ditch with a maximum cross slope of 6:1 for mowing safety. The plan requires encroachment of the right of entry by a parking lot. An encroachment agreement is on the your table for your signature at this time. The plan is on the table for viewing by interested parties. The Board may wish to ask for public comment on the plan. If there is no public comment, the County Surveyor recommends approval at this time of the final drainage plan for Hirsch Meadows, Lot One, and your motion to approve should include the action on the encroachment easement that your Recording Secretary holds in good order.

President Fanello: Is there anyone who would like to speak to the Hirsch Meadows, Lot One final drainage plan?

Commissioner Mourdock: Seeing none, I will move approval of the final drainage plan for Hirsch Meadows, Lot One.

Commissioner Mosby: Second.

Commissioner Mourdock: And I will also move approval of the encroachment agreement as provided to us by the County Surveyor's office.

Commissioner Mosby: Second.

President Fanello. I have a motion and a second on the final drainage plan and a motion and a second on the encroachment agreement, so ordered.

Bill Jeffers: Item 2B is Ivydale #2 final drainage plan. By the way, the engineer, Mr. Easley, was here for Hirsch Meadows if there were any questions. Ivy Dale is a reported minor subdivision that did not require a formal drainage plan when it was first brought through the system some years ago. The current lot owners wish to replat Ivydale to reflect adjusted property lines as they exist now. The reconfiguration of the lots requires a designation as a major subdivision by APC. The existing drainage of the lots is adequate and in place. One lot has a well constructed, well maintained pond which has corrected some drainage problems that used to exist, and now controls run off from a large part of Ivydale Subdivision. Billy Nicholson, a surveyor and engineer for Ivy Meadows has submitted calculations and other data showing that the changes made to this land will not accelerate or increase storm water run off onto adjacent properties. Mr. Nicholson is here to address any questions, the plans are available for viewing. The Board may wish to ask for interested parties to comment. The County Surveyor recommends Board approval of the final drainage plans for Ivydale #2.

President Fanello: Are there any comments?

Commissioner Mourdock: I will move approval for Ivydale #2 final drainage plan.

Commissioner Mosby: Second.

President Fanello: Motion and second, so ordered.

Bill Jeffers: Item 2C, McCutchanville Court, final drainage plan. McCutchanville Court is a subdivision platted decades before the requirement for a detailed drainage plan. The owner is now extending a county road and other public services to serve the lots in McCutchanville Court. Street plans have been submitted to the County Engineer for this project. The County Engineer asked our office to review and make recommendations on a drainage plan for the same project. The drainage plan reflects substantial compliance with the drainage ordinance and controls the accelerated run off anticipated from the new road and most of the planned new homes. The plan is available for viewing. The engineer Mr. Easley is here to answer questions. The Board may wish to ask for comments from interested parties and the County Surveyor recommends approval of the final drainage plan for McCutchanville Court.

President Fanello: Are there any comments?

Commissioner Mosby: I'll make a motion for approval of the final drainage plans for McCutchanville Court.

Commissioner Mourdock: Second.

President Fanello: Motion and second, so ordered.

Bill Jeffers: Item 2D, Waterford Place, Lot 11 and part of Lot 10, modified final drainage plans. Lot 10 is a large parcel in Waterford Place development, south of Vogel Road, east of Burkhardt Road. This project includes, the project in front of you, includes all of Lot 11 and part of Lot 10. The Board approved the final drainage plan for Waterford Place a couple of years ago. The plan before you tonight makes adjustments and improvements to the previous plan to accommodate anticipated commercial development. Due to the location within dedicated road right-of-way, of certain details of this plan, the Board of County Commissioners upon

recommendation from the County Engineer must approve some street plans. A representative for the development is here to answer any question, the plan is available for viewing and the Board may wish to ask for comments. The County Surveyor recommends approval at this time of the modified final drainage plan as presented by Bernardin Lochmueller and Associates for Lot 11 and part of Lot 10, Waterford Place, with the condition that your approval becomes effective simultaneous with the approval by the Board of County Commissioner for the street plans.

President Fanello: Are there any comments?

Commissioner Mourdock: I have a question. When will we get the street plans?

Bill Jeffers: Okay, because of the schedule of meetings over the holiday, etc. and because this will have to come back before Area Plan Site Review which these details that are too cumbersome to discuss at this time, but very easy to review, I anticipate that the street plans will be brought to you sometime during the month of December as the County Commissioners for approval, as soon as Bernardin Lochmueller has them available for Mr. Stoll.

Commissioner Mourdock: Do you think there is any likelihood that those street plans would get changed which would have any impact on what you are wanting us to do with drainage?

Bill Jeffers: Any changes within the dedicated right-of-way, as I see it, for the street plans will not effect the modified final drainage plan which adds several cubic, well several acre feet of potential storage is what I am after.

Commissioner Mourdock: But that-

Bill Jeffers: It won't change and it is just location of street inlets, location of pipes, possibly ingress, egress easements for a parking lot. How far back of the curb does the set back line and green space will be but nothing that will affect drainage structures themselves other than their location within the right-of-way.

Commissioner Mourdock: I will move approval of the final drainage plan for Lot 11 and part of Lot 10 at Waterford Place, but that approval would only be effective at the time that the street plans are approved.

Commissioner Mosby: I will second that.

President Fanello: So ordered.

Bill Jeffers: Item 2E, Liberty Estates preliminary drainage plan. Liberty Estates is a project formerly known as Ashwood Subdivision II. Certain changes made to the former project require a review as a preliminary plan. The plan is available on the table for viewing by the Board, and you may wish to ask for comments from interested parties. At this time, the County Surveyor recommends approval of the preliminary drainage plan for Liberty Estates.

President Fanello: Any comments?

Commissioner Mourdock: Seeing none, I will move for preliminary approval for

Liberty Estates.

Commissioner Mosby: And I will second that.

President Fanello: So ordered.

Bill Jeffers: Item 2F, Burkhardt Center, Phase II, preliminary drainage plan. Burkhardt Center Phase II is an extension of an existing commercial project located east of Burkhardt Road north of Morgan Avenue and west of I-164. The drainage plan in front of you complies with state and local requirements regarding detention of excess water and controlled release into the right-of-way into I-164. It is available for viewing. The Board may wish to ask for public comment. The County Surveyor recommends approval of the preliminary drainage plan for Burkhardt Center Phase II.

President Fanello: Any comments?

Commissioner Mourdock: Motion to approve.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: Item 2G, other drainage plans submitted after our deadline. As you may be aware, in the interest of fairness, our drainage ordinance allows for plans to come before the Board without review by the County Surveyor. But, any action on such plans is purely at the discretion of the Board. I know of no plans unless they come from the Board.

Commissioner Mourdock: Seeing none.

Ditch Maintenance Claims

Bill Jeffers: Item 3A, Ditch Maintenance claims for 2001 ditch contracts. We have quite a stack of claims for maintenance work on our regulated drains to present at this time. They are on the desk in front of the Recording Secretary. All claims are for work that has been satisfactorily completed by the various contractors and inspected by either the County Surveyor or his field crew. The claims are accompanied by the required paperwork and the County Surveyor recommends approval of all claims in front of you at this time.

Commissioner Mosby: Motion to approve the claims.

Commissioner Mourdock: Second.

President Fanello: So ordered.

Rescheduling of December Drainage Board Meeting

Bill Jeffers: Item 3B, setting dates for a special drainage board meeting. Due to the holiday schedule as you discussed at the meeting preceding this one, you may wish to act on some drainage plans that we anticipate will be needed for

approval before Area Plan Commission action on January 2nd is it? Or 3rd ?
Wednesday.

Commissioner Mosby: January 3rd.

Bill Jeffers: January 3, 2002.

Commissioner Mosby: Oh, well hold, okay you've got.

Commissioner Mourdock: January 2nd is Wednesday.

Commissioner Mosby: January 2nd , yeah.

Bill Jeffers: The only date available is December 17, 2001, unless you would like to do that on the Wednesday that you just set.

Commissioner Mourdock: We also, just in the meeting prior to this, scheduled a regular meeting of the County Commission for -

Commissioner Mosby: December 26th .

Commissioner Mourdock: --December 26th .

Bill Jeffers: Either day is satisfactory with the County Surveyor and we would be willing to adjust our deadline to one week before either meeting. If you would like. I don't anticipate a boat load of plans.

Commissioner Mosby: But the 17th is also zonings, so.

President Fanello: Yeah.

Commissioner Mourdock: I would say that we go ahead and do it on the 26th.

Commissioner Mosby: Yeah, let's do the 26th.

Commissioner Mourdock: I will move the advertisement for a special meeting for the Drainage Board on December 26th at a time immediately following the County Commission meeting.

Commissioner Mosby: Second.

President Fanello: So ordered.

Encroachment Agreements

Bill Jeffers: The only encroachment easement, agreement that I am aware of is the one that has already been presented and acted on. I am not aware of any petitions for removal of obstructions.

Correspondence

Bill Jeffers: I don't have correspondence at this time.

Other Persons Wishing to Address the Board

Bill Jeffers: And other than that we would only ask that other persons wishing to address the Board to make themselves known at this time.

Commissioner Mourdock: Motion to adjourn.

Commissioner Mosby: Second.

President Fanello: So ordered.

Meeting adjourned at 7:30 p.m.

Those in Attendance:

Catherine Fanello	David W. Mosby
Philip Hayes	Bill Jeffers
Others Unidentified	Members of Media

Richard E. Mourdock
Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded by Madelyn Grayson. Transcribed by BJ Farrell.

**Vanderburgh County
Drainage Board
December 26, 2001**

The Vanderburgh County Drainage Board met in session this 26th day of December, 2001, at 1:28 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

Commissioner Mosby: Call to order the Vanderburgh County Drainage Board for December 26, 2001. I will turn it over to the County Surveyor, Mr. Jeffers.

Approval of Minutes

Bill Jeffers: On your agenda for today's meeting, the first order of business is to approve the minutes of the previous meeting.

Commissioner Mourdock: Motion to approve.

Commissioner Mosby: Second and so ordered.

Drainage Plans

Bill Jeffers: Under the second item heading, drainage plans, the first drainage plan to be considered is Burkhardt Center, Phase Two, which is an expansion of Burkhardt Center, Phase One, north of Morgan Avenue, east of Burkhardt Road, west of I-164. This is a final plan. The preliminary plan received approval last month, and some minor modifications were made to it. I don't see anyone in the audience who would have a comment. The Surveyor recommends approval of Burkhardt Center, Phase Two, final drainage plan.

Commissioner Mourdock: Just to clarify, anyone in the audience on this one?

Commissioner Mosby: Any remonstrators present for Burkhardt Center, Phase Two? Seeing none.

Commissioner Mourdock: I will move approval on final of Burkhardt Center, Phase Two.

Commissioner Mosby: Second and so ordered. Cambridge Woods.

Bill Jeffers: Cambridge Woods is an amended final drainage plan. The engineer is here in the audience present to answer questions. The County Surveyor recommends approval of the final plan for Cambridge Woods amended.

Commissioner Mosby: Any remonstrators present for Cambridge Woods? Seeing none.

Commissioner Mourdock: I will move approval on final as recommended.

Commissioner Mosby: Motion and a second. So ordered. At this point, I will turn the meeting back over to the President of the Drainage Board, Commissioner Fanello, who is now in the room.

President Fanello: Thank you. Liberty Estates, final plan.

Bill Jeffers: Liberty Estates, formerly known as Ashwood Estates, is a final plan that received preliminary approval last month. There will be some extra erosion control details on the road plans, however, they have already been shown on these plans as well. The County Surveyor recommends approval of Liberty Estates, Liberty Estates, final plan.

Commissioner Mosby: Any remonstrators?

Commissioner Mourdock: Motion to approve as recommended.

Commissioner Mosby: Second.

President Fanello: So ordered.

Bill Jeffers: Baseline Business Park, Lots 11 and 12, a modified final drainage plan. This is to facilitate better control of storm water from lots 11, 12 and 13. It adds a detention basin to lots 11 and 12, and then conveys the water down to the main detention basin. All of these are designed for a 100 year post development capture, and a ten year pre-development runoff rate. The County Surveyor recommends approval of the modified final drainage plan for Baseline Business Park, lots 11 and 12.

President Fanello: Any remonstrators?

Commissioner Mourdock: Yeah, when we have a modified final, we've probably done this before, but I don't recall it. Do we send a notice out to the neighbors or anything like that? As we do for normal drainage plan approvals?

Bill Jeffers: No, we don't.

Commissioner Mourdock: Okay.

Bill Jeffers: The notice that is sent to the neighbors, is sent by Area Plan Commission along with the notification to—

Commissioner Mourdock: Right.

Bill Jeffers: —for the overall subdivision plan. It gives the dates of the preliminary drainage approval only, and then—

Commissioner Mourdock: Is this specific one, where this work is going to be done, actually up and out of the, what did we call that, impacted drainage area that we designated out that way?

Bill Jeffers: This falls within the impacted drainage area. However, this particular, these particular two lots are not in the so named flood plain.

Commissioner Mourdock: Okay.

Bill Jeffers: They are slightly higher lots. What we are trying to do is capture additional water off a higher piece of ground, hold it, release it at a slower rate so it helps relieve some pressure off the main lake that is in the flood plain.

Commissioner Mourdock: Okay. Is anyone here wishing to speak to this one, Baseline Business Parks? Seeing none. I will move approval of the modified final plan.

Commissioner Mosby: I will second.

President Fanello: Motion and a second. So ordered.

Bill Jeffers: East Point Business Park is a new sub division that is being built east of I-164, south of Old Boonville Highway, north of Morgan Avenue. It will include Working Beverage, that will be the first thing in. This is a final plan. The preliminary plan was heard and approved several months ago. The County Surveyor recommends the final, approval of the final drainage plan for East Point Business Park, Section One.

President Fanello: Anyone wishing to speak?

Commissioner Mosby: I make a motion to approve.

Commissioner Mourdock: Second.

President Fanello: Motion and second. So ordered.

Bill Jeffers: By the way, I failed to mention, all of the engineers for each of these projects are in the audience today. The plans are on the table for inspection over there should anyone wish to view them. The next one is Lakeside Commons/ Schnucks parking lot, final plan. This is a parking lot being built for a new Schnucks store at the, basically, at the corner of Lynch and Greenriver Road, slightly south of there at the entrance to Mr. Spurling's development. It is for the parking lot only, and it will enable the developer to move forward with the buildings and the other accouterments of the final project. The Surveyor has reviewed and recommends final approval, or recommends approval of the final drainage plan for Lakeside Commons/ Schnucks parking lot.

President Fanello: Does anyone have any questions?

Commissioner Mourdock: Is this one...are we doing this as a preliminary and a final? I don't recall this one coming up before.

Bill Jeffers: This didn't require a preliminary. It's not a subdivision. It's a commercial development. I'm calling it a final plan because it's for the parking lot only, and it will come under a series of reviews at site review—

Commissioner Mourdock: Right.

Bill Jeffers: —each time a building is planned for, one area served by this parking lot.

Commissioner Mourdock: Okay. Motion to approve on final.

Commissioner Mosby: Second.

President Fanello: Motion and a second. So ordered.

Bill Jeffers: Wolf Creek replat is a residential subdivision on the north side of the creek, north side of Wolf Creek across from the condominiums. It's on a county accepted road. It's a simple replat to allow better use of the residential lots, they are large lots. It's a preliminary plan going to Area Plan Commission first of the month. County Surveyor recommends approval of the preliminary plan, drainage plan for Wolf Creek replat except for the comment that the recommendation does not include a review of the current temporary construction crossing that we hope will be converted to a permanent pedestrian crossing, but I have not yet reviewed that. That will be part of the final review. I don't want to give anybody the wrong impression. It shows on the plan, but we are not yet recommending the temporary construction crossing as a permanent pedestrian crossing until we examine some safety issues, etcetera.

Commissioner Mourdock: At this point, if we don't approve it, it can't go to Area Plan anyway, so.

Bill Jeffers: The preliminary plan...

Commissioner Mourdock: We need to approve it so it can get to Area Plan?

Bill Jeffers: Yes, you need to approve the preliminary drainage plan. I'm just excluding—

Commissioner Mourdock: Right.

Bill Jeffers: —any permanent pedestrian crossing from the review at this time.

Commissioner Mourdock: I will move on preliminary approval.

Commissioner Mosby: Second.

President Fanello: Are there any questions? Motion and second. So ordered.

Ditch Maintenance Claims

Bill Jeffers: The next item is ditch maintenance claims that are accompanied by the necessary paperwork, and the County Surveyor recommends payment of the maintenance claims. While you all are, I'm sorry, you need a motion for that.

Commissioner Mourdock: Yeah, I'll move approval of the ditch maintenance claims.

Commissioner Mosby: Second.

President Fanello: So ordered.

Encroachment Agreements

Bill Jeffers: At this time I would ask have there been any easement encroachment agreements forwarded to the Auditor's office?

Madelyn Grayson: No.

Receive Petitions

Bill Jeffers: Then at this time I would ask any, to receive any petitions for the removal of obstructions to drains or waterways. The Auditor has, or the Board's secretary has received any?

Commissioner Mourdock: I've not heard of any.

Philip Hayes: Not to our knowledge.

Bill Jeffers: (Inaudible. Speaking away from mike.) Did you want to bring yours up at this time? We do have one gentleman that would like to file a petition with the board at this time. Just tell them your name and address, and tell them (Inaudible. Comments away from the mike.) You didn't bring the petition? You didn't fill out (Inaudible. Away from mike.) You need to type out a petition agreement. Alright. Well, you actually need a petition. Similar to the one I gave you an example of. What we are discussing is the form the petition should take. Mr. Bozeman was given an example of a petition that was filed earlier last year, and asked to adapt the verbiage to his situation, and attach the letter that he had already sent to his neighbor, and bring a check for \$100. At this time, I would say that the petition is not ready to be filed.

Commissioner Mourdock: Okay.

Bill Jeffers: Would you like to bring it to our next meeting?

Mr. Bozeman: Yeah, okay.

Bill Jeffers: Our next meeting is January 28th? The fourth Monday of January.

Commissioner Mosby: Yep.

Bill Jeffers: If—

Commissioner Mosby: January 28th.

Bill Jeffers: —unless otherwise scheduled, are you all going to do it the same as you did last year, or this year?

Commissioner Mosby: Yes.

Commissioner Mourdock: Immediately following, yeah.

Bill Jeffers: Immediately following the Commissioner's meeting on Monday. Normally, around 7:00 in the evening.

Commissioner Mosby: Yeah, we're starting our meetings at 6:30 this year, or 5:30, so—

Bill Jeffers: Well, so be here by 6:30 to be safe.

Commissioner Mosby: Yeah, I would say to be safe. In case we have an easy night.

Bill Jeffers: Is this 307?

Commissioner Mosby: Yes.

Bill Jeffers: Okay. Right here. Thank you, Mr. Bozeman. Sorry for your inconvenience.

Correspondence

Bill Jeffers: Under correspondence, I don't have any written correspondence, however, I received a telephone call today with some encouraging news. I would like to give you the news, then ask permission to talk to your attorney about it. The owner of a vacant lot on Rode Road directly across from the outlet of the new drainage structure coming from Ivy Meadows is willing to discuss donating that lot to the county for the purposes of establishing an easement to carry the overflowing water that currently is causing some down stream problems along Oak Hill Road and Rode Road. This would be Mr. Gronotte and his neighbors who have come up here several times. What happens during an exceptionally hard rainfall is that several of the private driveway culverts downstream of the outlet of Ivy Meadows are substantially undersized. Mr. Stoll had planned on replacing those in his intersection improvements at Oak Hill and St. George project, however, the funding is not in place at this time for it. We are having repeated incidences where the overflowing water can't make it through those driveway culverts and spills out across private property and generates drainage complaints. The owner of this lot of Rode Road would like for the County Surveyor to discuss with the County Engineer and the County Attorney the possibility of using a part or all of the lot as a drainage easement to make some improvements across, basically, it is the natural watercourse where these overflowing waters, but he would like to see it converted into a more orderly conveyance system. I would just like your permission to talk with Mr. Hayes and Mr. Stoll in a meeting about how we might be able to accomplish this at a lesser cost to the county than a large culvert project would cost you.

Commissioner Mosby: I will make a motion to have you get with the County Attorney and the County Engineer and bring us a solution to Rode Road.

Commissioner Mourdock: Second.

President Fanello: Second and so ordered.

Commissioner Mourdock: Did I understand you, Bill, he's interested in donating the entire lot?

Bill Jeffers: At this time—

Commissioner Mourdock: Or just an easement?

Bill Jeffers: At this time, the lot has 12' to 15' sewer easement that was part of a Barrett Law sewer—

Commissioner Mourdock: Right.

Bill Jeffers: —along the east line. I've talked to the engineers for the developer of Ivy Meadows, and we're thinking it may take a 20' to 30' wide easement, in addition to

that to accomplish a suitable sized waterway. The waterway wouldn't be that wide, but the easement would have to be about that wide.

Commissioner Mourdock: Uh-huh.

Bill Jeffers: So, we're up to about 55' out of a 65' lot. So, it could be that the entire lot would end up being an easement, or a very substantial portion. Right now the owner is willing to consider donating the entire lot to the county with certain provisions.

Commissioner Mourdock: One other option I don't recall, in fact, I don't think they do have in that particular area, a neighborhood association or, you know, subdivision association.

Bill Jeffers: Right.

Commissioner Mourdock: If that type association had it, then we could just give the easement to—

Bill Jeffers: That's correct. An elderly gentleman previously owned this lot, and one of the neighbors maintained it in very nice condition for the elderly gentleman that sold it to the sewer contractor. What we would probably be doing, and why I need Mr. Hayes' expert assistance on it, is that we would probably then turn the lot back over, deed it over to the neighbor who's been maintaining it, with the provisions that he maintain it as constructed, but that he would have that extra yard space.

Commissioner Mourdock: That works for me. I mean—

Bill Jeffers: Ultimately it's going back into private hands.

Commissioner Mourdock: Good.

Bill Jeffers: It's kind of like a temporary construction easement, but when we leave it there is going to be a structure there that has to be maintained in a certain way. In exchange for maintaining it that way, he would gain ownership.

Commissioner Mourdock: Right. That's going where I was hoping you would go.

Bill Jeffers: Oh, yes. We're strictly—

Commissioner Mourdock: We don't want to own it.

Bill Jeffers: —private property oriented.

Commissioner Mourdock: Yep. Okay.

Other Persons Wishing to Address the Board

President Fanello: Is there anybody else wishing to address the board?

Commissioner Mourdock: Motion to adjourn.

Commissioner Mosby: Second.

President Fanello: So ordered.

The meeting was adjourned at 1:45 p.m.

Those in Attendance:

Catherine Fanello	David Mosby	Richard E. Mourdock
Philip Hayes	Madelyn Grayson	Bill Jeffers
Mr. Bozeman	Others Unidentified	Members of Media

**VANDEBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.