

**Vanderburgh County  
Drainage Board  
January 28, 2002**

The Vanderburgh County Drainage Board met in session this 28<sup>th</sup> day of January, 2002, at 8:40 p.m. in Room 307 of the Civic Center Complex.

**Call to Order**

President Fanello: Vanderburgh County Drainage Board meeting.

**Nomination of Drainage Board Officers**

President Fanello: We need to reorganize the Drainage Board for this year, so—

Commissioner Mourdock: If we follow past traditions, the Vice President of the County Commission becomes President of the Drainage Board.

President Fanello: There you go. I so move that.

Commissioner Mourdock: I second.

President Mosby: I'm the President. I just got elected.

Commissioner Mourdock: And I'll nominate as Vice President of the Drainage Board, Catherine Fanello.

President Mosby: Second. I didn't second the first one.

Commissioner Mourdock: She did.

Commissioner Fanello: I did.

President Mosby: Oh.

Madelyn Grayson: President Mosby, would you like me to pass around a speaker sheet?

President Mosby: Yes, it looks like we need it. I don't have my agenda...I don't have an agenda for Drainage Board. I've got this.

**Approval of Minutes**

Commissioner Mourdock: I would approve, or move approval of minutes—

President Mosby: Oh, here it is.

Commissioner Mourdock: —of the previous meeting.

Commissioner Fanello: Second.

President Mosby: Motion and a second. So ordered. Next, we will hear from the County Surveyor.

<b>Drainage Plans</b>
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President Mosby: Drainage plans, Highland Pointe.

Bill Jeffers: Bill Jeffers, County Surveyor. I've passed out a new agenda and notes, because I added Wolf Creek Subdivision, Final Plan to your agenda. First set of drainage plans is Highland Pointe Subdivision, a preliminary plan, which I've placed on your desk, the 24" by 36" print of the proposed preliminary plan, if you would like to unfold that for reference. James E. Morley, consulting engineer for the developer, is here tonight, and probably has an exhibit over here for the audience to look at, and for the Commissioners to follow, if need be. I have a few preliminary comments I would like to make before making a recommendation on the plan. Recently more than one person has asked if the County Surveyor could recommend denial of a drainage plan, or recommend denial of a residential zoning for a particular project simply based on an opinion that the project looked like it might cause erosion or storm water control problems? My answer to that has been that a court might find that such an action by the County Surveyor be capricious and arbitrary, especially if the design engineer for the project had submitted plans that substantially complied with pertinent state and local regulations. Granted there have been several residential and commercial projects whose drainage plans have been approved, even though the County Surveyor personally thought there might be a more aesthetic use, or even a more appropriate use for the land that was under development. In this case, if I could wave a magic wand and say that this should be large, two acres estates, I would do so, but for a County Surveyor, or any other elected official to let subjective personal opinions outweigh the principals of a fair, objective and equal review for all projects, again, would be capricious, arbitrary and, basically, unethical. So, the answer is no, the County Surveyor does not have a magic wand that he can wave and declare a particular style of subdivision inappropriate for a particular setting, simply based upon his personal opinion. Quite the contrary, the County Surveyor and the County Drainage Board members, for that matter, are sworn to uphold Indiana State Constitution and Indiana statutes. One of the primary principals that we are sworn to uphold, with regard to private property rights, is the right of the owner to the highest and fullest use of his or her property, so long as that use doesn't diminish the highest and fullest use of another person's property. So, while reviewing these drainage plans, the County Surveyor must look closely at various details that might adversely affect adjacent landowners, in this case, with regard to drainage. Our review of drainage plans has always been based upon applicable state statutes and local drainage ordinance requirements. The developers of Highland Pointe have decided that their highest and fullest use of their 68 acres of rolling to hilly land is a residential subdivision of 270 small lots. The developer has apparently opted for this use based on their perception of the current housing market. The County Surveyor and the County Drainage Board do not determine the market. The public determines the market. Furthermore, neither the County Surveyor nor the County Drainage Board is charged with the duty of determining the appropriateness of residential lot size, lot density, or various zoning use issues other than storm water drainage design, and specific erosion control methods employed within the storm water facilities and shown as part of the plan before you. There are particular difficulties to overcome when building on such small lots on sensitive soil and difficult terrain. The developers of Highland Pointe and their design engineers are aware, or should be aware of specific difficulties in this regard. There are specific and stringent regulations and restrictions that will be compulsory on the developers and their subcontractors for this specific project. The developers of Highland Pointe are aware, or should be aware of these regulations

and restrictions. The small lot sizes, necessary land grading, drainage easements, drainage facilities, all required to make this project work, are going to be severely, are going to severely restrict the full use of several of these 270 lots shown on the plat in front of you. For example, if you will look at the drawing we provided, you will see drainage easements highlighted in orange on that 24" X 36" drawing. Notice that some of the drainage easements dissect several lots. We've circled the identifying numbers of the lots that we feel have substantially limited use, due to the placement of drainage easements shown on this plan. The easements are there for a reason. The design engineer placed the easements where he felt drainage swails will most effectively intercept and convey storm water safely away from the houses he intends to build. As an example of possible restrictions of use imposed on the future land, excuse me, imposed on the future homeowners by this design, we've attached three exhibits to the map in front of you. The exhibits are also included in the report I'm reading from on the following three pages. Exhibit A, we show lot eight with a typical 40' X 40' house wedged between the building set back line and the flood way limits at the rear of lot eight. Other than the side yard, you'll see that almost anything else built behind the home requires a flood way construction permit from

IDNR. On exhibit B, we show lot 127 with the home centered on the north side of a drainage easement, because the house can't be built typically square to the cul-de-sac, or it would encroach the easement. Most of the lot on the south side of the easement will be a steeply graded hillside with limited use. Exhibit C, basically, shows the same situation as exhibit B, but we included exhibit C to show you that, in some cases, approximately 50% of the total lot lays on the other side of the easement from the house, and may be restricted as to use. As you can see after locating houses, drainage swails, and the necessary yard grading that will have to take place to address the steep hillsides, there is very little yard left for patios, swimming pools, and yard barns without some very creative and, possibly, very expensive landscaping, on many of these lots. Again, the developer is aware of this, or should be aware of this. The design engineer is aware of it. Also, due to the very critical requirement that drainage swails be constructed and maintained exactly as designed, there must be nearly total restriction of fencing inside these platted easements. That's to protect the homes from future flooding by obstructed swails. The homeowners who buy into this subdivision should be aware of this fencing restriction. Future homeowners should also be aware of the necessity to maintain the drainage swails in strict accordance with the approved plans. The County Surveyor is concerned, as well, that the future homeowners be aware of the limited availability, of the limited available use of certain lots, because some are affected more than others in this subdivision. The design engineers have laid out the building lots and drainage easements in accordance with the developers desire to maximize their land use rights. The developer should be responsible to notify future homeowners of various restrictions they are buying into. Attached to these comments is a letter indicating that the developer is aware, or should be aware of the need to notify future homeowners of the limiting restrictions. As the final plan for this project is developed over the next 30 days, certain other items will be addressed, and certain details incorporated into the final plan. The developer is aware, or should be aware, that the County Engineer will recommend final approval for the finished street and drainage facilities only after they are completed, in conformity with the approved plans. This is of particular significance only when the open drainage channels are sufficiently stable to be maintained by homeowners without special equipment. This is the customary procedure for acceptance of finished work and the release of letter of credit that guarantees the completion on all subdivisions in Vanderburgh County. It's not a special issue applicable only to this subdivision. It is applicable to all subdivisions. Then that is followed by the letter

from Mr. Morley indicating that their awareness of what I've been speaking. Additionally, the County Surveyor is attempting to work more closely with Soil and Water Conservation District toward meeting the upcoming deadlines regarding Rule Five changes and clean water standard mandates that are coming on us. Toward that end we are suggesting certain construction features that include methods found in the Indiana handbook on erosion control, which is that large manual on the table, along with practices that are proven by Soil and Water Conservation District to be applicable to this type of project. In some cases, those methods and practices may vary from our drainage ordinance requirements, but they have been found to be superior and beneficial. Specifically rock aprons, grassy waterways, and other erosion control practices are now more fully detailed in our drainage plans, and that has been on a voluntary basis by the developers, and we thank them. Also of interest in this plan is the existing lake found adjacent to the southeast corner of the project, which is the lower right hand corner of your drawing. This lake is on property outside the project owned by another property owner, but it is being, but we are considering it because of about eight homes planned to be built below the dam. A preliminary report discussing the condition of the lake is attached on the following page. That's also from Morley and Associates describing conditions found on their inspection of that lake. At this time the County Surveyor does recommend approval of the preliminary plan for Highland Pointe Subdivision, recognizing that there are numerous valid concerns to be addressed in the far more detailed final drainage plans, which you should anticipate one month from tonight. There are folks here, obviously, this evening who have expressed their wishes to address the board prior to your motion on this project.

President Mosby: Any questions of the Surveyor at this point?

Commissioner Mourdock: I just want to define one thing, Bill. For the people listening, you've talked about final approval perhaps next month, then in the, I don't know, the pages aren't numbered, but you have this statement, the developer is aware, or should be aware, that the County Engineer will recommend final approval for the finished street and drainage facilities only after they are completely constructed in conformity with the approved plans. I just want to make the point that that finished street and drainage facility is not the final drainage plan.

Bill Jeffers: No, that is way down the road—

Commissioner Mourdock: Right.

Bill Jeffers: —after the developer has finished pouring concrete, installing the pipes, finishing the lake, all the outlet structures, all the erosion control features, and the lawns have grass on them, he's complied with Rule Five, etcetera, and John Stoll initially sends his crew out to look. If he has the need for assistance from Mike Wathen or myself to go out from our two separate departments and give him counsel, we go out and give him our opinion. When we feel, when we all feel that the project is finished in accordance with the final street and drainage plans, and the facilities are in a stable condition where a homeowner could maintain them with handheld or normal garden machinery, riding lawnmowers, etcetera, without having to bring in any large equipment for correction, we tell John Stoll we think it's ready and he recommends that you all...well, he signs off on the release of the letter of credit, and the county then assumes certain repair responsibilities for certain features within the right-of-way or within the easements. That's a ways down the road. That's at the end of the construction of the homes.

President Mosby: Any other questions? Okay, referring to Highland Pointe, Mike Thomas.

Mike Thomas: Good evening. Thank you for allowing us to be here. I have a few things on a small agenda, and I promise I won't take up much time. My presence here tonight before this Drainage Board is to emphasize the critical situations that we might be creating on this property. Therefore, I have a few pictures here that I would like to distribute real quickly, please. If you would hand them around—

President Mosby: I would be glad to .

Mike Thomas: —and they will end up over there with the Surveyor, and on into the group.

Commissioner Mourdock: Excuse me one second. Before you get started, Mr. Thomas.

Mike Thomas: I need to introduce myself do I?

Commissioner Mourdock: That's quite alright. David did that, but I just want to make the point that this is Drainage Board, and I know there are many of you who have concerns about traffic up onto Mohr Road and Darmstadt Road, and all of that certainly is valid issues, but the Drainage Board deals only with the drainage issue.

Mike Thomas: I promise you I'll talk drainage, okay?

Commissioner Mourdock: Very good.

Mike Thomas: Okay, this site has very severe high water tables, and little or no elevation on the lower acreages. Nearly 40% of the proposed lots fall below the FEMA flood maps, and ,again, I would like to circulate these please, Mr. Mosby. Any extras go out into the group. My son and I here are farmers in this area, and we have farmed this property as ingrowing crops. It has come to our attention that it's been sold for housing development. We tried to buy it on auction, and we, obviously, didn't have enough money. So, my boy here, Todd, is a third generation farmer. I'm the second, and we are hoping that the Drainage Board will consider the limitations of this. Now, I'm to talk about soil, so tonight we are talking about a very hydric soil on the Mohr Road property. What is a hydric soil? Well a stendall soil, out in the lower areas, and if you'll notice on your maps, it's the black in the flood plane, a stendall soil has the properties of being a white, melotted, sticky type soil, with just a little bit of moisture. When it's dry, it's dusty. Now, the characteristics in the soils books say that it is very, very subject to flooding. I think the pictures that I circulated there...has everyone got to see those pictures, please? This is the site, this is the site on Mohr Road looking south to the Laubscher Road area. There's probably 2' of water or so on this at the time this was taken. I believe, what does it say '96? '97?

Bill Jeffers: It should be '96.

Mike Thomas: '96.

Unidentified: June 9, 1996.

Bill Jeffers: It's the 200 year flood.

Mike Thomas: Okay. Now, also the stendall soils that approximately 40% or better of this property that is going to be built on is the stendall, it also has poor resistance to piping, or tiling. Now, how do you get rid of water? If you are a farmer, you can make a diversion, you can dig a small drainage way, or you can tile. Now, what happens in this type of soil when you go in and put a pipe in the ground, what we call heaving, or we have what we call drop outs. I've got a backhoe, and a lot of times we're in the bottoms like this, and we're trying to maintain a waterway, and you'll run into a sand pit, because it is in a flood plane, or it has been in a flood plane. Maybe 50, 200, 500 years ago the creek might have been in this area. Here you've got a sandpit, so you are digging through here trying to maintain a grade, and all of a sudden you hit sand, boom. So, there will be, I will guarantee you, there will be a problem with plumbing. Be it sewers, be it water, be it concrete. Okay, the second type is also the wakeland soils. Now, it's just a little bit higher. It's like 6" to 2' higher, wakeland soils. Pretty good for farming, but, again, seasonal flooding. The properties of the wakeland is that it does not permeate. Now, if you've got a pool of water here and it rains hard, and you've got a (Inaudible) under this particular field, your water will not leave you. It will just be around your ankles, Mr. Mosby. You'll have to wait for the sun to come out, a little wind action. Of course, the upper levels on this farm is hosmer. Hosmer soil has a characteristic of lime stone under it. What happened with the landfill folks? They went to digging in the hosmer clay, they came out with boulders as large as this room, but that's another story. After reviewing these soil types, we see that there is really only one that can be built on, and that's hosmer. Hosmer hills, beautiful, red clay. If we choose to fill in these areas, that are now being used for overflow of the main tributary, what will we do with all this extra water? This is where I come in. This is why I'm here. I'm scared to death. I farm next door. I farm on the other side of Locust Creek, through the tunnel. Will this mean that the water will back up on Mohr Road and stop traffic? Does this mean that it will overflow my neighbors fields? Rick and I have ground together, will it flood us out? Will it mean I will not have a living? Will I not be able to pay some rent to Rick? This is a very much worry. Okay, now, who will be responsible if we fill in one side of this creek bottoms? Who will be responsible if it makes it doubly deep on the other side? This is my question. Will we as Commissioners, or will we as a community? Someone that said or changed it or okayed it? Who is going to be responsible? If this happens and all the land is turned to concrete, how much faster will the water run off to others? Some of these sitting here behind me. 200 acres of run off in this particular watershed, with a 5" rain, is exactly what you see on the photographs that I've circulated. My personal photographs. We had a 5" rain that Sunday afternoon. Now, but you see we can't just remember, or we just can't assume that this is just this little 200 acre watershed. We've got to take the watershed into consideration that runs all the way to Darmstadt, because that is the main Locust Creek east branch main tributary. If it rains on this 200, you know it's going to rain in Darmstadt. So, all this water is coming down the Locust Creek. Now, I've calculated that there is going to be about 14 ½ acres of roads, approximately 40 acres of roofs and driveways. Where is all this water going to go? Probably up over the hoods of the cars sitting in the driveways. This is not humorous to someone who's car is out there, and they've just bought this house. I've seen it. I've seen it on Mill Road in the last just few years. Okay, the engineer, which I have (Inaudible) recommends 4' of fill in some of the areas, 2' in most. That's \$12,000 to \$25,000 an acre just to fill it in. I don't have that kind of money. I'm going to say the engineers, with whoever prepared that statement, did a very good job. I commend his estimates. Okay, this is my last page, and I'm about out of here. What is our goal here? Do we want to absolutely destroy all the land that we can? Good farm land? Do we want to cause as many hardships on the neighborhood as we can? Because that's all that is left. I mean,

this landfill to us already has, in this area. Do we want to tear down all of our beautiful hills and fill in all of our small valleys? Maybe that's our goal. Are we listening? We are losing 600 to 800 acres a year in Vanderburgh County alone. Let's fill in our spaces between the houses now, and let's not exploit our small plots of land in the county for mega homes. Another peaceful, family farm will be lost, or a little family, or a little farm valley will be lost to some, can I say do gooders, that don't live there, or never will. God bless those that conserve the land. I thank you for your time.

President Mosby: Thank you, Mr. Thomas. Rick Moll.

Rick Moll: I have not prepared near the document that Mike has. Mine is more testimonial. If you call it a 300 year rain, I don't know, but we had 200 to 300 year rains within a 30 day period, because I witnessed this rain from where I live north of Mohr Road on a hilltop that looks down over this area. The area that I saw filled up with water and closed the road. There was 2' to 3' of water over the road. So it basically closed it. You could not enter it. Not only did it close it, but where the proposed access for this road is, it would have filled the entrance to this subdivision. They would not be able to access it at that point. I was amazed at this amount of rainfall, and I think it was three weeks later, and the second rainfall comes and the same thing happens. The creek is filled up and this road is closed again. So, it happened twice within a month's time. So, I mean, I'm a witness to it. I can put up trees from where I am, and I'll never see this subdivision, but whether these people can get into it, I don't know. So, that's my report.

President Mosby: Thank you, Rick. Tom Norton.

Tom Norton: This is my welcome wagon visit to my neighbors tonight. I just bought a house in this area. So, I'm not going to be terribly conversant with the water problems, save one. When I was looking at my home, which is at Highland Court and Mohr Road, just even in some of the heavier rains we had this fall, this area is very prone to pooling and ponding down there. I know, I drove by there quite a few times that night down there at the tunnel. I couldn't nearly as eloquently state the case, I guess, for the neighboring areas as Mr. Thomas did, but I would like to remind the Board that as they sit here, or certainly as I did earlier this month, I sat in an erosion control problem which involved the county, and it also involved 21 in a mediation conference, and about eight attorneys to deal with an erosion problem in a subdivision. I think we want to approach this very cautiously given that. I know you guys sit here and do this as earnestly as you can, but I think your mission is to prevent any unwise developments from increasing floods or drainage hazards to others. Certainly this project, I think, is going to create a lot of drainage problems simply for the neighborhood that's being built there, first of all. This is the kind of thing, we are neighbors, but who's here to speak for these folks that are going to come in here and buy these things? That's probably who's going to ultimately be affected the most. One of your other missions is to protect new buildings and major improvements to buildings from flood damage. To protect human life and health from hazards of flooding and lessen the burden of taxpayers on flood controls. I mean, if this project, if this starts loading up with water down here, and, I mean, if you look at the topography of this land, everything slopes to the middle there where that flood plane and pool is supposed to be. You have a railroad track down there on the west end that's built up 30' off the ground with two drainage ports out of it. It's a dam for all intents and purposes. You are going to have erosion problems in this area that I can't even imagine once this development gets under way. As I said,

I don't have anything more than that to say. I'm kind of an outsider here, but I at least wanted to get up and say my piece. Thank you.

President Mosby: Thank you, Tom. Alex Levine.

Alex Levine: This proposed community will be in back of my property. My property is a source of drainage for other properties that live to the east of me. I'm very concerned about the drainage that goes through my property and into this field area that is now under proposal. I'm actually surprised that anything of this caliber is even being proposed, considering what we've just previously mentioned. The flooding problems, unless the water is stopped on this new proposal, I won't have a problem, but if any water is stopped up on this property behind me, then my road gets flooded out, and that's my only source to get in and out of the house. I live on a hill, and I've had to put in three different culverts. One of my culverts is 3' in diameter, to give you some idea of the volume of water that runs off of adjacent properties and streams through my property. That's only one of my drainage culvert systems that I've had to install. As for new communities, all I can say in closing is that, out on...I take my kids out to the west side for roller skating, and there's a new community that's been set down on to the side where there used to be farm land, and there's been five or six homes that have been built on a road, and the road stops. Every time it rains, this road floods. The flood that creeps up from the drainage areas, which is pretty large, it's in back of the Evansville Day School, it's a huge reservoir area, which completely floods up from runoff from other projects. This water backs up and raises to a level where this new community, that is now being built, the water runs about three lots from where they've stopped building homes now. I guess they are going to have to build some sort of a dam to keep the water in. My point being is that I'm skeptical about all of the promises that are being made. I, basically, have no faith in them whatsoever. I look to you people to help myself, as a new homeowner here, and the other homeowners to protect our investments, and just to keep things right for the future. I want to believe in all of this, but I don't believe in this project at all. I really don't.

President Mosby: Thank you. I can't read the next name.

Commissioner Fanello: Bill Nicholson.

President Mosby: Oh, Bill Nicholson.

Bill Nicholson: (Inaudible. Not at mike.)

President Mosby: Okay. Jon Kipling.

Jon Kipling: (Inaudible. Not at mike.) here to answer any questions. (Inaudible.)

President Mosby: Jim Morley, Jr.

Jim Morley, Jr.: (Inaudible. Not at mike.)

President Mosby: All of them?

Jim Morley, Jr.: Every one of them.

President Mosby: Norris Kimsey.



Norris Kimsey: Yes, I have the pond at the southeast corner. They call it a lake, I believe, it's about an acre, 18' deep. I maintain this every once in a while for animals that get in the dam, muskrats. I've killed a few in it, and I had one bore through it, and it started leaking on the 18' side. That dam is 18' high at the southeast corner there of it. I just wonder...I shoot them now. You get all these houses around here, I ain't going to be able to shoot out there. I noticed I got one in there again. You've got to stay with them all the time, and I poured concrete in the hole, but I always wonder if I'm gone down to Florida sometime, because I'm retired and I like to go down there every once in a while, if I'm gone and one of them bore through that dam, and that's an 18' dam...it was built right. It was built by Deig Construction. I had them build that. Had them put a good key way in. It's a solid dam, but like I say, them muskrats go through it every once in a while, and you've got to pour concrete in there to seal the hole. If it ever got a hole through there, and it washes out...you ever see a dam with a hole that washes out? It will take the whole dam out. I just wonder, that lake is 18' deep, and it's about an acre. I just wonder if you have any problems with some water later on with that lot 158, 159, 157, they are 18' lower and they can't raise that ditch there or the water will back up the other way, up field, because it comes from another lake up on Anderson's property, toward Darmstadt Road. That's about all I had to say. Thank you.

President Mosby: Thank you. Jim Clouse.

Jim Clouse: It's nice to know who's been shooting at me. In my direction. My name is Jim Clouse. I live up on the north central portion of the valley there. Concerned about flooding too. I've overlooked that valley for about nine years now. I've seen several periods of what I would call floods. If we assume that this system does work, and all the runoff goes into that narrow strip of blue green there, it's going to have to go somewhere else. That's part of my concerns. Not only Mohr Road I've seen floods on both sides of the train tunnel. I've seen St. Joe flood also, and as we all know, water rolls downhill, and there's another trailer park down that way. There's some erosion concerns already down in that part of St. Joe, and I just see more water going that way. That's all I have to say.

President Mosby: Thank you. Kevin Snodgrass.

Kevin Snodgrass: I've lived on Mohr Road for almost eight years now. I've seen the floods that they've talked about at the train tunnel. I live at the highest point on Mohr Road, so I'm not really concerned. I have a boat, so I'll be able to get out of there when it floods, because if you look at what we are creating here, it's a catch basin. It's going to collect water. Water doesn't soak into concrete. It doesn't soak into asphalt. We're going to create a funnel effect. You're going to collect a lot of water at this point. It's going to back up, upstream from it, and it's going to create a lot of water going downstream from it. There is a flood problem down there. You won't catch it in photographs unless you go out in the middle of the storm, but when you go down to the bottom of the hill, in a strong rain, you're standing in an inch of water. It will take 15 minutes to a half an hour, depending on how long it's rained, for that water to go away. You put all this construction on top of that property, that water is going to come down a lot faster, and you are going to have to deal with it. It's going to have to go somewhere, and somewhere is downstream. That is going to head right into the city, and right past a lot of the mobile home parks and other roadways and everything else that we as taxpayers in the county are also going to have to take care of, correcting those ditches and maintaining this stuff. What they are proposing is that when they are done with this, the county is going to have to maintain this.

Well, we already have enough to maintain. Perhaps we should look a little more wisely to use of this property. Thank you.

President Mosby: Thank you. Bob Hatfield.

Bob Hatfield: (Inaudible. Not at mike.)

President Mosby: Pardon?

Bob Hatfield: (Inaudible. Not at mike.)

President Mosby: Oh, okay. Jim Morley, Jr.

Commissioner Mourdock: Just before the engineer starts, Mr. Thomas?

Mike Thomas: Yes.

Commissioner Mourdock: Could you show us on this plat, or point over there—

Mike Thomas: Yes.

Commissioner Mourdock: —where this photo was taken?

Mike Thomas: Stand on the, okay, if Mohr Road ran here, the 14 acre parcel out here where the main tributary, Locust Creek, the main tributary goes south, southeast. South, southeast.

Commissioner Mourdock: So, the railroad tracks would be just to the right of this photo?

Mike Thomas: Turn it around again. Okay, this way we would... I would like to turn it over, partner.

Unidentified: Okay.

Mike Thomas: If you don't mind. Alright this would be Mohr Road looking south, southeast in that photograph.

Commissioner Mourdock: So, the railroad tracks would be just to the right at the top.

Mike Thomas: The railroad tracks would be to the right. Thank you.

Jim Morley, Jr.: Jim Morley, Jr., Morley and Associates. I can see I have a lot of supporters here tonight, so this probably won't take long at all. First, I would like to address some things that Bill Jeffers brought up. As you notice, the majority of the exterior lots are the one's where the drainage easements dissect that property. He is correct, there are some where there is almost as much property on the far side of the easement as there is on the home side of the easement. The reason for that is that we plan on, excuse me, grading down from the property line to establish a building pad. So, basically, anything on the far side of those ditch easements will be, basically, the back slope of where we graded down to create a home site. As final design comes along, we will push those ditches as close to the property line as we can to minimize the amount of ground that is on the far side of the drainage swails, but that's the reason for it is because, as these slopes go up, we want to try and

keep our street slopes down. So we are going to do some excavation at that side, and try and slope that down and get a level building pad. There are also, for all of the lots that are inside the 100 year flood plane, we will end up doing a site grading plan for all those, so that they can get their building permits. This subdivision will be no different than the others. It will be a pretty detailed site grading plan showing them how each of those lots are to be graded out to make sure that they are not shedding water onto their neighbor and so on and so forth. Basically, we're putting the swails at the bottom of the hill, or at the bottom of the slope. It doesn't do us much good to put them right at the property line, and then need another one 15' down. You still need one at the bottom. That is where the bottom of the slope is. Bill had mentioned having fences over those easements. I spoke with the developer and they will have in their covenants a restriction saying that you cannot place fences across the easements. Covenants, as a general rule, are enforceable by anyone that owns a lot inside that development, or the developer usually has a clause that he himself can enforce those through legal actions. I spoke with the developer, and he said he has no problem enforcing those covenants, because when people buy their lots, they are buying in accordance with those covenants. So, to build across the fence, or to build a fence across there later is, you know, it's their own fault. They knew ahead of time that they weren't supposed to do it, and he would just be holding them to it. I also agree that this needs to be built exactly as designed. We will do inspections throughout the process to ensure that it is built as designed. We will be doing the construction staking on the project to ensure that the inverts and the flow lines are at the correct places. That the lake is the correct size. On top of that, as Bill said, there will be a letter of credit that is there, in which him and John Stoll will have final authority on signing off on that. It won't be until they are 100% satisfied that that letter of credit is released. If that letter of credit is not released, and had to be pulled, then it would pay to do all of the things that didn't get done if they didn't. However, that won't be the case. We will be doing an erosion control plan for the site, in accordance with the Indiana handbook that Bill referenced. We'll be filing one of those, and I also spoke with Bill and with the developer, and we might try some different things as far as grassy swails and under drains to come up with a better product. That will be covered in the final design. I would like to speak about Mr. Kimsey's dam. We went out and did an inspection on it last Friday, and, currently, the dam is in very good condition. He maintains it well, and is actually thicker than it would need to be. However, I don't want to rely on Mr. Kimsey always being there to shoot the muskrats, because 100 years from now, he probably won't be there. However, if you'll notice there is a large swail, the blue line as it comes this way, that's the main swail that comes through the middle of the project. That swail will run between that swail and those houses. So, if that dam gave way, it will empty into that large ditch and be taken on through the neighborhood. There is not much more of a safeguard that you can do than that. The houses will all be raised 2' above the 100 year flood plane, on top of that, but that swail, or that ditch that goes through there will be enough to take that water on through the subdivision if the dam were to fail after Mr. Kimsey's moved to Florida. We are keeping that center channel, the center creek and also an overland flow up to Locust Creek will be open channels, with the exception of two road crossings. We're doing this to ensure the fact that they cannot be plugged, and that this will not act as a dam. The road crossings are both going to be large. Most likely they are going to be large box culverts, and then on top of that, that will be the low point in the road to allow for water. If a car got stuck in one of these things, I mean, it would take a car to plug one of these, they are so big, but if it did, it would then be allowed to flow over the top of the road and then right back on to the other side. Mr. Thomas spoke earlier about the soils in the community. This will not be the first project that has been developed on these types of soils. However, we will be, all the pipes will

be installed with local and industry standards. As far as backfill, compaction, testing, and so on and so forth, they will either be reinforced concrete pipes or HDPE plastic pipes outside the right-of ways. Some of the, several people had the concern outside that if we fill this area where all the flood water is now, what's that going to do? You know, is it going to flood me out upstream, and so on and so forth. On there also shown is the flood way, or the flood way in the corner of Locust Creek. The flood way is defined as being the area, where if you fill inside of that, that gets to be the area where you start raising water upstream. If you fill inside of there, you know, you can't raise it more than 15/100 above the existing elevation. The flood plane area, you all know, as well as I do, is filled in all the time. 70% of our projects that we design are inside the 100 year flood plane. The picture that he showed of this project where it's under water, I've got a picture almost just like that one, same storm, back in my office, and it's where Lowe's sits today out on the east side. It's very common for, to develop inside the 100 year flood plane. Sometimes it does take 4' of fill. Sometimes, we've done projects that it took 6' of fill. That's, you know, if the developer feels it's economically feasible, you know, that's their call, but it's done all the time. You guys have approved countless drainage plans where half of the project is inside the 100 year flood. You've done some that they are all inside the 100 year flood. So, it's, unfortunately, all of the high ground is gone. You know, I would be willing to bet that the majority of the people in this audience all sit on the hill around this valley. You know, I mean, the valley ground is what's left in Vanderburgh County right now, and that's the majority of what's being developed. Let's see, the, we're working with DNR on all of the Locust Creek issues, as far as the flood way, 100 year flood elevations. We got the 100 year flood elevations from them. Bill had preferenced that storm from the pictures as being the 300 year storm. Mr. Thomas has another picture that is not passed out that shows the water in the roadway, and that the roadway was dry. Now, a person might say, well, he wasn't there at the peak, but if he wasn't there at the peak, because it's a cornfield around there, there would have been a debris line left wherever the water receded from. Water always leaves a tell tale sign of a debris line of corn stalks, and whatever else up along where it got, where it got up to, but even in that picture you can see, you know, I mean, you can see the grass there. So, Mohr Road during that storm, at that location, doesn't appear that it went underwater at that time, and our entrances are several feet higher than that point on Mohr Road.

Unidentified: (Inaudible. Not at mike.)

Jim Morley, Jr.: Give me one foot. Either way.

Unidentified: That's not a true statement either, because I witnessed it over (Inaudible. Not at mike.)

Jim Morley, Jr.: I don't know what to tell you, I'm referring to the pictures. Let's see, the retention pond that we have designed is over three times the size it needs to be for this development. We're storing three times the water that we would be required to store, and that water, you all know, as well as I, is only allowed to leave at the same rate it's leaving today, for the 10 year event. So, actually, for the 25 year event, it leaves slower than what it does today. Therefore, we won't be rushing the water downstream to flood someone else out. We will be doing the retention here and actually retaining three times what we are required to retain. By filling this site, it won't, per DNR, per Department of Natural Resources, because we are not affecting the flood way, it will not increase the height of the water on other people. It won't double the height of the water next door or anything like that. Let's see,

that's about, that's about all I had. Anybody, did I cover everything? Did I miss something? I was taking notes as fast as I could.

President Mosby: Questions?

Commissioner Mourdock: I'll start with one to Mr. Jeffers. Bill, your comments here regarding the lots, you said we have circled the identifying numbers on the lots we feel have substantially limited use, due to placement of drainage easements. Do you want to describe substantially limited use for me? What do you mean by that?

Bill Jeffers: I hope that's not a poor use of the English language. I think I pointed out several lots that are up to 40%, or excuse me, 50% extremely limited use. I think Mr. Morley agreed with that, in that those would represent the back slopes that would be 5 to 1.

Jim Morley, Jr.: (Inaudible. Not at mike.)

Commissioner Mourdock: Okay, so when—

Bill Jeffers: 6 to 1 is almost dangerous to mow.

Commissioner Mourdock: Okay, so when you are using the words here substantially limited, are you basically saying that 50% of that lot is in some way affected? Either by the slope that is going to be there, or by a drainage easement?

Bill Jeffers: Correct.

Commissioner Mourdock: Okay.

Bill Jeffers: I guess what I'm saying is if I went out and bought a lot in this subdivision, and my neighbor was able to fence his lot with a privacy fence and have a patio and a swimming pool and everything, and my wife and children wanted a patio and a swimming pool, and I happened to buy one of those lots that didn't have the facilities for it, I would most likely have to do some extremely expensive landscaping to make sure that my wife and kids didn't make my life totally miserable.

Commissioner Mourdock: Okay.

Bill Jeffers: I mean, that's why I consider them to be, you know, substantially restricted.

Commissioner Mourdock: Okay, next question, and I think I know the answer. I just want to be sure. What you are showing here as a lake, is a true lake? It's not a dry basin? It is a permanent impoundment?

Bill Jeffers: Right.

Commissioner Mourdock: Where that flows, you spoke of the box culverts in the road that you will be constructing, where this is flowing, wherever you went underneath, yeah, okay, where this water is currently exiting from this property and going underneath the railroad tracks, in the two locations, what kind of size structures are there there?

Jim Morley, Jr.: There is a 48" pipe that goes under the railroad track. However, when it was put in 90 years ago, or whatever, I mean, the date on that bridge is 1910, they put a 48" pipe in. That pipe is undersized. It wasn't designed to...it was probably just whatever they had just laying around the yard. So, currently that water breaks, it goes through the pipe and then once the pipe, once it exceeds its capacity to pipe, then it breaks over and goes through the tunnel at Locust Creek. The tunnel that serves Locust Creek is roughly the same size of the one that serves, that Mohr Road goes through. So, it's a very large capacity tunnel. We've designed this system to act in the same manner that it acts now, where your everyday rains, the rain that we are going to get on Wednesday, anything under the 10 year storm is going to go through that 48" pipe. Anything over the 10 year storm would break over, as it does now, and go to Locust Creek. Locust Creek is, the watershed for Locust Creek goes all the way up to Fleener Road. It has a tremendous watershed. So, to be dead honest, this is a drop in the bucket as far as the water that flows into Locust Creek. I would guess that this is 10% maybe of the total watershed of Locust Creek. I mean, it's a very small amount. However, that's neither here nor there because we're doing all the proper detention to make it act as if it was a farm field again. I would also like to say, a lot of the lots that are bisected, the half that, we'll call it a useable half and a non-useable half. The useable half is at least the size of every other lot in this subdivision. That's how we created that line. The lots are roughly 60' wide, and that flow line has been put at 60' with a 6' drainage easement on either side, and buildings, it has a pipe with buildings set back on either side. So, it's within 1' of being the exact same useable area as any other ditch, or any other lot that doesn't have one of those bisecting lines. We just feel that that's the appropriate place for the ditch, to put it at the bottom of the slope. That way we can make sure those houses stay dry, that they have proper drainage. I think this is a, there is, without a doubt, there are some questions that have been raised tonight, but I think this is a good design. I think it will work well. I think that we have a track record of designing projects that work well. That don't flood and don't have problems, and I have no desire to destroy that record on this subdivision. So, the product that we turn out will be a good design.

Unidentified: Will these roadways have some unusual contours? (Inaudible. Not at mike.)

Unidentified: Where they cut through the berm. You've got a berm out in the roadway. (Inaudible. Not at mike.)

Unidentified: You have to have these swails somewhere across these roadways.

Jim Morley, Jr.: Yeah, they cross these pipes.

Unidentified: (Inaudible. Not at mike.)

Jim Morley, Jr.: Yeah, wherever there is a road crossing (Inaudible. Not at mike.) There is also surface emergency overflows over the road, but unless the pipe is 100% clogged, it will go through the pipe. (Inaudible. Not at mike.) The (Inaudible) report has the emergency overflow elevations on it and stuff where you can't be more than 4" above (Inaudible), and so on and so forth to allow that to (Inaudible) between lot lines, then you have drainage easements between those lot lines that ensure that is where your property (Inaudible).

Commissioner Mourdock: Okay, and the grassy ditch, or grassy waterway you have here, obviously, there is a divide at the mid-point of that?

Jim Morley, Jr.: Yeah. That is—

Commissioner Mourdock: (Inaudible) south of the mid-point.

Jim Morley, Jr.: —the part on the lake side goes back to the lake, and the part on this side comes to Locust Creek. That high point is set high enough to keep the 25 year storm out of the retention basin.

Commissioner Mourdock: Okay, so until the point where you've had a 25 year event, everything that is in the pond is going through the 48" pipe?

Jim Morley, Jr.: Well, roughly, it's the 10 year storm through the pipe. I would say for the 11 year, 95% was going through the pipe, 5% of it is breaking over at weir elevation. That's right where your finger is. That's basically the way it works now. It does the same thing now. It ponds above that currently, in the field, it ponds above that pipe, until the pipe just won't take it fast enough. Then it starts breaking over the soil, and coming to Locust Creek.

Commissioner Mourdock: Okay and the last question I have. You referred to the map here with the flood ways, I'm sorry, flood plane in it—

Jim Morley, Jr.: Uh-huh.

Commissioner Mourdock: —and you made the comment about we do a lot of the permitting of those through this body, and then you talked about the fill within those flood ways that are fairly routine.

Jim Morley, Jr.: Flood planes.

Commissioner Mourdock: Okay. I said it wrong.

Jim Morley, Jr.: They are not flood ways.

Commissioner Mourdock: Yeah. Alright.

Jim Morley, Jr.: What filled in the flood way is not routine.

Commissioner Mourdock: Right. The flood plane. That inferred to me that all of these areas up in here and back in here, there might well be some fill on. Is that the case?

Jim Morley, Jr.: Yes.

Commissioner Mourdock: Okay, is all that fill coming from this one location?

Jim Morley, Jr.: It will come from a combination of that lake and then some tops of some hills, as we go through hills, if we can top off dirt through the tops of the hills. Obviously, we will be limited by the, you know, if we hit rock, like is out there, you know, obviously, that's where you've got to stop. We'll be digging the lake. The lake has a surface area of 2 ½ acres. A good chunk of that soil will come from the lake. What doesn't come from the lake, we'll take from excavation, on-site where we (Inaudible) and so on and so forth.

Alex Levine: Is there a figure on the square foot or the acreage of (Inaudible) been developed, and subtract out the actual land that would be exposed. What's, I guess, the way to ask is, what's the percentage of roadways, sidewalks, gutters, housing roofs, the anticipated out houses or out buildings? How much land is actually left to absorb any water?

Jim Morley, Jr.: We checked that out—

Commissioner Mourdock: For the record, that was Mr. Levine, asking the question. If you do have questions, please come to the mike, so you can state your name, because we do all the notes here verbatim.

Jim Morley, Jr.: We did check that after someone spoke earlier about that. The number of acres of roadway and drives and rooftops, which is the majority of it, your sidewalks don't account for that much, is roughly 19 ½ to 20 acres on a 68 acres site. So, roughly we're covering 1/3 with impermeable surfaces. Then the rest, the 2/3 that is not being covered is going from a high run off, cultivated crop situation to a lower run off grassed yard situation. So, there is a trade there, but all of that is being taken into account on the basin, to make sure that the basin is sized properly to slow that flow down.

President Mosby: Any other questions or comments?

Alex Levine: Yes, can you give me enough information, so that I can go home tonight and tell my wife that this project will guarantee that what I've seen...I've seen, I've seen the 3' culvert that I have, one of three, that's been on my property, and when the water is high...I'm not talking about 25 year rains or anything, I'm just talking about an average rain around here. I've seen the land fill up. Where my road is almost gone, and I'm on top of the 3' culvert, and the water is rushing through. I just find it incredibly hard to believe that , and from what I've seen of other developments that are being flooded out, I find it...I just, I just don't know how you could even convince me that I'm not going to get flooded out on this. I would like—

Commissioner Mourdock: Again, that was Mr. Levine.

Jim Morley, Jr.: I can tell you that, in all honesty, your pipes ought to probably be about a 60" pipe. It's probably about 2' too small in diameter. A 48" pipe that goes underneath the railroad tracks, should have been a 72" pipe. So, your, I don't doubt that it comes over the top of your 36" pipe. Your pipe is undersized.

Alex Levine: All the land, everything.

Jim Morley, Jr.: I know, it fills up until it breaks over the top.

Alex Levine: I don't want to say flash flooding, but—

Jim Morley, Jr.: I'm sure it does fill until it breaks over the top, because your pipe, in all honesty, is undersized. The pipes in this subdivision, that go underneath the roads, are going to be in the range of a 4' by 8' box culvert. Which is three times larger than your pipe. I mean, your pipe is just flat out undersized.

Commissioner Mourdock: Which pipe are you referring to is Mr. Levine's pipe?

Jim Morley, Jr.: His driveway comes off of Darmstadt Road—



Commissioner Mourdock: Darmstadt Road.

Jim Morley, Jr.: —(Inaudible) up here, and it comes down, and there it crosses it down here.

Alex Levine: This is the area—

Jim Morley, Jr.: Your house is over here.

Alex Levine: Where's the drainage?

Jim Morley, Jr.: The ditch is here.

Alex Levine: The ditch is here?

Jim Morley, Jr.: Yeah.

Alex Levine: Okay. Yeah, this whole, there's hills everywhere, and it's a funnel.

Unidentified: (Inaudible. Not at mike.)

President Mosby: You have to come to the mike, Mr. Moll.

Rick Moll: Have you gotten approval? Is some of this going to be redirected underneath the railroad tracks? Is there approval from the railroad to go underneath those, that area?

Jim Morley, Jr.: No, we are taking the water in the same direction it has always gone, and releasing it at the same rate it's always released at. We won't be doing work on CSX Railroad right-of-way. Because there would be permits (Inaudible).

President Mosby: Right. Any other questions? Yes, sir.

Kevin Snodgrass: My name is Kevin Snodgrass. You said the culvert that exists underneath the roadway, the railway there is 2' undersized. So, that is a pinch point, just like this gentleman's culvert. The same analogy, I mean, basically what I heard you tell him was that he's got a 3' pipe, and he needs a 5' pipe. You got a 4' pipe, you need a 6' pipe. You know, you are creating a pinch point right there, and the lowest point right next to it is Mohr Road on a one lane bridge. Mohr Road at that point, the road bed is breaking up. In part, breaking up because of hydraulic pressure underneath. There is a lot of water in that little spot. Would it not be unreasonable to say, remove the 4' pipe, put in a 6' pipe that you need, as a cost to the development? To ensure that we can deal with the water? The other question I have is, who is going to maintain that 4' pipe? Who is going to keep it clean? Who is going to be responsible for it after the fact? Or if it doesn't work, and it's too small, who would put the 6' pipe in then?

Jim Morley, Jr.: You were correct, a 48" pipe will work, just as his 36" pipe does, and that is why there is a surface overflowing conjunction with the 48" pipe. That is the way it currently is designed, or the way it currently works. The railroad, putting a new pipe underneath the railroad, is next to impossible. That is the main Evansville bypass, and they won't close it down, I think, what we'd talk about, 15 minutes. So, I mean, replacing the pipe under that is pretty unfeasible. However, we wouldn't want to, if you increase the size of that pipe to a 6' pipe, now you are changing

drainage patterns that have been there for 90 years. We need to stick with what is there. We need to continue to shed water in the same direction that they have gone for the last 90 years. That's what we have proposed, where the majority of the water, on your normal rains, goes through the 48", then as it pools, it breaks over the weir elevation, and it should be noted that as the 100 year flood, that swail that runs along the railroad tracks is designed to carry the 100 year flood. In addition to that, there is still 6" to the top of the bank, and all the homes by there have to be 2' above the 100 year flood. So, the swail that comes through there, you know, we're not talking a little small one. We know what, you know, we realize that it is going to have a significant flow during the 100 year flood, and it's been designed that way. The homes along there will be raised appropriately to keep out any kind of flood waters. He's right, the 48" won't do it, so that's why, that's why currently today it breaks over and goes to Locust Creek. That's why with this design, it breaks over and goes to Locust Creek, because we cannot change the water patterns, or the water drainage patterns out there that have been established for 90 years.

Kevin Snodgrass: Okay, you still didn't answer the question. Who's responsible for maintaining that pipe? Since we've established that that pipe is key, and that it cannot be replaced, if that pipe fails, where is the water going to go? What is going to happen to these homes down there, or us that have to commute on Mohr Road, that we are going to have more basin until that gets repaired?

Jim Morley, Jr.: The CSX Railroad is responsible for maintaining that pipe. That is their pipe to maintain. This project, this drainage can go out the overland flow, or the overland discharge without that pipe. If it did collapse, it would be CSX's responsibility to fix it. That is a concentrated flow, and by under Indiana law, you cannot block concentrated flow. So, they would be in violation of Indiana Drainage Statutes if they allowed that pipe to collapse, and stay collapsed.

Kevin Snodgrass: Where is the overland flow on here?

Jim Morley, Jr.: John, do you want to point that out to him on (Inaudible) there? It runs parallel to the railroad track. Locust Creek is one of the larger creeks in Vanderburgh County. It has a large watershed, and it has a very large capacity. The channel itself, as you can see by the size of the flood, or flood way, I think you guys have all seen flood ways that are 300' or 400' wide, you know, and that is when the channel is undersized. As you can see by this one, with such a narrow flood way, which comes straight from DNR, the channel that is there handles 90% of the flow, as compared to, you know, some out on the east side, we've got flood ways 300' to 400' wide, as compared to here that's 100' wide.

President Mosby: Any other questions?

Jim Clouse: Jim Clouse. Talking about increasing a lot of flow, enlarging a lot of pipes, it seems like there is going to be a lot more water flowing out of there?

Jim Morley, Jr.: No, we won't be increasing any of the pipes that leave this site. We, the only pipe that leaves this site is under the CSX Railroad, and we will not change it. It is there. It is going to stay there. The pipe that we send to it is going to be a 48" also, so they will be the exact same pipes. The lake itself (Inaudible. Walked away from mike.) I don't know how familiar everyone is with the drainage ordinance, but the drainage ordinance requires us to store the difference between the undeveloped, the 10 year storm for undeveloped conditions, conditions as it is today, versus the 25 year storm, developed condition, which is what it would be in 10 years,

or whenever it's built out. That retention, the whole reason for that lake is to take the water, when water starts coming into that lake, it doesn't go out as fast as it comes in. It comes in faster, and goes out slower. That's the whole reason behind the retention basin. That's something that is part of the Vanderburgh County ordinance, and is done on all subdivisions now.

Jim Clouse: These are those two acres?

Jim Morley, Jr.: That surface area is roughly 2 ½ acres.

Jim Clouse: What percentage of the homes will have basements in them?

Jim Morley, Jr.: Well, anybody inside the 100 year flood plane won't have them unless they want to pay flood insurance. I would assume very few of them will have basements. The majority of homes on these size lots don't have basements as a general rule.

President Mosby: Any other comments? Mr. Jeffers.

Bill Jeffers: Briefly, I heard a couple of questions that haven't been answered yet, fully. The specific event shown on this picture that was presented to you by Mr. Thomas, dated 6/9/96, is from Sunday, June 6<sup>th</sup>, June 9<sup>th</sup>, 1996. That year we had a 50 year rainfall event. Which doesn't mean it happens every 50 years, and only every 50 years. It means that there is approximately a 2% chance of it happening this year. That was on April 28, 1996. Then on May 4<sup>th</sup> and May 5, 1996, shortly thereafter, seven days after, we had another, we had a 100 year event, which, again, doesn't mean that it happens every 100 years, or it would have followed this 50 year event by some substantial period of years. It means that there is a 1% chance of that happening every year. Then on June 9<sup>th</sup>, a short 30 days later, 35 days later, we had what exceeded a 300 year event, which is just totally unheard of to have back to back events like that. During that entire 42 day period, it rained approximately 35 days. We did an extensive study on this particular series of storms, because it caused horrendous flooding, particularly on the north side of town in close proximity to all these properties from whom you are receiving remonstrance. It caused extensive flooding in Old State Subdivision, that is where you had to build a new bridge to fix the problem. There is a 40 something day period there it rained about 30 days out of that 46 day period. It rained substantially, anything from a trace to several inches, including these additional, extremely heavy rainfall events I've described. The ground was totally saturated. It couldn't take one more drop of rain into the ground prior to this huge event on June 9<sup>th</sup>. This picture represents the aftermath, possibly not immediate aftermath, but somewhat after that time that occurred in the afternoon of June 9<sup>th</sup>, Sunday, around 3:00 or 4:00. It represents the flow that came off every drop of rain that fell on the ground out there rain into this creek, because it couldn't go anywhere else. The ground was totally saturated. Second item, as to high water testimony. I would prefer to take high water testimony from these gentleman who have lived and farmed in that area over any other testimony you can get. If they independently tell me where the water came up to, I've found that to be more truthful than even a Corp of Engineers study. However, I've found that on this, during this particular event, the water in the creeks out there came up to within an inch or so of where the Corp of Engineers modeled, computer model study, said it would come. So, and we do have a computer modeled study on this basin that was given to us on Locust Creek by Corp of Engineers. I would be surprised if the high water testimony from these gentleman would be any greater than an inch or two different than what the Corp of Engineers says this high water

will be. I will trust their testimony over the Corp of Engineers study. Another question that was asked, who was here to speak for those who are buying into this subdivision? I think I addressed that in here. The Board of County Commissioners acting as the Drainage Board, and the County Surveyor are here to speak to those concerns. We will speak to those concerns tonight, and over the next 30 days before the final plan comes in. Mr. Levine is concerned about what passes through his drainage. Whether it's undersized, oversized, or what have you, it's there. If anything in this subdivision, downstream, obstructs that creek that serves Mr. Levine, as his major drainage, he can file a petition and this Board will order that that obstruction be removed. I think I've covered in my review points that we don't want any fences, etcetera to obstruct that drainage, or any fill to obstruct that drainage. Mr. Morley indicated that his pipes would be substantially larger than Mr. Levine's. I am not here to criticize Mr. Levine's choice of pipe size, but I am here to guarantee Mr. Levine that if he can identify an obstruction downstream of his property that's adversely affecting him, I will come to this Drainage Board, and that this Drainage Board will order it be removed. That's happened, and there is a history of that in your minutes. Mr. Norris Kimsey on his lake. I am a little alarmed that he said his lake is 18' high. I did not know that. I was concerned about the height of that lake with regard to the houses being built below it. I did not know it was 18' high. In fact, his 18' may be an estimate, but if his spillway notch, which he doesn't have one necessarily, if the lowest point of overflow on the top of his dam, over the top, is greater than 20' higher than the natural low point in the valley that he dammed, that would have required Corp, Indiana Department of Natural Resources permit to build that dam. So, I am a little concerned about exactly how much water is impounded behind that 18' high dam, because if it's a 20' high dam, we have a situation. I'm not being critical of how it was built, who built it or who owns it, but there is a reason why the Department of Natural Resources is concerned about 20' high dams. That's for the safety of those downstream. So, that raises one point that I will be looking into further. I think all of the other questions were adequately addressed by other representatives here.

President Mosby: Thank you. Questions or comments?

Commissioner Mourdock: I just want to define the process for a moment. That is, this is a preliminary, as you heard Bill say early on, this is a preliminary drainage plan. The way the process typically works, is if a project receives preliminary approval, that means that it comes back a month later, but the key thing is that during that month, the residents, neighbors, the engineer, the Surveyor's office, often get together and talk through a lot of the issues that come up at the preliminary meeting. So, I have no idea how our vote will go here in a minute, but I am just saying that is one thing that typically happens. It would then come back to us one month later for a final review, for the final vote. If it would be approved at that final vote, then this one also goes to APC for subdivision review—

Jim Morley, Jr.: Yes.

Commissioner Mourdock: —in which case David and Catherine don't get to vote on it again, but I do, because I'm on Area Plan Commission. That Board would act on all the different impacts that we spoke of earlier tonight, which would include traffic and all those other issues that I said weren't appropriate here. So, all those things have to happen yet. Having said that, I'll go ahead and make a comment and then make a motion here. I do have some additional questions that I would like to see addressed at final. I'm okay with this on preliminary, but I do have some questions, specifically regarding the status and the quality of this 48" pipe underneath the

railroad. I would like some information on that. I would also like to see, as best you can give it to us, some information, perhaps shading it on one of these maps, where you see the fill coming in for these lots that are, in fact, in the flood—

Jim Morley, Jr.: Where it will be placed, or where it will come from?

Commissioner Mourdock: Both.

Jim Morley, Jr.: Okay.

Commissioner Mourdock: Both the borrow and the cut and the fill.

Jim Morley, Jr.: Okay.

Commissioner Mourdock: I'd like to see those two things. My main concern comes back to how much fill there is going to be out here, and how that might affect both the flow and this back flow if, in fact, you have the high event that causes this water to come back this way and go out.

Jim Morley, Jr.: Okay.

Commissioner Mourdock: So those are questions I have. Having said that, on preliminary, I would make a move for approval.

Commissioner Fanello: And I'll second on preliminary.

President Mosby: I have a motion and a second for an approval on preliminary hearing. Do we need a roll call?

Commissioner Mourdock: That would be good. Yeah.

President Mosby: Okay. I have a motion by Commissioner Mourdock, and a second. Roll call vote. Commissioner Mourdock?

Commissioner Mourdock: On preliminary, yes.

President Mosby: Commissioner Fanello?

Commissioner Fanello: On preliminary, yes.

President Mosby: Commissioner Mosby? Yes. So on preliminary only, this passes to go forward for the next 30 days. I would suggest that at that time you would be willing to answer all the questions that you've heard here tonight, and address the concerns that the Surveyor has written. I'm sure there will be a lot of other questions occur over the next 30 days.

Commissioner Mourdock: If you don't have Mr. Morley's phone number, he is always very accommodating. If you would like to get his phone number that you can address those questions, and I suspect you have the County Surveyor's phone number.

Jim Morley, Jr.: Thank you for your time.

Commissioner Fanello: I just want to clarify something. You kind of expounded on what the process was. It's not within this Board's realm to stop the development. That's not what we are charged with here, so just that...just the preliminary drainage plans and final drainage plans.

President Mosby: Thank you very much. Wolf Creek Subdivision.

Bill Jeffers: I'm not criticizing your pipe choice, but if the downstream becomes obstructed, you have a legitimate beef. Right, sure.

Unidentified: Thank you very much.

President Mosby: Thank you.

Bill Jeffers: Wolf Creek Replat Final Plan. Basically, this plan is identical to the plan you approved last month for this same project. The only item remaining to be approved is a pedestrian crossing at Wolf Creek, located in a parcel of land, retain more common space maintained by the condominium association. This pipe has an equivalent 84" opening, and it was placed as a construction crossing. Originally, it was sized to pass in excess of a 500 year storm, as calculated by the design engineer, Dick Eiffler. The pipe was placed prior to plan approval, and has not been inspected as to condition of bedding, etcetera. The understanding is that the condominium association assumes complete responsibility and liability for the maintenance, repair, replacement, and all other aspects of loss and damage associated with the use of the pipe as a pedestrian creek crossing. Jerry Atkinson, attorney for the developer, is or should be aware of our conditional recommendation of approval. Mr. Atkinson is currently producing documents reflecting our recommendation and the Board's approval of the final plan, which should place all the responsibility and liabilities on the condominium association. The County Surveyor recommends final drainage plan for Wolf Creek replat with the condition that the pedestrian crossing, as shown, remain the responsibility and liability of the condominium association.

Commissioner Fanello: I'll move approval.

President Mosby: Okay, comments?

Commissioner Fanello: Comments?

Commissioner Mourdock: Anyone here to speak to this particular drainage plan?

Unidentified: Answer any questions (Inaudible. Not at mike.)

Commissioner Mourdock: Okay, no one here to speak?

Bill Jeffers: Mr. Nicholason is the design engineer representative.

Commissioner Mourdock: Okay, no one here to remonstrate? Okay.

President Mosby: Is this on Wolf Creek—

Bill Jeffers: It's all kosher.

President Mosby: —it says we are hereby requesting sidewalk waivers.

Bill Jeffers: That would come under street plan.

Commissioner Mourdock: Right. At the regular Commission meeting, not this one.

President Mosby: Well, what did they give me that for?

Commissioner Mourdock: Catherine, did you make the motion?

Commissioner Fanello: Yes, I did.

Commissioner Mourdock: Okay, I will second the motion.

President Mosby: I have a motion and a second. All in favor.

Commissioner Mourdock: Aye.

Commissioner Fanello: Aye.

President Mosby: All opposed, same sign. Motion carries.

<b>Surveyor Report on Regulated Drains</b>
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Bill Jeffers: The next item of business is the Surveyor's report on regulated drains required to be made to this body. It's a preliminary report. I'm not going to read it into the record, just ask that it be entered into the record. Basically, outlines some repairs and reconstructions we think should be made in addition to regular annual maintenance. It says that I would like to have a hearing next month to get a feel for public comment, but I'm going to delete that from this, because I understand next month will be as heavy, or heavier than this month. So, why don't I postpone that until later in the construction season. I just respectfully submit my preliminary report on the condition of drains in Vanderburgh County.

<b>Surveyor's Report on Drainage Obstruction: Rode Road</b>
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Bill Jeffers: Next item is the Surveyor's report on the obstruction of the natural surface water course. It states that the County Surveyor reports the existence of an obstruction. Tells you the location. This is the Rode Road situation that we briefly touched on last month. It also says the County Surveyor recommends the Board do the following; instruct me to gather more information with regard to the topography of the natural surface water course. In other words, send a survey crew out there and come up with some plans. Continue dialogue and negotiations with the property owner. Whether you instruct me to or not, I will be doing that. That's Mr. Biggerstaff, and he had a very constructive conversation with your attorney and myself, and to instruct the Surveyor to work with the County Engineer to develop some sort of construction plan, and find out where we can get the funding for doing this. I'll do that and then report back to you.

Commissioner Mourdock: Okay, I'll move that we so direct the County Surveyor.

Commissioner Fanello: Second.

President Mosby: Motion and a second. So ordered.

Ditch Maintenance Claims

Bill Jeffers: Next item is claims for work on your 2001 contracts. These are, a lot of these are the 15% retainage. Some of it's things that were cleaned up after November 15<sup>th</sup>, etcetera. They should all be in order. They do contain the inspection and Surveyor's report with the signatures affixed, etcetera. Surveyor recommends we pay those claims.

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: A motion and a second to pay the claims. So ordered.

Encroachment Agreements

Bill Jeffers: Are there any persons here wishing to present encroachment agreements? Or have any of them come before the County Auditor? Seeing none.

Receiving Petitions

Bill Jeffers: We'll go to receiving petitions from the public for the removal of obstructions to natural surface water drains, or mutual drains. Seeing none.

Correspondence

Bill Jeffers: We'll move on to correspondence. I don't have any this month.

Other Persons Wishing to Address the Board

Bill Jeffers: Last item, other persons wishing to address the board.

President Mosby: Anybody wish to address the board? Seeing none.

Commissioner Mourdock: Motion to adjourn.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second to adjourn, so ordered.

The meeting was adjourned at 10:06 p.m.

Those in attendance:

David W. Mosby	Catherine Fanello	Richard E. Mourdock
Philip Hayes	Madelyn Grayson	Bill Jeffers
Jim Morley, Jr.	Mike Thomas	Rick Moll
Tom Norton	Alex Levine	Bill Nicholson
Jon Kipling	Norris Kimsey	Jim Clouse
Kevin Snodgrass	Bob Hatfield	Others Unidentified
Members of Media		



**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Richard E. Mourdock, Member**

**Recorded and Transcribed by Madelyn Grayson**

**Vanderburgh County  
Drainage Board  
February 25, 2002**

The Vanderburgh County Drainage Board met in session this 25<sup>th</sup> day of February, 2002 at 7:15 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

**Call to Order**

President Mosby: I would like to call to order Vanderburgh County Drainage Board meeting of February 25, 2002.

**Approval of Minutes**

President Mosby: Motion to approve the minutes of the previous meeting?

Commissioner Fanello: So moved.

Commissioner Mourdock: Second.

**Drainage Plans**

President Mosby: Drainage plans. County Surveyor, Bill Jeffers.

Bill Jeffers: Your first drainage plan is Leo's Place. It's a preliminary plan. It's located north of Ashley Place at the end of Eickhoff Road, which is north of Hogue Road, Perry Township. Proposed subdivision consists of 62 relatively small lots, very similar to the adjoining Ashley Place Subdivision, which is now complete. The terrain is steep slopes down to a natural creek, part of which is in a flood plain. The plan before you, which is here if there are any who would like to view it, is substantially compliant with the requirements for a preliminary drainage plan. There are several issues which must be resolved before the Surveyor will recommend approval of the final plan. All these issues have been discussed in detail with the developer's engineer and with the County Engineer, and will be resolved prior to next month's meeting, at which time I anticipate a final drainage plan. Therefore, the County Surveyor recommends approval of the preliminary plan for Leo's Place Subdivision.

Commissioner Fanello: I'll move approval of the preliminary plan.

Commissioner Mourdock: Are there any remonstrators? Just to make sure. Seeing none, I will second for preliminary.

President Mosby: So ordered.

Bill Jeffers: The second subdivision is Eagle Plaza, Lot 22 replat. This is, Lot 22 is owned by Builders, Home Depot. What they are wanting to do is replat it so that they have three additional lots to sell to, that are now just open, grassy areas, and zoned C-4. The preliminary plan substantially complies with the requirements for a preliminary plan. The County Surveyor is going to recommend approval of the preliminary plan, but this recommendation in no way indicates approval of certain existing drainage facility installations that currently serve the parent portion of Lot 22, because there is still a letter of credit outstanding pursuant to the County Engineer's approval, final approval of those existing drainage facilities. What this plan shows

is some additional facilities for drainage that do comply with the requirements for a preliminary plan. Surveyor's recommendation also does not include a recommendation of anything, whatever, with regard to certain plat language regarding an access easement for vehicles show on the proposed primary plat for the replat of Lot 22. That's not a drainage issue, but I want to make it clear that, to show solidarity with other departments in the county, our recommendation does not have anything whatsoever to do with regard to that plat language that is shown on the proposed plat. Otherwise, the County Surveyor recommends approval of the preliminary drainage plan for the replat of Lot 22, Eagle Plaza.

President Mosby: Any remonstrators present? Seeing none.

Commissioner Fanello: I'll move approval of the preliminary plan for Eagle Plaza, Lot 22.

Commissioner Mourdock: Second.

President Mosby: Motion and a second. So ordered.

Bill Jeffers: The next item is Five Oaks Subdivision. It's a modified final drainage plan. The modified plan, basically, shows the conversion of what was a wet pond to a dry detention basin, because the developer and lot owners feel that is more economical and easy to maintain. The dry basin is in place. The calculations I've received from the engineer show that the storage capacity in the dry basin remain sufficient for the protection of downstream facilities during the design storm for which it was originally designed as a wet pond. The County Surveyor recommends approval of the modified final drainage plan for Five Oaks Subdivision.

Commissioner Mourdock: Modified final means we have approved it once before?

Bill Jeffers: You approved it as a wet pond—

Commissioner Mourdock: Okay.

Bill Jeffers: —and—

Commissioner Mourdock: Now it meets—

Bill Jeffers: —now it's a dry basin.

Commissioner Mourdock: Okay. There's no one behind you, right? No one to speak against this one?

President Mosby: Any remonstrators?

Commissioner Mourdock: I'll move approval for the modified final for Five Oaks.

Commissioner Fanello: Second.

President Mosby: Motion and a second. So ordered.

Bill Jeffers: The last drainage plan is Oak Hill Middle School expansion. Basically, a gymnasium and parking area. The County Surveyor recommends approval of the final, this is a final drainage plan. It's already been through site review, and it's been

approved by all other agencies. The County Surveyor recommends approval of the final drainage plan for Oak Hill Middle School as proposed by Evansville-Vanderburgh School Corporation, and as designed by Bernardin Lochmueller Associates.

Commissioner Fanello: I'll move approval.

Commissioner Mourdock: Second.

President Mosby: I take for granted there is no remonstrators. So ordered.

<b>Surveyor's Annual Report on Regulated Drains</b>
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Bill Jeffers: This is the Surveyor's annual report on the conditions of regulated drains in Vanderburgh County. You can read it at your leisure. It's required by statute to be turned into the Drainage Board once a year. We've normally turned it in at the same time as we bring the specifications for the maintenance of these drains to your attention. In the interest of time, I'm going to let you read most of it, but I do have to touch on certain things that have to be read into the record, according to statute. On page five of the annual report, at the bottom, Barr Creek at Heppler Road requires some major channel repair, realignment, and armoring of the (Inaudible. Someone coughing.) with rip rap. In association with the reconstruction of Heppler Road Bridge over Barr Creek, which will come to you from the County Engineer, I believe next month, the County Surveyor hopes to coordinate some of the major channel repair of this creek bank with the County Engineer's reconstruction of the bridge in such a way that we can utilize the same contractors, and thereby save money. What I'm basically saying there is we have money in that account that we would like to make available to extend the channel work necessary to realign that bridge, and extend that channel work upstream and downstream past the normal limits, beyond which the Bridge Fund normally doesn't extend work. The work needs to be extended beyond those limits, and we would like to coordinate that. Mr. Stoll will be bringing you those plans next month for bid. If there are any questions, I can discuss it with you individually, but I think Mr. Stoll will explain it to you more thoroughly at that time. On page eight, the County Surveyor has a recommendation regarding impacted drainage areas. Due to intense development along the East Side Urban Drain, the County Surveyor recommends that the County Drainage Board declare all remaining agriculturally zoned land served by East Side Urban South Half system as an impacted drainage area. The County Drainage Ordinance allows certain special criteria for storm water storage and release into regulated drains from new hard surfaces within an impacted drainage area to prevent increased flood hazards. The contract deputy that was appointed by the Drainage Board for the reconstruction of the Crawford Brandeis Ditch, from Lloyd Expressway to Morgan Avenue, in conjunction with the Burkhardt widening project has recommended in his final report to you that all future development draining into the Crawford Brandeis Ditch, which is now a large box culvert, be restricted to a "10/100" post development run-off design. That's in your record. Turning to page—

Commissioner Mourdock: Excuse me, Bill. On that one, could you at your convenience, just send through a map for what you are declaring all that area to be?

Bill Jeffers: Yes, sir.

Commissioner Mourdock: (Inaudible. Someone coughing.) like to see. Because that's a big deal to me. I'm not necessarily disagreeing, but—

Bill Jeffers: Right.

Commissioner Mourdock: —that's a big step to take.

Bill Jeffers: Yes, sir. On page ten which follows a page or so explanation of why this is being recommended at this time, and you can read that at your leisure. On page ten I reiterate the importance of declaring this impacted drainage area on Evansville's east side. The final, basically, the final thought I'll leave you with is that the last area which was declared impacted was U.S. Highway 41 corridor north of Inglefield Road. The exact legal process that was recommended at that time by the legal counsel for the Drainage Board is recorded in the County Auditor's records, where you asked me to prepare a map, and a legal description of the entire area. Then there is some specific language that your lawyer incorporated into this, because it's actually an amendment of the Drainage Ordinance, and it has to be advertised. I think there was a 45 day period that took between my making this announcement and you having the hearing at which you were able to make that declaration, giving the public period of comment.

Commissioner Mourdock: Have you had any discussion with Brad Mills about this? Because at the last APC meeting I said something to him about, I thought he needed to talk to you about future use of impacted drainage areas. If you haven't had, I think—

Bill Jeffers: I haven't, and everything has been going very well on the east side with regard to this drainage, the drainage facilities we have out there, because the developers have been voluntarily accomplishing the 100 year detention. They do that because they need the dirt, and they get the dirt on site, and their detention basins are over estimated. However, we are starting to get crowded out there, and individual lots need to comply with the same thing that the larger lots have been voluntarily complying with.

Commissioner Mourdock: Yeah. You referred, in that third paragraph there, the last area declared impacted. Have there been others? That's the only one that I thought we had.

Bill Jeffers: Bad use of words there. The only area that we've ever declared—

Commissioner Mourdock: Yeah.

Bill Jeffers: —impacted was the U.S. Highway 41 North, and the legal process that was followed to accomplish that is recorded in the Auditor's records. I'll bring that to you the same way we brought the only other one we've ever done. On page eleven...if that's, anymore questions on that? It's really fairly simple. It's in the Drainage Ordinance.

Philip Hayes: Bill, the question I had is that I missed the date that you were talking about where the language was put in. In the ordinance.

Bill Jeffers: My report is incomplete in that regard. I need to get that from the Auditor's office and bring it to you at the next meeting.

Philip Hayes: Not last, not 2001?

Bill Jeffers: Oh, it was, I'd say 1999, or—

Commissioner Mourdock: I may be able to tell you here.

Bill Jeffers: —2000.

Philip Hayes: '99 or 2000. Okay.

Commissioner Mourdock: I'm guessing it was '99, too.

Bill Jeffers: It was right at the same time that Baseline Park was being developed, because they did it voluntarily, and a month or so later, we declared it impacted. So, whatever the recorded date of Baseline Business Park, I'll be hunting either side of that for the exact language in the Auditor's minutes.

Commissioner Mourdock: Well, it was prior to April 17, 2000, because that is the first time we had some sales coming up out there. So, I think you're right. I think it was '99.

Bill Jeffers: I'm sorry I didn't have that complete information in this report. On page eleven, Aiken Ditch has been reconstructed under the authority of a project that was done by the city. It's in final punch list phase right now. Unfortunately, some of the work that was done out there elevated the natural bank of Aiken Ditch about 8", 9" too high, and it has caused an obstruction of a natural surface water course draining at the east end of Earl Avenue. This water course, this obstruction should be removed to fully drain Earl Avenue. It's, I don't want that man to come in and file an obstruction petition. This is a known condition that we discovered when we went out to give a final inspection of the reconstruction. We haven't been able to get a hold of the contractor. This is the same contractor as the Lynch Road, Lynch Road connection to I-164. You may be aware of the difficulty with which we are having in contacting that contractor at this time. We do have some money in the Aiken Ditch Account that we can augment the repair by installing some erosion control that was not a part of the contract. If that contractor will remove the obstruction, we can also install some erosion control practices along the bank that would help the situation as well. I had to bring that to your attention. Let you know what's going on there, because it will come up again. Audubon Estates lake, is another issue that I keep putting off due to the time constraints you've had with long meetings lately. It has to be said at this time. There is a large, eroded area of the lake shore where Kolb Ditch enters Audubon Lake in Audubon Estates. This is due to an extremely sandy soil being washed away by ditch flow during times of very low water in the lake. The complaint has been brought to the Drainage Board prior to this administration, and Mr. Mourdock is aware of it from previous complaints. County Surveyor's recommendation, at this time, is to apply sufficient quantity of rip rap to construct a rock chute in accordance with specific practices detailed in the Indiana Handbook for Erosion Control, and that recommendation will be reflected in the specifications that we're asking you to approve immediately after this report. So, we do have the money, and we will be including that in our ditch maintenance contracts for this year. Our next item is on page fourteen, Henry Ditch. A large development on the east side of Green River Road at Kansas Road is re-routing most of the watershed for Henry Ditch into a private drain, through a privately maintained detention lake that will exit through a different tributary to Blue Grass Creek, than Henry Ditch. This was all worked out as a part of the drainage plan. The property owners are in agreement

with it, but what it does is it takes a large chunk of Henry Ditch's watershed out of the watershed, and I think it would unduly tax the remaining property. They are already up to five dollars an acre, because it's such a small watershed. Henry Ditch would no longer carry this load of water. So, what I'm proposing at this time is that no maintenance be performed on Henry Ditch in 2002, in order to accumulate surplus funds needed to make repairs to the ditch before vacating the ditch through statutory process. I can go into more detail on that later, but there is specific language for the vacation of a ditch when it no longer serves the purpose for which it was originally constructed, and the tax burden becomes unduly heavy on the remaining property owners. I'll bring that back to you at a time when we are ready to make those repairs and vacate the ditch. That concludes the report, except for the portions I haven't read. I ask that to be entered into the record. This report carries a date that needs to be corrected on page 14. This report was respectfully submitted to the Drainage Board on the 25<sup>th</sup> day of February, 2002. You'll notice that I have an incorrect date that I am asking to be amended at this time.

Commissioner Mourdock: With that modification, I'll move approval into the record.

Commissioner Fanello: Second.

President Mosby: So moved. So ordered.

Commissioner Mourdock: Bill, just to confirm, Audubon Estates, that's the one out there south of Pollack on the east side?

Bill Jeffers: Yes, sir. That's the one where the state re-routed some drainage—

Commissioner Mourdock: Yeah, yeah.

Bill Jeffers: —and causes a back flush condition—

Commissioner Mourdock: Right, right.

Bill Jeffers: —in the lake. The lake is leaking a lot of water down through sandy soil, and lowering the lake elevation. Our ditch, where it comes in, has caused a huge eroded area that is unsightly and dangerous.

Philip Hayes: (Inaudible. Mike not on.)

Bill Jeffers: No, that, I moved that to a different part of the presentation.

Philip Hayes: Oh, sorry.

Madelyn Grayson: Is the copy for the Notice to Bidders in here?

Bill Jeffers: It is, but I'm going to handle that a little bit differently this year.

Madelyn Grayson: Okay.

<b>Specifications for Annual Maintenance</b>
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Bill Jeffers: These are the general specifications for maintenance of regulated drains. They've remained the same for decades. They've been slightly edited, and brought

up to date as applications of herbicides and licensing requirements have changed. Basically, most of the ditches in Vanderburgh County are maintained in accordance with these general specifications, and I ask you to receive them. On this page, following the cover, it tells you which ditches will be maintained using these general specifications. I ask you to receive them, and approve them at this time on the recommendation of the County Surveyor.

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: So ordered.

<b>Special Provision Section of Specifications</b>
--

Bill Jeffers: This second package is a special provision section of the specifications for the maintenance of regulated drains in Vanderburgh County. As you will read in the Surveyor's report that you've already received, this is for specialized, specific repairs and maintenance that are done to the rest of the drains in Vanderburgh County. Same way on the page immediately following the cover. You have a list of regulated drains in Vanderburgh County under which their care and maintenance will be specified in these special provisions, because it takes a little bit different or specialized, or specific maintenance procedure. I ask that you receive those at this time, and approve them on the recommendation of the County Surveyor.

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: So ordered.

<b>Permission to Advertise Notice to Bidders for Annual Ditch Maintenance</b>
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Bill Jeffers: Okay, this is the legal notice that should appear in the paper twice. I usually have it attached to the report. That's what was being asked earlier. What I did was hand you all an original copy rather than a mimeographed, or a xeroxed copy, so that regardless of which one you signed, it is an original. I'm asking can these be advertised this Friday? Is that not—

Madelyn Grayson: Yes. As long as I get it to the Courier by 11:30 tomorrow. So, that would be fine.

Bill Jeffers: So, we're asking for it to be advertised in the Courier this Friday, and then the following Friday, and then we have two full weeks for the bidders to examine the bids and submit them to the County Auditor no later than 4:30 p.m. on March 25, 2002. That gives them an extra week. Usually they don't have quite that much time, but we have some pretty specialized stuff in here. I'm asking that you approve this Notice to Bidder, and direct the County Auditor to advertise it this Friday, and again the following Friday on the recommendation of the County Surveyor.

Commissioner Mourdock: So moved.



Commissioner Fanello: Second.

Philip Hayes: Excuse me, but you want to check the signature lines. Just first make a correction on the title behind David Mosby and behind Catherine Fanello.

Commissioner Mourdock: No, for the Drainage Board—

President Mosby: I'm President.

Philip Hayes: Well, why didn't you move in the middle. Pardon me.

Bill Jeffers: I hope I got that right. Didn't you all switch this year?

President Mosby: Yeah. It's right, yeah.

Philip Hayes: You're absolutely right. I'm the one who's wrong.

President Mosby: I've got a motion and a second. So ordered.

Bill Jeffers: I truly appreciate the diligence of your legal counselor, because he has caught several things that I haven't done correctly, and I appreciate that.

Philip Hayes: (Inaudible. Mike not on.)

Bill Jeffers: I don't enjoy a proof reader. I'm my own proof reader, and sometimes that's not the best way.

#### **Ditch Maintenance Claims**

Bill Jeffers: Okay I think we're back on to the regular agenda which includes the payment of claims from 2001. All which should be in order, signed by the County Surveyor with the necessary paperwork attached, and the recommendation of the Surveyor is that we pay these claims to the appropriate vendors.

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

Commissioner Fanello: Second.

President Mosby: So ordered.

#### **Notification of Future Approval for Permission for County Surveyor to Attend Road School**

Bill Jeffers: I didn't come into your earlier meeting, so I'll just throw this out, and talk to you about it next week. State statute now requires the County Surveyor to attend Road School.

Commissioner Fanello: Lucky you.

Bill Jeffers: Lucky me. John Stoll will not be attending this year due to other obligations. I don't know how your budget is, I know mine has nothing in it for Travel and Lodging, so I will be asking the County Commissioners if they will spot me a motel room and let me drive the county car up there with county gas in it. I think all

we have to attend, I think I'm going to go up the night before, because my attendance is required, I think, 10:30 in the morning, through the rest of the day on Wednesday.

President Mosby: (Inaudible).

Bill Jeffers: So, just asking that you look in your budget to see if you've got any money for me.

Commissioner Mourdock: You said you were going to come back next week, so in our regular meeting you will submit a—

Bill Jeffers: Yeah, I haven't filled out the paperwork yet—

Commissioner Mourdock: Sure.

Bill Jeffers: —but I didn't want to fill out the paperwork, If I had to go to County Council, I'd just hitch hike up there.

President Mosby: You're going to submit a claim then, right?

Bill Jeffers: Yes, sir. I'm going to submit—

President Mosby: A travel...yeah, just—

Bill Jeffers: —a request, and then—

President Mosby: A travel request.

Bill Jeffers: —I'll bring the claims back. However—

President Mosby: I didn't mean a claim. I just meant submit a travel request—

Bill Jeffers: Right. I just wanted to ask if there was—

President Mosby: —and we'll find the money.

Bill Jeffers: —money there before I submitted the request. I didn't want to burden anybody with a useless request.

Commissioner Fanello: Go ahead and get it in now though.

Bill Jeffers: It will be here for your next meeting.

Commissioner Mourdock: That means you can't quit. Never mind.

Bill Jeffers: Mr. Maasberg, do you have anything?

Mr. Maasberg: No. (Inaudible. Not at mike.)

<b>Encroachment Agreements</b>
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President Mosby: No encroachment agreements?

Bill Jeffers: Mr. Maasberg...not that I know of...Mr. Maasberg usually takes care of Kneer Ditch, and it drains some of his family home place and other land that they farm in Armstrong Township. That's the one where we discovered that about 300', more or less, had been agriculturally used over the years in such a way that the ditch has, more or less, disappeared. Mr. Maasberg has graciously agreed to talk with me about the most economical way to reopen that 300' without bringing in outside contractors, etcetera. He and I are going to talk about that over the next 30 days or so, and see if we can just build that into the normal maintenance. Because it only is going to require agricultural equipment to do it. He was here tonight in case that came up.

<p><b>Correspondence, Agreements or Persons Wishing to Address the Board</b></p>
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President Mosby: Any other correspondence, agreements, or persons wishing to address the board?

Commissioner Mourdock: I have one area of business. In reviewing something this week, I've determined that on Area Plan Commission—

Commissioner Fanello: (Inaudible. Mike not on.)

Commissioner Mourdock: Oh, okay.

Commissioner Fanello: (Inaudible. Mike not on.)

Commissioner Mourdock: Yeah, the County Executive appoints several members, and in one of the slots allotted to us, that person can be either the County Surveyor or a member of the County Surveyor's staff, an assignee, or the local extension agent. We have currently on the board Mr. Caplan. We have so many issues that come before us with drainage concerns at APC, that I would like to see us appoint, and I've spoken to Bill, he's willing to do that, to appoint the County Surveyor to that spot. I don't know that we can do it in this section, in this proper meeting, but if it's agreeable here, we could do that next week.

President Mosby: I was going to say, I'll do it under Board Appointments next week, or one of us can. I'm agreeable, yes.

Commissioner Mourdock: Yeah, okay.

Commissioner Fanello: That's fine with me. We don't want to talk you into anything that you don't want to do.

President Mosby: You realize that you have to split the extra pay with the three of us.

Commissioner Mourdock: That's right. Yeah, yeah. APC's one of those big one's too.

President Mosby: At the end of the year, we'll be looking for our checks and our W-2's.

Unidentified: That don't match.

President Mosby: Yeah, that don't match. If you've filed your taxes, be watching.

Bill Jeffers: Yes, sir.

President Mosby: Did you? Your W-2's are wrong.

Commissioner Fanello: You weren't in here (Inaudible. Talking over each other.)

Bill Jeffers: Oh, they are?

President Mosby: Yeah. If you done filed your taxes, they are wrong.

Bill Jeffers: Well, no, we haven't filed our taxes yet, we...this will be the first year we won't have to ask for an extension, unless this is a big problem.

President Mosby: No, no, no. It's not that big of a problem. You just have to watch (Inaudible. Talking over each other.)

Bill Jeffers: I don't own a business any longer.

Commissioner Mourdock: I'll make sure we bring that one up next week, or if you want to bring it up under Board Appointments, because I think it would be—

Bill Jeffers: I appreciate the opportunity, and I am willing to serve. I know it's not the most glamorous appointment that is made, but most office holders on the County Council, City Council, County Commissioners have served in that capacity.

Commissioner Mourdock: The more elected people we have on that board, I think, the better the board is, quite honestly.

Bill Jeffers: I appreciate the opportunity.

Commissioner Mourdock: Okay.

President Mosby: Thank you. Any other business? Any other person wishing to address the board?

Commissioner Mourdock: Motion to adjourn.

Commissioner Fanello: Second.

President Mosby: Motion and a second. So ordered.

The meeting was adjourned at 7:45 p.m.

**Those in attendance:**

David W. Mosby  
Philip Hayes  
Mr. Maasberg

Catherine Fanello  
Madelyn Grayson  
Others Unidentified

Richard E. Mourdock  
Bill Jeffers  
Members of Media

**DRAINAGE BOARD**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Richard E. Mourdock, Member**

**Recorded and Transcribed by Madelyn Grayson.**

**Vanderburgh County  
Drainage Board  
March 25, 2002**

The Vanderburgh County Drainage Board met in session this 25<sup>th</sup> day of March, 2002 at 7:10 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

**Call to Order**

President Mosby: Call to order Drainage Board of Vanderburgh County for March 25, 2002.

**Approval of Minutes**

President Mosby: Do I have a motion to approve the minutes?

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

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

**Open Ditch Bids for Regulated Drain Maintenance in  
Vanderburgh County**

President Mosby: If the County Attorney was here, we could get him to open the bids.

Commissioner Mourdock: I'll move that we direct the County Attorney (Inaudible. Mike not on.) open bids (Inaudible).

Commissioner Fanello: Second.

President Mosby: And I will make a, and I will say so ordered. So we have a motion and a second to open bids upon arrival. Do what? Did I say that right?

Commissioner Fanello: Yeah.

President Mosby: Upon his arrival.

Commissioner Fanello: You did.

President Mosby: Okay.

**Drainage Plans**

President Mosby: Drainage plans. If you can follow along with us here.

Bill Jeffers: Okay.

President Mosby: I'm lost. No.

Bill Jeffers: Under drainage plans, the first one is Leo's Place Subdivision, final plan, which I understand may have a name change, but at this time it's still Leo's Place. The County Surveyor has scrutinized this particular final plan due to some explicit concerns voiced by Area Plan board members regarding storm water drainage and sensitive terrain. On February 21, 2002, and again on March 12, 2002, our office sent detailed lists of explicit requirements for a final drainage plan for this project. Those requirements met or exceeded all the requirements for a final plan, per County Drainage Ordinance, substantially the same as for any other final drainage plan, plus all requirements found in the subdivision code regarding drainage, including the requirement for special consideration to be given hillside development, where home sites are benched into natural hills. That particular requirement is not found in the Drainage Ordinance, but is found in the subdivision code, and is applicable to hillside development, in this case. Additionally, we ask the design engineer to utilize recommended design methods found in Rule Five to determine areas subject to critical erosion problems. Okay, we were dealing with some soils out there, basically, what we did, and what that shows is 62 tan rectangles represent the homes that will be built. The green areas are subject to moderate erosion based on Rule Five methods of determination. The yellow areas are subject to severe, wait, what does it say?

Commissioner Mourdock: High.

Bill Jeffers: High erosion, and the red to severe. So, that gives the home builder, whether the developer builds each of the 62 homes, or whether he sells off lots for individuals to build homes, that will be given to every home builder to accomplish erosion control as an aid to soil conservation service in our office. That's something that we've never asked for before. We also asked the design engineer to apply pertinent recommended erosion control methods directly from the Indiana Handbook on Erosion Control in those critical areas shown on that map. Then after considering lot density, and proximity of the various bodies of water, particularly the lake, to adjacent streets and dwellings, we also required additional safety measures, like guard rail, underwater safety ledges in the lake, and flatter side slopes along the lake to protect motorists, pedestrians and homeowners. On Tuesday, March 26<sup>th</sup>, the County Surveyor had a productive meeting with the developer and the design engineer where we resolved all the issues addressed except the following; number one, the developers attorney is drafting or has drafted articles of incorporation for the homeowners association and will have those ready for recording in the County Recorder's office at the same time as the final plat will be recorded. The issue there is the homeowners association for Leo's Place eventually becomes owner of record of the lake, or most of the lake. The County Surveyor wants this particular homeowners association established in a timely fashion so that property taxes are collected from that common parcel and it doesn't wind up on tax sale. That was a concern of the previous administrations, previous County Commissioners hesitated about common ownership of lake parcels, however, this same attorney that's drafting this article of incorporation also drafted very similar articles of incorporation for Keystone, which has common areas and common lakes. So, we have done it before, but I just want it ready to go with the plat, and that's going to be resolved in very short order. Number two, the developer has agreed to the safety barriers, visa vie, what we're now calling guard rail, but he wants to install something a little more aesthetic than guard rail between the streets and the lake, and we understand that. Since the roadway along side the lake will be constructed as a part of Phase II, we're okay with the safety barrier material being it's shown as a part of the street plans for Phase II, so long as the barrier complies with all other acceptable safety standards. In other words, he may come up with something used in a national park or a more

aesthetic setting that has the same acceptable safety standards, but is not that ugly guard rail right there along side the road. That will show up in the street plans for Phase II. Number three, certain details of street construction and street drainage are being resolved as a part of the street plans. Okay, the issue there is that John Stoll still has, he's out of town and he still has some minor details that he is working out with the design engineer about grades and the location of certain inlets. The plans are sitting on the table over here and available for viewing. Mr. Easley is here to answer any questions from an engineering point of view, and the developer is here as well. There were no remonstrators for the primary plan. There were no remonstrators in Area Plan Commission with regard to anything inside the subdivision. There was one fellow there about Eickhoff Road remote from this location. Seeing no remonstrators in the audience on Leo's Place Subdivision, the County Surveyor recommends approval of the final plan for Leo's Place Subdivision, acknowledging the three considerations given above.

Commissioner Fanello: I'll make a motion to approve.

Commissioner Mourdock: Just to verify, there are no, or is no one here to discuss the plan? Seeing none, I'll second.

President Mosby: I have a motion and a second. No remonstrators present. So ordered.

Bill Jeffers: I took a little extra time on that one because there will be similar developments in hillside terrain that will come under that kind of scrutiny. I want to really thank the developer for being cooperative and working very closely with his engineer to accomplish a wonderful set of plans, that I think will serve as a guide in the future. Item 3b, Eagle Plaza, Lot 22 Replat, Final Plan. The plan is on the table for viewing. Matt Wallace from Morley and Associates is here to answer any of your questions. There were no remonstrators to the preliminary plan. The County Surveyor recommends approval of Eagle Plaza, Lot 22 Replat, Final Plan.

President Mosby: Are there any remonstrators present for Eagle Plaza, Lot 22? Seeing none.

Commissioner Mourdock: Seeing none, I'll move approval.

Commissioner Fanello: Second.

President Mosby: Motion and a second. So ordered.

Bill Jeffers: Item 3c, Eric Dodd Minor Subdivision, modified plan, modified final plan. The reason this minor subdivision drainage plan comes to the board is because it's a commercial site with a plan that modifies a previous drainage plan for Lot 5 in St. Joe Industrial Park, which the board previously approved. The plan is on the table for viewing. Steve Hahn, the design engineer, is here to answer questions. If there are any remonstrators, they should comment now, otherwise the County Surveyor recommends approval of the modified final plan now known as Eric Dodd Minor Subdivision.

President Mosby: Are there any remonstrators present for Eric Dodd Minor Subdivision?



Commissioner Mourdock: Seeing none, I do have one question though. Bill, is there, and I don't see the plan in detail, is there a detention basin on this?

Bill Jeffers: They've actually added a detention basin on this to address a problem where they couldn't get some water from one area of the lot to drain into the existing basin.

Commissioner Mourdock: Okay. I'll move approval.

Commissioner Fanello: Second.

President Mosby: Motion and a second. So ordered.

Bill Jeffers: Item 3d, Virginia Street Commercial Building at Metro Center East. This project actually covers three lots previously recorded as individual lots in three different phases of Metro Center East, which is a recorded plat with a drainage plan approved prior to the 1994 Drainage Ordinance. This final plan brings the project into compliance with the requirements for your current ordinance. The plan is on the table for viewing. Matt Wallace is here to answer questions you may have. Any remonstrators should speak now, otherwise the County Surveyor recommends approval of the final drainage plan for Metro Center East, Virginia Street Commercial Building.

President Mosby: Do we have any remonstrators present for Virginia Street Metro Center?

Commissioner Mourdock: Motion to approve.

Commissioner Fanello: Second.

President Mosby: Motion and a second. So ordered.

Bill Jeffers: Next item is U.S. Postal Facility at Dress Regional Airport. They have experienced parking lot flooding up to 2' to 3' deep at the area where the mail is delivered to the loading docks. While Federal jurisdiction supercedes local authority on this particular project, the design engineer requested the County Surveyor bring the plan to your board to show you that the use of pumps to drain this parking lot will not result in a discharge of storm water that exceeds the capacity of existing off-site drainage facilities. He does show that with his calculations that the water will be pumped at a cubic foot per second discharge that equals the 25 year storm, and will be discharged into receiving facilities that can handle it. Mr. James Hagen is the engineer from Corradino Group. He has submitted sufficient data for the County Surveyor to recommend that the board waive further submittal of drainage plans for the U.S. Postal Service at the airport. So, that's recommending to you that you use your discretionary powers to waive further submittals.

Commissioner Mourdock: So moved.

Commissioner Fanello: Oh, I'm sorry. Second.

President Mosby: So ordered.

**Permission to Advertise: Notice to Bidders:  
Repair of Barr Creek and Baehl Ditch**

Bill Jeffers: Item 4a, authorize advertisement to seek bids for additional maintenance to Barr Creek and Baehl Ditch. I assume the tape is holding out?

Madelyn Grayson: Oh, yeah. You've got 40 more minutes left.

Bill Jeffers: Okay.

President Mosby: Do we have a motion to—

Commissioner Fanello: Motion to approve.

Bill Jeffers: All those copies are original copies. I'll just sign the one that, if you want it for your record, it's there. If not, I'll sign the one that arrives down at—

President Mosby: Did you not want to second?

Commissioner Mourdock: No, I was waiting for a chance. I'll second.

President Mosby: Oh, okay.

Bill Jeffers: I'm sorry. I'm sorry.

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

**Permission to Advertise: Notice of Public Hearing  
Ordinance Establishing an Impacted Drainage Area in the  
Rapidly Developing Unincorporated Eastern Part of  
Vanderburgh County**

Bill Jeffers: Okay, item 4b, authorize notice for hearing on an impacted drainage area in eastern Vanderburgh County.

Commissioner Fanello: So moved.

Bill Jeffers: Well, let's see—

Commissioner Fanello: Did you—

Bill Jeffers: Is that (Inaudible)?

Commissioner Fanello: I don't know.

Bill Jeffers: Okay, the County Surveyor is recommending that the board hold a hearing to amend the Drainage Ordinance to designate an impacted drainage area east of Burkhardt Road, north of the Lloyd Expressway, west of the Warrick County Line, and south of Old Boonville Highway and Telephone Road. All of this area drains into East Side Urban, and in particular to a part of the drain where the capacity is limited due to piping. The design engineer for the piping project has recommended your board restrict all further, future development in the area to control release at the 10/100 rate. The declaration of an impacted drainage area

allows this additional requirement. An amendment of the ordinance is required to make the declaration. The Auditor has prepared a notice of hearing in accordance with past practice, and the Surveyor requests the board authorize publication of the notice.

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

Bill Jeffers: Here is—

President Mosby: So ordered.

Bill Jeffers: That's the legal description prepared by our office, and the language prepared by the Auditor's office, and the signature page by the Auditor. Am I off track?

#### **Ditch Maintenance Claims**

President Mosby: Okay, ditch maintenance claims.

Bill Jeffers: The County Surveyor recommends payment of the following ditch maintenance claims that can, that are in this folder.

Commissioner Mourdock: I move approval of the claims as recommended by the County Surveyor.

Commissioner Fanello: Second.

President Mosby: So ordered.

#### **Encroachment Agreements**

Bill Jeffers: I'm not aware of any encroachment agreements that have been brought to any of the offices.

#### **Receive Petitions**

Bill Jeffers: Okay, item 4e, receive petitions. The County Surveyor received a petition to the board for members of Big Creek Drainage Association on Monday, March 18, 2002. The petition asks the board to enforce the completion of the approved drainage plan for Elpers Commercial Subdivision located on Rusher Creek Drive west of U.S. 41 North, near I-164. There are two basins serving the commercial lots that are not completed, and not operating in accordance with the approved plan, resulting in uncontrolled discharge of storm water into Rexing Creek. The County Surveyor asks the board to take this petition under advisement until the County Surveyor can make a full report on the existing conditions, and offer possible remedies that may be available in accordance with the drainage code, including fines or what have you.

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: So ordered.

Bill Jeffers: (Inaudible. Stepped away from mike.) handwritten petition. Here is a copy of the petition from the members of Big Creek Drainage Association. I'm not aware of any other petitions that have come to you, for example, to remove obstructions.

#### **Report on McCutchanville Court**

Bill Jeffers: Next item, report on McCutchanville Court Subdivision. The staff at the Soil and Water Conservation District has expressed concern regarding the construction of the dam along the south line of McCutchanville Court Subdivision. Basically, SWCD is not able to suggest appropriate erosion control measures to minimize silt laden discharge from this project until the dam is constructed in accordance with the approved drainage plan. As a preliminary report, right now, the County Surveyor is submitting a copy of the letter sent by our office to the developer and some pictures taken by Soil and Water Conservation District. While this is a rather hot issue at the time, the Surveyor just asks the board to include the letter in the record of this meeting, and take the matter under consideration until you've had time to digest that letter.

Commissioner Mourdock: (Inaudible. Mike not on.)

Bill Jeffers: Yes, sir. The one I sent to Mr. Ken Fisher, the developer. It's pretty strong. If you have any questions regarding the situation before our next drainage board meeting, please contact the County Surveyor and/or contact Mike Wathen at SWCD. We are working closely with Mr. Wathen and his board to protect the affected parties in this situation.

Commissioner Mourdock: Where is the project?

Bill Jeffers: It's, the entrance to it is off of Old Petersburg Road short half a block north of Heinlein. The dam that holds the lake in there is right on the property line with a group of homes that are around the lake that have a Heinlein address, before you get down into Mr. Whetstine's development. I think after you read the letter you'll see where we are going with that, and I would just as soon have it put in the record and move on with the meeting, unless you have a question.

#### **Report on Rode Road Drainage Project Associated with Ivy Meadows**

Bill Jeffers: Item 4g, with regard to Rode Road drainage project associated with Ivy Meadows. We've discussed this before. Our survey crew, in between rain storms this past week, has collected sufficient data to determine the size and location of the drainage easement to serve as a natural surface watercourse through this private lot, which is contemplated to be donated by the current owner of record to a church, and then, subsequently, the church is going to attempt to sell the property to an adjacent property owner. While that transaction is taking place, we're going to record an easement across the property to affect better drainage of Ivy Meadows discharge. At our next meeting, we should have the complete legal description of the easement and plans that we can discuss exactly how we intend to move forward

with the project. Unless there is any questions, I'll move on to ask you are there any reports the board requires of our office?

President Mosby: Seeing none.

**Other Correspondence**

Bill Jeffers: I have no correspondence other than what I've passed to you already.

**Other Persons Wishing to Address Board**

Bill Jeffers: Under other persons wishing to address the board, I would like to say that Mr. John Bittner is here, and has expressed a desire to address the board.

John Bittner: My name is John Bittner, 17700 Owensville Road. The first picture there is just a pond flat looking west from Old Owensville Road. That was, the banks were pulled back there in 1999. Looking east, the next photo below it is the same area, and it was done in 2000. You'll notice that there is very little sluffing there. At one spot there is, and that's the problem we've overcome. I guess, I'm here to thank you, the board and the Surveyor for working with us on that. We got a bid this year for further down the creek. If you'll flip that over, I think, that's Nisbet Road looking toward the Nisbet Inn. Mr. Mourdock, you were on the, part of the County Commissioners at the time that the Kercher's agreed to give you right-of-way to move that ditch inside, towards the field at least. They've improved that, and the bottom picture there shows what the land owner continued it out to Pond Flat Ditch. So, I think that project worked well. They donated the land, by the way. I think on the next slide you have there, that's at Nisbet Road and Old Owensville Road. That's on my property there. That little circle there, that reinforcement designates a sewer pipe. That's a 24", this probably is a County Commissioners meeting material, but I would like for that to be extended. I intend to, on my property it's not on the road right-of-way, but make that into a waterway, rather than just a road ditch. That will make it about 8' wide bottom with about four to one side slopes. That will be it. A filter strip, actually, and that's part of a clean water project that I am working with with the SWCD. I would like to work with John Stoll and the county to maybe make that sewer pipe fit in a bit better there.

Commissioner Mourdock: Did you want to widen the ditch on either side of the road? (Inaudible. Mike not on.)

John Bittner: I'm going to widen the ditch into my field. I just need that pipe to come to the elevation that I need. I would donate you the land there, that little dark brown there to make that corner much wider so you could drive a semi around if you so desire. It's a waste to me, and there is no reason not to do that. So, we'll, basically, continue from that road ditch into our field, about 8', and then a four to one side slope. At that junction, the pipe drops in about 2' higher than the elevation should be.

Commissioner Mourdock: (Inaudible. Mike not on.)

John Bittner: Right.

Commissioner Mourdock: (Inaudible. Mike not on.)

John Bittner: Exactly. I'll talk to what, John Stoll?

President Mosby: Yeah.

John Bittner: The other picture there is, pertains to that petition that we signed on the back side there. That's, what that little round circle is, is basically an attempt to have a detention basin, but it's not completed. You could drive a bobcat through the opening there. It drains out, and that was after a , oh, 1 ½" or 2" rain, and didn't retain anything. So, thank you.

Commissioner Mourdock: (Inaudible. Mike not on.)

Bill Jeffers: Over a period of time, yes.

John Bittner: Yeah, it's just a hole through there now.

Bill Jeffers: Then, what you're looking at is supposed to be, according to the ordinance, a well, a grassy basin, not a standing body of water. A dry bottom basin, with a controlled outlet structure all maintained basically as a grassy lawn would be maintained. You can see how it's being maintained, it discharges all the storm water from about ten acres of commercial ground directly into a ditch, regulated drain, uncontrolled. So, it's a legitimate concern to see that that be completed. I guess, Dave and I can go down to the loading dock while we're waiting for the opening of the bids.

Philip Hayes: Maybe, maybe not.

Bill Jeffers: Are you finished?

Madelyn Grayson: No, not at all.

Bill Jeffers: Okay. You all know Bill Pedtke from the Homebuilders Association is here. Eldon Maasberg is the new President of the Big Creek Drainage Association. Congratulations to Mr. Maasberg.

President Mosby: Congratulations.

Bill Jeffers: Mr. Naas is one of our bidders. He's here to see how well he estimated the job.

Unidentified: (Inaudible. Not at mike.)

Bill Jeffers: Oh, that's right. Mr. Maasberg is also a bidder on a couple of the ditches out there.

President Mosby: So—

Commissioner Mourdock: Seriously, (Inaudible. Mike not on.) If you are president of the association, Mr. Maasberg (Inaudible) if you haven't done so, probably need to file in the Clerk's office a (Inaudible). It doesn't prohibit you from bidding, but you need something in public record that as an officer of that entity, which is also an entity that (Inaudible). Don't panic, just (Inaudible).

Bill Jeffers: Well, I don't think any of the ditches he bids on are maintained by Big Creek.

Commissioner Mourdock: Even so, I would advise you to do that.

Bill Jeffers: But it would be well advised.

Commissioner Mourdock: It doesn't (Inaudible. Mike not on.) anything to do (Inaudible) certain things, and then that protects you (Inaudible).

Unidentified: (Inaudible. Not at mike.)

Commissioner Mourdock: Just go to the County Clerk's office, second floor, over here in the other building.

Unidentified: (Inaudible. Not at mike.)

<b>Discussion of Special Meeting to Award Ditch Bids</b>
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Bill Jeffers: While we're waiting for the bids to finish being opened, after the bids are opened, the County Surveyor needs two full weeks to work over the bids, and with road school tomorrow and the following day, returning plus the holiday on Friday, April 8<sup>th</sup> is too soon for us to go over all the bids and come back to you with a recommendation. Looking at the next week, if the board feels that April 15<sup>th</sup> is not appropriate, due to your rezonings, you could just adjourn this meeting, after the bids are read into the minutes, and then come back and award the contracts at your regular board meeting on April 22<sup>nd</sup>. Because you are having that a week early due to Memorial, or something. There is some reason.

President Mosby: I'm not sure.

Bill Jeffers: Memorial Day Monday, or, that's in May isn't it?

President Mosby: What's April 29<sup>th</sup>? Does it say on the calendar?

Bill Jeffers: Maybe there's five. Are there five Mondays in April?

Commissioner Fanello: Yes.

President Mosby: Well, go to April.

Commissioner Mourdock: Is it because of the Primary?

Bill Jeffers: No, there's five Mondays in April. That's the reason.

Commissioner Fanello: Yeah, there's five Mondays.

Bill Jeffers: Okay, so, I guess, what I'm saying is if you don't want to mess with me on April 15<sup>th</sup> with all these contracts to award—

Commissioner Mourdock: I'm going to be a surly mood April 15<sup>th</sup> anyway. I always am, and we don't (Inaudible. Mike not on.)

Commissioner Fanello: Yeah, I will be too.

Madelyn Grayson: Rezoning is April 15<sup>th</sup> too.

Bill Jeffers: I've always filed extensions. I don't understand.

President Mosby: We'll just do it on April 22<sup>nd</sup>.

Bill Jeffers: Okay. So, after they read these into the minutes then, just adjourn this meeting, or order me to take them under advisement for a period of approximately 20 something days, and then bring them back to you on April 22<sup>nd</sup> with recommendations to award the bids at that time. That will do away with having to suspend the meeting until a blah, blah, blah, and doing all that.

Commissioner Mourdock: If you want to do it on the 15<sup>th</sup>, we only have one zoning.

Bill Jeffers: If you'd rather do it on the 22<sup>nd</sup>—

President Mosby: It don't matter to me.

Commissioner Mourdock: It doesn't matter to me either.

Bill Jeffers: Nobody is really going to start working on the ditches until May 15<sup>th</sup>.

Madelyn Grayson: Are you saying having the Drainage Board meeting on the 15<sup>th</sup>, instead of the following week?

Bill Jeffers: Uh-huh. If they want to, just to get this out of the way.

Madelyn Grayson: I just wanted to know, do I need to do any advertising or anything?

Bill Jeffers: You wouldn't have to advertise it if they—

Madelyn Grayson: Talk about it.

Bill Jeffers: —that's why I brought it up, you wouldn't have to advertise it, unless they adjourn. Because under 36-9-27-7(e), you can adjourn from this day to a certain day to complete unfinished business without notice. If you want to go ahead and just wait until the 22<sup>nd</sup>, that's fine with me.

President Mosby: We're going to call for just a short recess here until they get these opened so that the Recording Secretary can turn the tape off for a minute. We will stand in recess.

(The meeting was recessed and tape was turned off until the ditch maintenance bids could finish being opened.)

<b>Reading 2002 Ditch Maintenance Bids into the Record</b>
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President Mosby: We're back on the record for the Vanderburgh County Drainage Board meeting, March 25, 2002. We will now attempt to read into the record all the ditch bids.



Philip Hayes: These are ditch bids opened at Vanderburgh County Drainage Board meeting, March 25, 2002. I will read those by bidder, by the ditch location and by the amount.

<b>BIDDER</b>	<b>DITCH</b>	<b>AMOUNT</b>
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	\$367.50
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 (Sterilization)	\$322.20
Shideler Spray Service	Eastside Urban South Half	\$1,168.95
Shideler Spray Service	Sonntag Stevens Sterilize Ditch Bottoms	\$770.76
Shideler Spray Service	Harper (Sterilize)	\$212.40
Shideler Spray Service	Sonntag Stevens Broadleaf Herbicide	\$170.00
Shideler Spray Service	Eastside Urban South Half Broadleaf Herbicide	\$1,571.45
Shideler Spray Service	Eagle Slough (Broadleaf)	\$3,094.12
Downin's Green Grow #1	Sonntag Stevens (Sterilize Ditch Bottoms)	\$963.45
Downin's Green Grow #2	Sonntag Stevens (Broadleaf Herbicide)	\$258.40
Downin's Green Grow	Kolb (Sterilize)	\$402.75
Downin's Green Grow	Keil (Sterilize)	\$271.08
Downin's Green Grow	Eagle Slough (Broadleaf)	\$2,283.04

Downin's Green Grow	Eastside Urban Drain South Half- Broadleaf	\$2,388.60
Downin's Green Grow	Eastside Urban South Half Sterilizing	\$2,104.11
Downin's Green Grow	Harper (Sterilize)	\$265.50
Terry R. Johnson	Aiken-mowing only	\$1,026.95
Terry R. Johnson	Harper-mowing only	\$1,709.53
Terry R. Johnson	Keil-mowing only	\$1,745.45
Terry R. Johnson	Kolb-mowing only	\$1,329.08
Terry R. Johnson	Sonntag-Stevens- mowing only (Spring waterway)	\$2,596.86
Terry R. Johnson	East Side Urban-mowing only (North Half)	\$13,098.74
Terry R. Johnson	Henry-mowing only	\$1,970.98
Eldon Maasberg	Wallenmeyer	\$1,253.25
Eldon Maasberg	Maasberg	\$198.54
Eldon Maasberg	Baehl	\$1,033.50
Eldon Maasberg	Kneer	\$455.40
Naas & Sons, Inc.	Eagle Slough	\$15,921.20
Naas & Sons, Inc.	Kolb (Erosion Repair)	\$8,018.00
Naas & Sons, Inc.	Pond Flat Main (Silt Dipping & Bank Reshaping- Both sides)	\$17,066.50
Naas & Sons, Inc.	Aiken (I- 164 to Gr. River)	\$20,403.50
Bigge	Aiken (Mowing)	\$6,387.50
Bigge	Eagle Slough	\$18,024.00
Bigge	Eagle Slough (Drain Crossings: 6 side drains)	\$2,000 each

Philip Hayes: No check or bond enclosed with bid.

Bill Jeffers: For any of it?

Philip Hayes: None, on that—

Bill Jeffers: On that item?

Philip Hayes: Make the record clear, yeah, for Eagle Slough drain crossings. Quoted, literally, \$2,000 each, explaining six side drains. There were no checks, nor bonds enclosed.

Terry R. Johnson	East Side Urban South Half-mowing only	\$1,005.68
Big Creek Drainage Assn.	Rexing	\$2,051.52
Big Creek Drainage Assn.	Buente Upper Big Creek	\$3,837.05
Big Creek Drainage Assn.	Maidlow	\$2,613.94
DG Construction	Eagle Slough	\$15,020.00
DG Construction	Kolb (Erosion Repair)	\$9,500.00
DG Construction	Pond Flat (Silt Dipping & Reshaping)	\$13,910.00
Darrick Construction	Aiken (Fall Mow)	\$914.15
Darrick Construction	Aiken (Spring Mow)	\$914.15
Darrick Construction	Aiken (I-164 to Gr. River)	\$10,092.25
Darrick Construction	East Side Urban (North Half) (Fall Mow)	\$12,285.35
Darrick Construction	East Side Urban (South Half) (Spring & Fall)	\$899.25
Darrick Construction	Harper	\$1,699.20
Darrick Construction	Keil	\$1,694.25
Darrick Construction	Kolb	\$1,201.09
Darrick Construction	Sonntag-Stevens (Spring)	\$2,404.50
Darrick Construction	Sonntag-Stevens (Fall)	\$6,080.44
Accurate Underground Utilities	Kolb (Erosion Repair)	\$12,287.00 (Bond)
Accurate Underground Utilities	Pond Flat Main (Both Banks)	\$27,820.00 (Bond)
Jim & Sandy Marvel	Pond Flat Main (Both Banks)	\$7,383.00
Jim & Sandy Marvel	Aiken (from I-164 to Gr. River)	\$3,102.50
Jim & Sandy Marvel	Eagle Slough	\$14,719.60
Jim & Sandy Marvel	Kolb	\$6,207.00
Ray Stradtner Excavating	Kolb (Repair)	\$10,150.00 (Bond)

Ray Stradtner Excavating	Pond Flat Main (Both Banks)	\$19,527.00 (Bond)
M. Woodward Backhoe Svc.	Kolb (Erosion)	\$17,420.00 (Bond)

Philip Hayes: For the record, with the single exception noted, all other bids were supported by checks.

Commissioner Mourdock: I'll move we take—

Philip Hayes: That ends the (Inaudible. Talking over each other.)

Commissioner Mourdock: —the bids under advisement for review by the County Surveyor.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second to take bids under advisement. So ordered.

Commissioner Mourdock: The County Surveyor will report back to us on the 22<sup>nd</sup> of April.

**(Tape Flipped to Side B)**

President Mosby: With all that in mind—

Commissioner Mourdock: Motion to adjourn.

Commissioner Fanello: Second.

President Mosby: Chair entertains a motion to adjourn and a second. So ordered.

The meeting was adjourned at 8:30 p.m.

**Those in attendance:**

David W. Mosby	Catherine Fanello	Richard E. Mourdock
Philip Hayes	Bill Jeffers	Madelyn Grayson
John Bittner	Others Unidentified	Members of Media

**VANDEBURGH COUNTY  
DRAINAGE BOARD**

\_\_\_\_\_  
**David W. Mosby, President**

\_\_\_\_\_

**Catherine Fanello, Vice President**

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**Richard E. Mourdock, Member**

**Recorded and Transcribed by Madelyn Grayson.**

**Vanderburgh County  
Drainage Board  
April 22, 2002**

The Vanderburgh County Drainage Board met in session this 22<sup>nd</sup> day of April, 2002 at 7:03 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

<b>Approval of Minutes</b>
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Commissioner Fanello: Approval of minutes of the previous meeting?

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

Commissioner Fanello: I'll say second, and so ordered.

<b>Public Hearing of Impacted Drainage Area in the Rapidly Urbanizing Unincorporated Eastern Vanderburgh County</b>
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Commissioner Fanello: Drainage plans. Is that where we're moving to next, Bill?

Commissioner Mourdock: While Bill is looking, and just before we get started, I know Dave Mosby will be joining us in a minute, but the issues here that we'll talk about are strictly drainage issues. So, if you come to the microphone, please stick to the issue of drainage. It doesn't involve roads and traffic and all those things. As you can see, there are a number of people who will wish to be speaking tonight, so please don't repeat the information that others may have already presented. We are only lowly officials, but we really do get it the first time. We don't need to hear it three or four times, so.

Madelyn Grayson: There is a speaker sheet being circulated for people that only intend to speak.

Commissioner Fanello: Then I'll turn it back over to our President of Drainage.

President Mosby: Where are we at here?

Bill Jeffers: Bill Jeffers, Vanderburgh County Surveyor, and technical advisor to the Drainage Board. First order of business, you'll notice on your amended agenda, we have a public hearing that was advertised for the establishment by ordinance of an impacted drainage area in the rapidly urbanizing unincorporated eastern portion of Vanderburgh County. This ordinance was prepared by Mr. Phil Hayes, from Hayes Law Offices. It was modeled after an identical ordinance, which designated the north 41 corridor impacted drainage area. It basically provides for a hearing today, in front of the Drainage Board, as the first public hearing for this. If you'll turn to the first page, you'll see the notice that was published in the paper, describing the area east of Burkhardt Road, south of Boonville Highway, and south of Telephone Road, west of the county line, the Warrick county line, and north of Russell Lloyd Expressway. So, that's basically the urban area that is rapidly developing as commercial or R-3, R-4 apartments. We don't anticipate any residential or single family dwellings in that area. Right now it includes Wal-Mart complex, Sam's, some apartment projects, Cross Pointe, the new eastern industrial park, and some other rapidly developing commercial parks, Burkhardt Crossings. The reason for this is to, let me get the drainage ordinance, the county's storm water control ordinance from 1994 defines impacted drainage area, basically, unlikely to be easily drained because of one or more factors, including but not limited to; a history of flooding, soil

type, topography, land use, lack of adequate drainage outlet, location in the flood plain, or location within 75' either side of a regulated drain. What we have is an area that is drained by Crawford Brandeis Ditch, which as it ran along the east side of Burkhardt Road was piped to accommodate commercial, heavy commercial development. At the time it was piped, you had a contract deputy for the drainage board, and consulting, who was a consulting firm for the widening of Burkhardt Road. They recommended that you limit your storm water drainage to a 10/100 discharge, that being described in the body of this proposed ordinance on page number four of the fax. That would be a drainage rate limited to a post development controlled peak release rate of a storm run off during a 100 year storm to a rate equal or less than the peak run off during the ten year storm from the same area prior to it's development. This has been distributed, and like I say, it's the first reading. All of the final dates are left blank in the body of this ordinance, and will be filled in at the appropriate time. One question that came up from Mr. Morley, representing one of his clients, is the brief paragraph, the one sentence paragraph immediately following what I just read on page four; projects exempted from the requirement of this section include projects which have had final drainage plan approval prior to June blank 2002. That blank will be filled in by the appropriate date of final passage by the County Commissioners, if it should pass. What's meant by projects is subdivisions or other projects which have had final drainage plan approval by the drainage board, prior to the effective date. By final drainage plan approval, we intend to include strictly final drainage plan approval. If, for some reason, the concern is that, if for some reason, say, for example, Virginia Street or Columbia Street were extended through an existing project that already had final plan approval, and that extension necessitated moving some pipes, and redesigning some ponds, that wouldn't automatically cause them to have to go to 10/100 storage, because that was already an approved, constructed facility. We understand this sentence here to grandfather in and exempt something in that case, even though we would require modified plans to show what they are changing. It wouldn't automatically kick them into a higher category. Like I said, this is basically a blank document that now has to move forward through the Drainage Board. Just like the drainage ordinance did itself, and move into County Commissioners hearing, because only the County Commissioners can adopt or amend an ordinance. This follows the model that was used by Joe Harrison, Jr. when the other impacted drainage area was declared in 1999. You may wish to ask for other comments from the audience, if there are any.

Commissioner Mourdock: Just for the record, is there anyone here wishing to discuss the new impacted drainage area? For the record, no one rushed to the microphone. Maybe one did, Mr. Morley.

Jim Morley, Sr: I'm very happy with Bill's explanation. A little concerned about whether or not his explanation would then always be interpreted that way for this, or whether or not we might want to tweak that one sentence in the ordinance. I, you know, I'm asking a legal question that I don't fully understand here, but, you know, what Bill's interpretation is exactly what I—

Commissioner Mourdock: Maybe I misunderstood. I thought what Bill was saying is that you had already tweaked this language to make sure that anything might be grandfathered in.

Jim Morley, Sr: No. No. We have not, so I wonder if we shouldn't do that. His explanation is just fine. You know, that's fine, but if we need to modify that sentence

to cover the replatting or, you know, things that would affect an already approved final drainage plan.

Commissioner Mourdock: Would we be better, Kevin, to just reference that? Instead of with a specific date have something like projects exempted from requirements of this section include projects which have had final drainage plan approval prior to final approval of this declaration of impacted drainage area?

Kevin Winternheimer: Bill, do you have any problem with that?

Bill Jeffers: I'm sorry, I wasn't clear on that. This is, actually, exactly the language that was adopted for the north 41 impacted drainage area. What Mr. Morley is pointing out, is, that project is defined in the drainage ordinance, and final drainage plan approval is defined in the drainage ordinance, so we thought that this language was okay. Let's see, what they are concerned about is that, in the future, will it be understood? Because nowadays we require modified, final drainage plans. Do you know what I'm saying? Somebody comes back with a modified, final drainage plan, usually, that's just a significant modification of a previously approved final drainage plan to show new pipes, bridges, modifications of an existing detention basin, or whatever. He's looking, Mr. Morley and his clients, are looking for language to guarantee that that modification wouldn't automatically kick this back to some point prior to, what I understand as, final drainage plan approval. In all fairness to our new legal counsel, if the, since this is, probably, the first time he's seen this document, or I know he's had experience with Board of Public Works, which is the Drainage Board for the city, but if this needs tweaking, can it be done between now and the final hearing of this before the County Commissioners when they adopt this?

Kevin Winternheimer: Yes, it could be amended. If it needs to be, and they so choose.

Commissioner Mourdock: Uh-huh.

Bill Jeffers: I feel it just needs to be clarified, so that we all understand the reality of this. That a final drainage plan is a final drainage plan. Anything that follows is a modified, final.

Commissioner Mourdock: Uh-huh.

Bill Jeffers: The final drainage plan is defined and outlined in the body of the ordinance itself, and that's where the requirement for detention would remain.

Commissioner Mourdock: So, it may be appropriate, and, again, this is just rough language, but it may be appropriate to have something like the sentence you have here, and then after that date—

Bill Jeffers: A little bit more—

Commissioner Mourdock: —yeah, excepting, however, modifications to final drainage plans may be approved. Or would not, modifications—

Bill Jeffers: Would not, yeah—

Commissioner Mourdock: —to the final drainage plans may be approved, and would not require adhering to the—



Bill Jeffers: Right.

Commissioner Mourdock: –rules of the impacted drainage area.

Bill Jeffers: Some sort of wording that would make it very clear, legal language that a modification would not affect their grandfather status–

Commissioner Mourdock: Okay.

Bill Jeffers: –of a previously approved final drainage plan.

Commissioner Mourdock: Okay.

Bill Jeffers: I think that's what they are after, and I understood it that way, but there are people that want it clearly–

Commissioner Mourdock: Right.

Bill Jeffers: –understood, I mean, way into the future.

Commissioner Mourdock: Let me do two things. Number one, I will move that we direct the County Attorney to work with the County Surveyor to come up with language to clarify that provision.

Commissioner Fanello: Second.

President Mosby: So ordered.

Commissioner Mourdock: And then I would move approval on, well, we can't do that, that County Commissioners, but I would move that the Drainage Board forward this to the County Commissioners for approval on first reading.

Commissioner Fanello: Second.

President Mosby: So ordered.

Bill Jeffers: Thank you.<sup>1</sup>

<b>Drainage Plans</b>
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Bill Jeffers: Under our next order of business, drainage plans. There had been some requests, due to family commitments, urgent family commitments, that we rearrange the drainage plans. Seeing that most of the comments will be made regarding Highland Pointe, we would like to move Fenway Park and St. Charles Court, Cove up. We'll take Fenway Park first, unless there is an objection. Fenway Park is on the north side of Baseline Road, east of Boyle's Lane, very near U.S. 41. This is the preliminary plan for Fenway Park, available for viewing by interested parties. The developer and his engineer are in the audience. The drainage plan has been reviewed. There have been additional requirements for content regarding safety in

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<sup>1</sup>To be approved by County Commissioners on 1<sup>st</sup> reading 5/13/02. Final reading set for 5/20/02.

a densely populated, or densely planned populated subdivision with a lake. The content of the drainage plan is substantially in accordance with the drainage ordinance and the Surveyor, the County Surveyor's recommendation is to approve the preliminary drainage plan for Fenway Park.

President Mosby: Any questions? Anybody in the audience want to speak on Fenway Park?

Commissioner Mourdock: Pursuant to the approval, oh, I'm sorry, I didn't see you come up, sir.

Kent Rexing: Kent Rexing, 20118 Highway 41 North. I just would like to ask Bill is there some retention going to be put in? You know, you were talking about that high impacted area.

Bill Jeffers: Right.

Kent Rexing: We farm, we're adjoining land owners, we're family.

Bill Jeffers: The Rexing's adjoin, with agricultural ground there, adjoining to the north, on the north side of Pond Flat A. Pond Flat A is a regulated drain in Vanderburgh County beginning at Boyle's Lane. This subdivision does not adjoin the regulated portion, but it is immediately upstream of the regulated portion of Pond Flat A. Excuse me, Fenway Park is planned to be in the north 41 impacted drainage area, and will have the 10/100 storage and discharge restrictions put on it. The engineer is here to explain any technicalities of it. I think it may even exceed the 10/100, because they are going to move a substantial amount of dirt from their detention basin. I think it's over designed, but it will at least meet, or exceed the requirements for the 10/100 impacted drainage area rate.

Kent Rexing: I just was kind of asking for an explanation.

Bill Jeffers: Sure. Here's the plan, if you would like to look at it. Here are the parties that designed it.

Commissioner Mourdock: You were recommending on this, Bill, I'm sorry, that it be approved on preliminary?

Bill Jeffers: Preliminary, yes, sir. This is the first time it's been here, and it's going to APC in May.

Commissioner Mourdock: Okay. I'll move approval on preliminary.

Commissioner Fanello: Second.

President Mosby: A motion and a second. So ordered.

Bill Jeffers: The second one we will take tonight is St. Charles Cove, Section Two. This is on the west side of Petersburg Road, south of Boonville New-Harmony Road, in what's known as Earl, Indiana. Kind of catty corner to the southwest from the Hornet's Nest. This is actually a modified, final drainage plan that had full approval by the Drainage Board a little over a year ago, and had full approval by Area Plan Commission. They have made some modifications to increase lot coverage. In other words, make the houses a little bit larger. They had to go before Zoning

Appeals to do that, and come back to us with a modified, final drainage plan. We did attach some additional requirements for erosion control, and some requests for more details, in accordance with the Indiana Handbook on Erosion Control, as we have lately, in the past 18 months or so. Those are included, and all the requirements for a final drainage plan are met, or exceeded. The County Surveyor recommends approval of St. Charles Cove, Section Two, modified, final drainage plan. Not knowing whether there is any remonstrators in the audience, you may wish to ask.

President Mosby: Any questions by the Commissioners? Anybody in the audience that would like to speak to St. Charles Cove, Section Two? Seeing none.

Commissioner Mourdock: Seeing none, I will move approval for the modified, final plan.

Commissioner Fanello: Second.

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

Bill Jeffers: Third order, or third drainage plan is Highland Pointe, preliminary drainage plan. Highland Pointe is a project proposed on the south side of Mohr Road, west of Darmstadt Road, and east of the CSX rail line. This has been to Drainage Board as a preliminary, and was approved. It's been to the Drainage Board, or it then went to Area Plan Commission, and for various reasons was continued to May, and is coming back to us as a preliminary drainage plan once again. The first time it was here, it substantially met all the requirements for a preliminary drainage plan. Subsequently, there were several concerns expressed by adjacent property owners, folks in the community, the existing communities around the proposed new community. Area Plan board members and other members of technical staff asked several questions, and expressed several concerns. The County Surveyor researched the entire drainage ordinance, and clarified anything that may not have been clearly asked the first time around. I sent them a list of about 30 items to respond to. Some of those items also included anything I could find in the subdivision code with regard to a drainage plan, whether it was a preliminary or a final. What that amounted to was that Vanderburgh County Subdivision Code does contain a specific clause that states, and this is a paraphrasing, but the source is Vanderburgh County Subdivision Code, Section 16.12.070(c); hillside development requires special consideration with regard to lot size and slope stability, to protect downhill areas from landslides and erosion of unstable soil, particularly where building sites are benched into the hillsides. Well, in the case of Highland Pointe, it's proposed to bench several building sites into the hillsides. We've discussed that at previous Drainage Board meetings. So, I asked for a number of specific, detailed depictions and descriptions of anything I could think of that would be applicable to stabilizing benched hillsides, to protect the downhill areas from landslides and erosion of unstable soil, once they get started. The reply to those several questions are included here in this packet by several exhibits prepared by Morley and Associates to show how they intend to address each and every issue that I set out in this memo. I looked in the state statute for Area Plan Commission, and found that there was one reference to drainage in there that was applicable. The source of that is Indiana Code 36-7-4-702 (d)V. What I did was, in consideration for the content and extent of remonstrance that was given regarding drainage, both at the Drainage Board meeting and at, at least, one Area Plan Commission meeting, by members of the audience, and by Area Plan Commission members, their concerns in reaction to those remonstrators, that

particular citation I gave allows a special requirement to be attached to the approval of a primary plat in Area Plan Commission itself, by a board member. So, I thought of anything that was related to any comment. I went through the minutes of both meetings. I found all the comments that were made, and I asked another series of questions of the design engineer, and they amount to about 15-29, so another 14 specific questions. Most of those are regarding flood way, finished floor elevations, height of the 100 year flood, capacity of the stream, receiving stream to take the run off from this proposed new subdivision, the location of the flood way, exactly as determined by Indiana Department of Natural Resources, what effect filling of the flood plain would have on the flood way, insurance that it wouldn't raise the 100 year flood greater than .15', which is about 2", which is the allowable increase, according to Indiana Department of Natural Resources, the height of the dam, offsite dam, the exact ability of the offsite dam to handle the 100 year event. That's the little pond that is upstream of some houses that are proposed. The width of the water that will be traveling through all the various waterways that they are designing after construction of all the houses. What the width of the waterway, or the water in the waterway would be during a 100 year storm. Asked for a safety bench in the lake, because of the density of the houses around the lake, that if someone were using the lake for recreational purposes, there would be a safety ledge, in case someone fell in the lake, to regain their footing in the shallow portion of the lake. So, all the different issues that were brought up in either Area Plan Commission or in your last Drainage Board meeting, where this appeared, I addressed those with specific requests to Morley and Associates to exactly respond to the concerns. They did. So, I know there are some remonstrators here today, and to cut myself short on this, I will just say, you know, listen to what they have to say, and if anything that they have to say pertains to one of these points that was addressed to Morley and Associates, the answer is here. If they come up with something new that we haven't discussed, that will have to be addressed at final drainage plan hearing. I think I have truly addressed everything that has come up thus far, and only would await surprising development at this time. Of course, they are here to speak. Morley and Associates is represented. The developers of the proposed residential subdivision are here to answer questions as well.

Commissioner Fanello: Madelyn, do you want to pass that down? Is that the sign in sheet?

Commissioner Mourdock: So that we can keep this moving, Bill, and, again, there are a lot of folks in the room. Would you politely interrupt as speakers start, and connect them to the bullet points you were just referring to. Since I don't have a copy of the letter, I would otherwise do it, but if they're making reference to a point, and it's been addressed by Mr. Morley, one way or the other, would you just, like I say, politely interrupt and let us know what the answer is at that point. To that question.

Bill Jeffers: We could make some copies to make sure. I'm sorry I didn't come prepared. We, I don't know if you noticed, but it rained yesterday, and I've been on the phone all day. We can go ahead while your secretary makes those copies.

President Mosby: While we're making copies here, is everybody on this paper wanting to speak? Is there anybody that signed this that don't want to speak? It will save time here if I can check the names off of the ones. Briefly, I will run through them, and I will watch for your hand. If you want to speak, just raise your hand and say yes or no. New Tech Construction? You want to speak?

Unidentified: (Inaudible. Not at mike.)

President Mosby: Oh, it is.

Commissioner Mourdock: Another issue.

President Mosby: So, you don't want to—

Bill Jeffers: Another agenda item.

President Mosby: You're on the agenda later. Jim Morley? You are going to speak.

Jim Morley, Sr: I'll respond, if necessary.

President Mosby: Jim Morley, Jr.? Joe Kipling?

Unidentified: It's Jon.

President Mosby: Jon.

Jon Kipling: I'll wait.

President Mosby: Okay, you'll—

Jon Kipling: I'll wait for a response.

President Mosby: But you do want to speak though? Okay. Tom Norton?

Tom Norton: Probably more to ask questions than to speak.

President Mosby: Okay. Richard Moll? You do want to speak? Okay. Lisa Adler? Okay. Randy Hicks? You don't? Okay. Ric Grant? No. Miley Thomas?

Mike Thomas: Mike.

President Mosby: Mike Thomas, okay.

Mike Thomas: Yes, sir.

President Mosby: You do want to speak? Okay. Kevin Snodgrass?

Kevin Snodgrass: Yes, sir.

President Mosby: Okay. James Clouse? No? Okay. Kent Renny? Did I pronounce that right, I hope? Or Rexing, I'm sorry. Kent Rexing.

Unidentified: He left already.

President Mosby: He left, that was the other...Jeff Hatfield?

Commissioner Mourdock: Jeff left.

President Mosby: He's left? Okay. Jim Farney, he's gone. Keith Roff? John Elpers? Okay. So, we don't have—

Commissioner Mourdock: There's a second page.

President Mosby: I'm sorry, Jerry Claytor, Claytor. I'm sorry, Jerry Taylor? No? Okay. It's Jerry C. Taylor, okay. With that, I will let Richard Moll start.

Richard Moll: Richard Moll, 1305 Mohr Road. The things that I have are just some pictures that I would like to just pass and let the Commissioners review. The incidents, the incident that happened again was just yesterday, and the pictures are from yesterday. Bill, this is one question of you, was yesterday a five year, ten year, 50 year, 100 year rain? I was curious as to where that falls, because we addressed that before in one of the other meetings. So, just the amount of rain that we've had, I'm curious as to where that falls in as far as the drainage in this area.

Bill Jeffers: Yesterday wasn't anywhere near what happened on June 9, 1996, which exceeded a 100 year storm, but before I could accurately tell you where it falls, 25 year storm, 10 year storm, what it was, we would have to get the data from the National Weather Service to tell us how many inches fell at the airport in how many minutes, and plot that out on a chart. I would estimate it was probably somewhere in the neighborhood of a 25 year return period storm or less. I doubt, very seriously, it came anywhere near being a 100 year storm. That's just guessing. The other thing, sometimes, and it was very apparent yesterday, the north side got hit harder than the east side. So, what happened in 1996 we can really document, because the worst affected area, or the most heavily affected area was around the airport, and that's where the rain gauge is. It's very possible that in the valley where Highland Pointe is proposed to be built, could have had slightly more rain than the airport did yesterday. So, then we go out and we consult people's rain gauges, and if we can get two or three rain gauges to match up reasonably within a square mile area, we would be able to tell whether the two, those were kind of like two combined thunder cells yesterday, and we could tell whether, together, they amounted to a 25 year storm or what. But we would have to have more data to do that. I couldn't tell you at this time.

President Mosby: Okay. Lisa Adler.

Lisa Adler: I'm Lisa Adler. I live at 1737 Mohr Road. I don't really have a lot to say, but one of those pictures, we live right next to that creek and the railroad tunnel down there. One of them pictures shows how it's just flooded in our field, and I just, I just can't see how doing what they are going to do is going to make it anything but worse. I just, because I see that creek gets so full all the time, I just don't know how it's going to get anything but worse.

President Mosby: And that's something...okay.

Bill Jeffers: Okay, in a, briefly, in response to Ms. Adler's comment, we asked Morley and Associates, number 23 on the white page from the Surveyor's office, question number, or point number 23, depict the exact location in extent of the flood way determined by independent study for the proposed, no a reconstructed, minor tributary that will be draining the new project.

Commissioner Mourdock: Is that to say it is the unnamed minor tributary that runs from south, no, from north to south across this property?

Bill Jeffers: It runs from east to west across this property. It starts—

Commissioner Mourdock: Does it start right along the road? Or further out into the—

Bill Jeffers: It's out in the very middle. It's where the lake will be located.

Commissioner Mourdock: Okay. Alright.

Bill Jeffers: So, what we are trying to do there, is you're draining a 240 acre watershed, 68 acres of which is this particular subdivision. The rest of it is pretty much upstream of this subdivision. That water coming out of the existing home sites and properties outside this project, then passing through this project from the east edge to the west edge and attempting to go under the railroad track. The reason I asked for this information was because on the staff field report that will go to Area Plan Commission, the Vanderburgh County Building Commissioner asked for this same thing. In other words, it was spurred by technical staff question. They want to see a 100 year flood study done on this tributary to find out exactly what will happen after all this ground is filled to 2' above the flood plain. They want to make sure that 2' above the flood plain is governed by this minor tributary's ability to continue to drain that ground without flooding those homes.

Commissioner Mourdock: And do you have that information?

Bill Jeffers: We don't have that yet. That will be...the response to that was they are working on that, and that will be a part of the final planning. In other words, Roger Lehman asked for it, and it will become available. Am I correct in that? Also in regard to Ms. Adler's question, depict and describe the depth and the width of the flood water anticipated to cover Mohr Road during the 100 year rainfall event right now, before the development of the project. The answer to that was, that according to Indiana Department of Natural Resources, who assigned the flood way, the 100 year rainfall event will not inundate Mohr Road. They show that on an exhibit over here, I believe, it's 401.8' above sea level, and the road surface is around 402 to 403. So, Mohr Road should not be inundated by a 100 year flood before this project occurs, according to the Department of Natural Resources. I asked them, again, as I explained earlier, I asked them to show proof that after filling all this ground to accomplish the placement of 270 houses, more or less, that that fill, that the effect of that fill would not raise the 100 year flood plain greater than 2", as required by law. According to the DNR study, which is included in the preliminary drainage plan, the Indiana Department of Natural Resources says that the flood way that they have assigned, as shown on the plan, will accommodate the 100 year flow, without raising that elevation greater than 2".

Commissioner Mourdock: Do they have any basis to give you what the level of inundation would be in a 25 year event?

Bill Jeffers: They probably have that capability, but they don't necessarily share that information with us. In other words, when the Corp of Engineers puts out their flood plain studies they show you the 10, 25, 50 and 100 year elevations. DNR doesn't necessarily share that information, although, I'm sure they have the capability, using the same hydro graphs they used to determine the 100 year event.

President Mosby: I have a question here.

Unidentified: I do have one question, and that is—

Commissioner Mourdock: Come to the mike please.

Richard Moll: Again, Richard Moll, 1305 Mohr Road. Bill, yesterday's event came within, probably, 6" to 12" of coming up to the road, and what minimal event that was, I would be curious to see what the 5, 10, 20 year projections might be, because you are looking at something that's a 100 year, without any elevation changes on the south side of Mohr Road. So, we're not going to raise anything up here to back fill against Mohr Road, and now we're saying we almost came over the road yesterday.

Bill Jeffers: I know that sometimes this is hard to understand. When we say a 100 year storm, that doesn't mean it is only going to happen once every 100 years. It simply means that there's a 1% chance of it happening during any calendar year. Any series of 12 months, regardless of where you start, where you stop. In a series of 12 months, there's a 1% chance of a 100 year storm happening during that 365 day period. There is a 4% chance of a 25 year storm happening in that same period. There's a 10% chance of a 10 year storm happening. So, those are just projections that are used by the government, and they are assigned a certain intensity in inches per hour, and so two sharp cloud bursts back to back that only last 22 minutes each can actually accomplish a 10 year storm if they generate 6" in that 54 minute period. By the same token, it would take quite a bit more rain, if you go to a 24 hour extended rain period, or whatever. But really a 100 year storm isn't four times worse than a 25 year storm. Actually, it's only about 15% greater. Like I said, I can't tell you what happened yesterday without looking at the rainfall data provided by the National Weather Service, but I can tell you that the Department of Natural Resources says, by their study, and it's included in this drainage plan, directly from the director of Department of Natural Resources for Indiana, that the 100 year flood elevation will not inundate Mohr Road, and that the filling of this 68 acres, the flood plain, if they leave the flood way that has been assigned by DNR, if they leave it undisturbed and unfilled, that flood way will carry the 100 year flow from this site, as well as all the other acreage served by that branch of Locust Creek. It will carry it through this site, and under Mohr Road with no greater than a 2" increase in elevation. That's the result of the DNR study, and, of course, we can study it to death and not come up with any better information that what DNR has provided us. This is all allowable by state statute. So, it is included in the report that's been turned over to you as a preliminary drainage plan.

President Mosby: Thank you. Mike Thomas.

Madelyn Grayson: May we make a tape change please?

Mike Thomas: (Inaudible. Not at mike.)

President Mosby: Okay, that's fine. Kevin Snodgrass is next, so.

Madelyn Grayson: David, could I make a tape change please?

President Mosby: Sure.

**(Tape Changed)**

President Mosby: Thank you. Go ahead.

Kevin Snodgrass: Good evening. My name is Kevin Snodgrass. I live on Kenton Station off of Mohr Road. My first question for Mr. Jeffers, since you've asked all these questions, and you've had a response, was your response sufficient that you



would allow one of your children to purchase a lot in the northwest corner of this development with their money? And feel safe that their home would be secure?

Commissioner Mourdock: I don't know that that, Mr. Snodgrass, fits within the questions that we defined earlier, as far as the drainage.

Kevin Snodgrass: I'm looking at the, we are being told that this is not going to affect it. He's asked several questions, if he can answer to me that, you know, that the ground is safe, that there's no chance that water is going to come up, and he would permit his child to spend their money on that property, then that would give me an understanding of his comfort level with the questions he's asked on a technical basis, but I'll move on. My first question is, will all drainage and erosion controls be required to be completed before any construction is permitted on the property? Or will this be done in phases? If so, when the erosion control is completed, who approves that before construction is permitted on the site? My second question, has soil samples been taken in the area of the proposed lake to determine the type and quality of soil that is going to be removed for fill purposes? Is it adequate for the fill? Is there any presence of rock or limestone underneath that would prevent the removal of a sufficient amount of fill for proper depth of the lake? My third question is, how will the banks of the lake be supported to prevent collapse or erosion from vibration generated by heavy freight trains moving through adjacent to the property? My last question is, my understanding, originally, the direction of one of the tributaries of Locust Creek that fed through one or the other tunnels, the direction flow of that creek was originally changed from its natural flow, and the Army Corp had looked at that, and required that the direction and flow of that tributary not be changed, that the direction maintain its correct, its current path, as it is primary, and secondary flows underneath the CSX railroad. I was curious if that had been addressed in their current plan? That's all the questions I have.

President Mosby: Thank you. Bill, do you remember the questions?

Commissioner Mourdock: I'll give them to you, if you don't. First question was about erosion controls and how is it enforced.

Bill Jeffers: Okay, I was concerned, I think the first one, actually, he wanted to know whether this was going to be done in phases.

Commissioner Mourdock: With the—

Bill Jeffers: I assumed that it would be done in phases. That question would more appropriately be answered by the developer, what his intentions are, but most projects of this size are done in phases. So, I just assumed that it was.

Commissioner Mourdock: Erosion control. How that's implemented, and how it's enforced.

Bill Jeffers: I'm having trouble finding something right now, but the reason that I bring that up is because 16 acres of this site will, when it's all said and done, will discharge into the creek undetained. The closest 16 acres to the creek, because of the lay of the land will not be detained. The offset compensation for that will be accomplished in the lake, so that the total discharge from the entire site upon total completion will be in conformance with our requirements. So, I brought that to the developers attention, that the front 16 acres towards Mohr Road was planned to be undetained. His answer was, even though they are going to phase this development in, they

intend to construct the lake first, as a part of the first development, and go ahead and off set the run off that's coming through the lake, in such a way that when the direct discharge from the front portion of phase one goes into the creek, that accelerated run off will be off set by detained, more greatly detained run off from the lake. So, I think that, in a confusing way, answers his first question.

Commissioner Mourdock: Okay. I'll add to it, the erosion control—

Bill Jeffers: The erosion control, and who approves that. Up to this point in drainage planning, the County Surveyor has presented to the County Drainage Board, only those aspects of erosion control, in a preliminary plan, that applied to drainage facilities themselves. At the encouragement of the Soil and Water Conservation District, certain board members on Area Plan, and at least one board member of the Drainage Board, we need to work closer together with the erosion control folks. So, in this particular subdivision, and the one preceding it, known as Leo's Place, we asked for quite a bit of additional erosion control practices to be incorporated into the drainage plan. As a matter of fact, the drainage plan will show, probably, a greater amount of erosion control in detail, than the more generic erosion control plan that's submitted to SWCD for their approval. However, SWCD still approves the erosion control plan, and they are still responsible for it's implementation.

Commissioner Mourdock: Okay, then—

Bill Jeffers: Soil samples. I did point out that there may be rock in this area. I don't think that rock is going to be at the location of the creek, or the resulting lake. I would like to point out that the lake really only serves as a borrow pit, because the detention that's required could be accomplished by a dry basin. It wouldn't have to be a permanent, standing body of water. So, really you only need a very shallow dry basin, the grassy bottom to accomplish the detention. So, if they do hit rock, they could make an island, for all we care, because, as long as the detention is accomplished from either the bottom of a dry basin at the pool elevation up to the maximum 4' surge, that's fine. So, I don't know if any soil samples have been taken yet. The drainage ordinance does require that they identify each type of soil that's known to exist at that location in accordance with the soil survey for Vanderburgh County. That has been done. Bank stability, due to railroad, passing rail cars, bank stability is addressed by the drainage ordinance. We do require certain side slopes, 4 to 1 down to a point 2' under the surface of the water. 4 to 1 can be stabilized very easily. They can go to a 2 to 1, but we have asked for a 10' safety ledge. They have accommodated us on that, so you've got another 10' safety ledge. They can then go down at a 2 to 1 slope in the rest of the lake. I would say if soils that they encounter, fragipan, or whatever, indicate that the slope embankments would become unstable, due to their constant saturation and the possibility of being vibrated by rail cars, etcetera. If they encounter that situation, I would assume as responsible engineers, they would advise their client to go with a steeper side slope. I make that statement into the record that if we find that to be true, we will ask them to go to a more stable side slope, like 3 to 1 or 4 to 1. I'm not aware of the Army Corp of Engineers statement that was referred to. That is a new statement that I have not heard brought up at a previous meeting. That will have to be looked into. As to whether or not I would advise my daughter to buy a house in this subdivision, with the exception of Lot 8—

Unidentified: (Inaudible. Not at mike.)

Bill Jeffers: With the exception of Lot 8, I would buy a house in this subdivision, if I wanted to purchase a lot for the purpose of building a small home of the size that are contemplated for this subdivision. I personally would not want to take on the maintenance responsibilities that may be associated with certain of these lots, but there are other lots that I'm sure that I could handle the maintenance responsibilities on.

President Mosby: Mr. Thomas, did you want to speak now?

Mike Thomas: Please. My name is Michael Thomas. My wife and I, Linda here, own the property adjacent to the west. I have personally got to farm this place, this particular location for 16 or 17 years, so I too have got to see the waters come and go. I personally commend Mr. Jeffers for adding the 30 extra items or so, since our first engagement here. I would like to also allow some pictures tonight, I brought some to the very first drainage meeting. These are from a little different angle. Very concerned. I think Bill in relation to the storm of '96 we had 5", and I believe yesterday, my dog pan rain gauge showed 3". So, that's not official. Mr. Hatfield, I would like to please allow you to look at this particular photograph, and I would like to share these with the members here. If you guys would pass those on around please.

President Mosby: Sure.

Mike Thomas: I'll try to describe the location. In '96 I had a crop planted on these places. I saw my life, my world turned upside down. We had the devastating storm that hit us in '96, and I had 200 acres of corn planted, and it was about a foot high, and I had water in all the whirls of the corn. Well, when this happens, it's as if it were your garden, you get mud in the very whirl of a plant, it's over. Thank goodness, as Mr. Jeffers said a while ago, in these large type storms there is always a secondary rain. It happened again yesterday afternoon. At that time in '96, the rain came, washed the mud out of my corn stalks, and thank goodness I had an income that fall. Yesterday those same fears grew as we heard the thunder and saw the rush of the water. I'm very concerned in this lower area, in relation to the pictures. I think the pictures before, I had taken photographs of the tunnel looking south, along parallel to the railroad tracks. These particular large pictures here coming around are taken by this gentleman back here, that lives east of this proposed subdivision, looking west toward the railroad tracks. The only difference in the original pictures from a month or two ago and these, was the fact that there is now growth of grass out in these fields, approximately 18" high, and it covers or hides the actual depth of the water. At the Area Plan Commission meeting, I wore my boots, they wouldn't have done the job yesterday. We would have needed a boat, and this was 3", and not the 5" that we had in years past. Probably, like I said, about 18" of water out there. The hydric soils that is in this lower area constitute nearly 70% of this subdivision. It shows in our photographs, as presented. So, please consider those that will be buying here, or building here, and, sir, you're money going into it. A lot of dollars will be spent. I sympathize with you, if this doesn't work out. I have no questions. I only have comments. I appreciate those members of this Commission that came and looked. We appreciate that as homeowners and neighbors. Bill, Mr. Surveyor, thank you for your extra work. No questions. Thank you.

President Mosby: Thank you. Mr. Norton, do you want to ask your questions now?

Tom Norton: It might work better if, Bill, you can't get on the record there. Maybe both of us could share the mike, possibly.

President Mosby: Bill, do you want to use the mike down here, and let him use the podium?

Bill Jeffers: Sure.

Tom Norton: For the record, I'm Tom Norton. I live at 7827 Highland Court, which is approximately a quarter mile east of this location. Bill, I just kind of want to go over some of these things. If you could help us out as laymen here. We hear a lot of, you know, standards and numbers thrown around here. In your job here, as the counsel to the Drainage Board, and really the only independent person who can speak to this issues, when this is presented to you, what process do you go about to determine whether or not this meets flood requirements? How do you, what kind of technical measurements get done on these things?

Bill Jeffers: The drainage ordinance contains charts and other hydrographic information that's supposed to be fed through a specific program to determine the run off rate from this land before the development, in whatever state it's in. In other words, it's open farm land, and based upon the grades of the farm land, and the condition of the farm land over a period of a year, it's assigned a run off factor, which is basically a percentage of the run off that hits that ground that can be expected to run into the receiving streams. The rate that's measured in cubic feet per second that is the result of that hydrographic study, during a 10 year storm, achieves a certain rate of run off, measured in cubic feet per second, that's the allowable discharge rate for that new development after it's completion. So, whatever runs, Mr. Thomas, has farmed this ground for a number of years, over that period of years a certain amount, a certain percentage of water runs off of that farm ground over the course of a year. Whatever that amount is, during a 10 year storm, that's what the developer is limited to as an allowable discharge after his development is complete. So, then there is another set of figures that shows the increase in the run off rate that is caused by roof tops, street pavements, swimming pools, sidewalks, other impenetrable surfaces, water that can't get into the soil because it's covered by a hard surface, and that increased "c" factor, or run off factor is usually more than the previous run off factor, so there is a greater percentage of water that runs off the land. We all know that. You take a 25 year storm intensity, and you calculate the additional cubic feet per second that will try to leave that ground, and you have to convey it to the storage lake, and hold it, and release it through a controlled orifice at that 10 year allowable rate. If it meets those criteria, basically, it's an approvable storm system.

Tom Norton: And this is all on-site investigation? Is that correct?

Bill Jeffers: It includes on-site and off-site investigation. You have to study the watershed as well.

Tom Norton: Does it take into account the drainage and the run off from say five miles around here? Or is it—

Bill Jeffers: It takes into account the, in this case, the 240 acre watershed that this 68 acres lies within.

Tom Norton: Did you run these calculations yourself?

Bill Jeffers: The design engineer, Morley and Associates, performs those calculations and presents them to our office for review.

Tom Norton: I guess that goes with my question, they were reviewed by you?

Bill Jeffers: Yes, sir.

Tom Norton: Were they double checked for their accuracy?

Bill Jeffers: They were reviewed by me. It's a simple chart. It's called form 800, I mean, it's just a computer print out. You plug in the numbers and the computer does the work and you check to see if the numbers were accurately entered.

Tom Norton: And you conducted that?

Bill Jeffers: Yes, sir.

Tom Norton: Okay. Did, was this check, Vanderburgh County has a flood hazard protection ordinance. Was that take into account and reviewed?

Bill Jeffers: Yes, sir. That's where I referred to Roger Lehman, who's the president of the Flood Plain Management Committee, and also the Building Commissioner, requested that an engineering study be done of the 240 acre watershed to see to if that the protective flood grades that are assigned to each of the homes in this new subdivision will be at or above 2'. Excuse me, that will be 2' above the base flood elevation.

Tom Norton: And, how was DNR contacted in all this? I think you made some mention that you had personally consulted with them, but what—

Bill Jeffers: No, I didn't personally consult with DNR. I asked Morley and Associates to show proof that the filling of this flood plain would not raise the 100 year flood elevation in the remaining flood way greater than .15'. That was shown to be the case in a study by DNR, and made a part of this drainage report.

Tom Norton: I think you've characterized that as not raising the flood way sufficient enough to affect Mohr Road, is that the summation? I'm paraphrasing, I'm just—

Bill Jeffers: No, I'm not going to characterize it that way.

Tom Norton: When, the question is, will that raise the flood way? I guess, this is all adjoining owners in the flood way.

Bill Jeffers: According to the DNR definition of a flood way, the flood way is the channel of the creek, plus any fringe flood way outside the channel required to pass the flow from a 100 year storm without raising the elevation greater than .15'. Mr. Morley's depiction of Mohr Road showed the existing 100 year flood elevation to be below the surface of Mohr Road, and an additional 2" would not, if I remember correctly, inundate any portion of Mohr Road, if it were to occur.

Tom Norton: To your knowledge, did DNR have the present plat before them? Or did they do this on some other basis?

Bill Jeffers: I believe they did it when it was proposed for a trailer court, if I remember correctly.

Tom Norton: To your knowledge, that's the source of it, right?

Bill Jeffers: It was addressed to Easley Engineering. I think I, I'm just going to say that the way I understand it was, it was done for Easley Engineering, at the time, when this was contemplated to be a trailer court.

Tom Norton: Was it done for this particular project? I mean, that's a pertinent question.

Bill Jeffers: No.

Tom Norton: So, this is data that was related to a trailer court?

Bill Jeffers: This was data that was related to a previous contemplated project.

Tom Norton: And we don't know whether that project was as dense as this, more dense, or less, do we?

Bill Jeffers: Makes no difference.

Tom Norton: It doesn't?

Bill Jeffers: No, sir. It's the filling of the flood plain—

Tom Norton: There's no difference in the run off of the roofs or any of that?

Bill Jeffers: Well, could be, but that's all being controlled to the 10 year rate that's established by...the 10 year controlled run off rate that's allowable for this 68 acres is established by it's current condition, not it's final condition. So, regardless of what they put down, if they put K-Mart there, they would still be restricted to the same amount of cubic feet per second leaving that site.

Tom Norton: If this is subject to DNR like you talked about, I guess, if I'm using code citations here, this would be what they characterize as SFHA, or Special Flood Hazard Area? Would that be consistent with your understanding of the code?

Bill Jeffers: My understanding is it's designated as zone A, 100 year flood zone, over a portion of this acreage as shown by the blue, dark blue shading on the firm panels.

Tom Norton: Is it your statement to this board that you agree or concur with all the engineering findings that have been submitted before, either by Morley or through DNR?

Bill Jeffers: I find that what has been submitted and represented as a preliminary drainage plan for proposed Highland Pointe Subdivision substantially is in conformance with the laws of the State of Indiana, and with the Storm Water Drainage Ordinance of Vanderburgh County.

Tom Norton: So, has there been anymore comment regarding this particular project by DNR? Will it be referred to them, to your knowledge? For a full review?

Bill Jeffers: Any activity, any construction activity within the designated flood way will require a DNR permit. The flood way has been designated, and it's shown on the plan. I'm sure you're familiar with it, if you've looked at the plan. It's the two dark arched lines, one on either side of Locust Creek at the northwest corner. Anything

done within there, from this point on, will require, any construction activity, will require a permit from DNR.

Tom Norton: What about any land on the fringe?

Bill Jeffers: Only those activities which would be applicable to DNR's jurisdiction. There is a statute that takes affect July 1<sup>st</sup> which will require a DNR permit for the application of chemical herbicides on aquatic plants, might apply to this, might not. There will be some new regulations regarding the construction of dams with regard to safety hazards that also take effect, through DNR permitting, July 1, 2002. Other than that, I don't know of any particularly drainage related—

Commissioner Mourdock: If the drainage ditch down the center of the property that they talked about relocating, if that's relocated, then Corp of Engineers would get involved, and DNR would also be involved, would they not?

Bill Jeffers: DNR is not involved in any construction of or within a flood way on a tributary that drains less than one square mile. The tributary that we are speaking about that dissects this project and feeds the lake of this project only drains 240 acres, so only the Corp of Engineers would be interested in the flood way for that tributary. DNR would not, unless some other current or future statute were applicable, such as the upcoming clean water statutes, and other applicable future statutes. There may be some that are applicable now, but not with regard to flood way on a tributary draining less than a square mile.

Tom Norton: So, it would not be, are you going to recommend to this body that DNR have a say in this process? Or is it your recommendation that that's not (Inaudible)?

Bill Jeffers: A recommendation such as that would be outside my jurisdiction to make. DNR's jurisdiction supercedes my jurisdiction.

Tom Norton: So, do they only involve themselves if contacted? Or is there a customary procedure that you all go through to clear these with them?

Bill Jeffers: I don't know of any jurisdiction that DNR has over the review and approval of these drainage plans, outside the flood way for Locust Creek.

Tom Norton: Outside the flood way, but inside perhaps?

Bill Jeffers: Pardon me?

Tom Norton: Outside the flood way was your caveat there, I'm saying but inside the flood way, perhaps they would—

Bill Jeffers: Inside the flood way they may have, they do have jurisdiction over any construction activity that's contemplated, or, in fact, will occur inside the flood way. Yes, indeed.

Tom Norton: And/or the fringe too?

Bill Jeffers: No. Inside the flood way.

Tom Norton: Confined to only the flood way, not the fringe, is that your statement?

Bill Jeffers: That's my understanding.

Tom Norton: Thank you.

President Mosby: Jerry Taylor.

Jerry Taylor: I'm not going to speak.

President Mosby: Oh, okay. Mr. Morley, did you want to say anything?

Jim Morley, Jr.: Just if you guys have any questions. Bill did a real nice job of answering everything. I would like to say that this is, basically, the same plan that you approved last time, with about 20 more additional pages of information submitted by us to Bill for his review. To remind you that this storage basin stores four times what it's required to store for the 25 year storm. Three times what it's required to store for the 100 year storm, and as we have depicted on the plat, flood way easement, and we will not be getting inside a flood way to do any construction. The plat states on the, it states on the plat that any construction inside the flood way requires a permit, and that that's the responsibility that the homeowners, if they were to do something in there. We will not be doing something in there, so we will not be going through a permitting process with them. At least as far as we know, at this time. We will be turning in a detailed final drainage plan that will further address any issues that Bill might have. This does not, by all means, this is not the first project we've done in a flood plain. The majority of the projects that come in front of you today are in, these days, are in the flood plain. We've done projects that flood a whole lot worse, used to flood a whole lot worse than this, and now are high and dry and safe for people to live in. Bill said himself, your technical expert, and no one that's involved with either party, that he himself would live there. So, I don't know if there's any questions, I would be happy to answer any. If not, I think we have a good project here that meets all the, I know we meet all the ordinances, and ask for approval.

President Mosby: Questions by any Commissioners?

Commissioner Mourdock: I have just one area of question, and that's concerned with the flow through the culvert, the pipe underneath the railroad tracks. What can you tell us about that as far as it's capacity, and how it's capacity affects what is otherwise defined as the 100 line above it?

Jim Morley, Jr.: The 48" pipe, excuse me, that goes underneath the railroad tracks is a combination of ductile iron pipe, and corrugated metal pipe. It was one, and then when they widened the tracks, they added on another piece and used a different material. It currently does not carry the flow that it should. Therefore, our project is designed just like the natural waterway is, or the natural watercourse. I think the date on the bridge is 1910. So, this has been the flow pattern since 1910, that the water goes to the 48" pipe, and it used the 48" pipe as much as it can, and then it backs up and spills over into the Locust Creek and then goes to the big tunnel. That's the exact same flow pattern we will have. The 48" pipe is the primary discharge, and then as the water raises there is a large overland flow channel that runs parallel with the railroad tracks all the way down to Locust Creek, and then as the water raises high enough it will eventually break over a high point, and then flow down towards Locust Creek, exactly like it does now, basically. That's, we're not supposed to change flow patterns, and this is exactly how it happens now. Does that answer your question?



President Mosby: Is there any other questions?

Jim Morley, Jr.: Did that answer it or?

Commissioner Mourdock: I think.

Bill Jeffers: Well, Mr. Mourdock, are you getting at the point that the pipe underneath CSX and Indiana Highrail may or may not be construed as an obstruction? Because to some degree it is, although it pre-existed the statute that enables a petition to remove an obstruction.

Commissioner Mourdock: Understand, yeah, I understand that. I guess, the bigger question is, do we have full faith and confidence that when the 100 year line was drawn above that obstruction, to use your term, was it based on that obstruction, or just based on the general topography out there, and not truly the water flow? Do you understand my question?

Bill Jeffers: I understand your question. Does the, information from DNR, does it address that really, or does it just hydro graph the entire watershed?

Jim Morley, Jr.: It does the entire watershed. There's roughly five square miles—

Commissioner Mourdock: It does the entire watershed, I want to be sure I understand, it does the entire watershed, irrespective of—

Bill Jeffers: For the main branch, not necessarily, not necessarily the unnamed, unstudied tributary that passes through here.

Jim Morley, Jr.: Well, there's, the DNR study had sections before and after the bridge, so it would take into account any water that flows into the bridge, or that flows underneath the bridge, or the tunnel, or whatever you want to call it. Our system is set up so that the if the 48 didn't work at all, we could still pass out through the overland flow.

Commissioner Mourdock: I want to be sure I'm understanding that, Jim. Is that DNR study you are referring to, the one that, in effect, put the 100 year line on the firm panels? Or are you talking about the hydrographic side of it?

Jim Morley, Jr.: The study came after the 100 year flood lines were drawn on the panels.

Commissioner Mourdock: So, it's two separate things?

Jim Morley, Jr.: Yeah, but the Building Commissioner had asked for them, and I responded to him in the letter for Bill. We are going to do a 100 year analysis of that ditch coming up through there to make sure that all of the homes and everything that come up through that ditch are protected properly. That they have a correct 100 year flood elevation assigned to them, and then, again, fill 2' above that. Then I also met with Tunis early about the Army Corp of Engineers, I also met with them out there at the site, and went over with them exactly what we were planning on doing, and they saw no problems with it at all. He said, actually, because we are putting a couple of bends in the ditch, he said it will be better than what we have now.

President Mosby: Any questions? Thank you, Mr. Morley. The only one I had, Jon Kipling, did you want to speak?

Jon Kipling: No.

President Mosby: No. Okay. Any other questions or comments?

Bill Jeffers: I would like to make a comment, please. There were several good questions posed by one gentleman out here, and bank stability, beneath the water level is one that I want to pursue with the engineer. We do, I think, need to, as, if this project progresses to completion, I would like to investigate the soils, find out how stable they are. That is directly related to an issue that is found in the drainage ordinance, that the banks underneath the water must remain stable, and if you can't stabilize them at a 2 to 1 slope, that they're, the ordinance does contemplate that some more stable slope should be achieved. So, we do need to pursue that. His question about the Army Corp of Engineers, some comment that they may or may have made in the past, regarding their redirection of something out here, are you familiar with that?

Jim Morley, Jr.: I don't know how you redirect flow, because (Inaudible. Someone coughing.)

Bill Jeffers: Well, I think he may have been talking about what happened when it came down to the 48" pipe, and then there was some work done by a property owner or a representative of a the property owner to align this channel the way it's aligned now. To carry the water north to the tunnel. Is that what you were talking of? How did the Army Corp of Engineers get involved in this?

Mike Thomas: CCC days, back in the CCC.

Bill Jeffers: Oh, okay.

Mike Thomas: Stream alignment.

Bill Jeffers: Do you think that that's still applicable at this time?

Mike Thomas: It's all stream aligned. Applicable as in—

Madelyn Grayson: Mr. Thomas, can you come to the mike?

Bill Jeffers: Does the Army Corp of Engineers have any jurisdiction or comment on at this time?

Commissioner Mourdock: Whoever answers needs to come to the microphone.

President Mosby: Yeah.

Madelyn Grayson: Please state your name again also.

Kevin Snodgrass: Kevin Snodgrass. The comment I made was based upon my father-in-law who owns property adjacent to this property. Invited an Army Corp of Engineers representative out there. His understanding and question of looking at the plat, it appeared that they were redirecting one of the tributaries feeding Locust

Creek. On the plat, he said that he would address that issue directly with the plat designer, which I would take to be Mr. Morley's office.

Bill Jeffers: Correct.

Kevin Snodgrass: I was simply asking if the Army Corp had been in touch with Mr. Morley's office? If that question had been answered.

Bill Jeffers: Oh, okay. So, you or your father-in-law invited the Corp of Engineers to take a look at the situation, and they said they may contact either Mr. Morley or the County Surveyor's office. They have not contacted the County Surveyor's office, that I know of.

Kevin Snodgrass: For clarification, I can have Mr. Clouse contact your office tomorrow.

Bill Jeffers: Okay.

Kevin Snodgrass: He can—

Bill Jeffers: Well, obviously, we want to be in compliance with Corp of Engineers standards on storm water conveyance. So, if that's an issue, we will address that. The only other thing, when I said I would buy a lot there, I was speaking simply in regard to your question, with regard to storm water planning. There may be other issues why I wouldn't want to live in that subdivision. With regard to storm water planning, because I know that this plan has been done in accordance with all applicable statutes and ordinances, and that houses will be placed 2' above base flood elevation, I would not be afraid to live in that house for fear of being flooded. I want to make sure I made that clear.

Kevin Snodgrass: I have one more question. You mentioned an overflow point and a dry land run off. Where is that?

Jim Morley, Jr.: It runs parallel to that railroad track, just like it does now.

Kevin Snodgrass: Okay, to the south, and then to the other—

Jim Morley, Jr.: It goes from the lake north towards Mohr Road. The water now goes to the 48" pipe, and then raises, and then breaks over and goes to Mohr Road. That's the exact same—

Kevin Snodgrass: So, you're going to use Mohr Road as an overflow?

Jim Morley, Jr.: No, no, no, no, no.

Bill Jeffers: Mr. Thomas has some pictures from yesterday's rainfall that show exactly what path the storm water does take today, and what it will take when this project is finished. It shows it coming down the tributary through the middle of the 68 acres, turning at the railroad track when it can't, when it fills the 48" pipe, then it turns north and runs along the railroad track until it comes to the tunnel.

Kevin Snodgrass: Okay, and you are going to leave this overland flow in place?

Jim Morley, Jr.: Yes.

Kevin Snodgrass: Okay.

Jim Morley, Jr.: I spoke with Tunis McElween with the Corp of Engineers Department, and he's already informed me that he is going to have us do a permit. We've already received a permit, and are going to be filing a complete permit for this whole project. Well, his concern is with reference to this stream, but we will be giving him an entire copy of our drainage report for the Corps review. I spoke with him, you know, I asked him point blank, I said, do I have an issue here? Do I have any problems from the Corp? He said, no, he didn't see anything. He thought that they were going to end up with a better product than what they have now. I would respond to the slope stability. I agree that Bill and I, we can work together on that to make sure we've got something. Off the top of my head, I do know I tried climbing the banks of that railroad, that the railroad is built on, and I'm guessing they're 1 ½ to 1 to 2 to 1 slopes, and that's directly underneath the train, where the majority of the vibrations would happen. My gut feeling would be that 2 to 1's would be adequate. By all means, that's something that we want to make sure, because as design engineers we don't want bad, we don't want our projects failing because it's going to make it so that you guys have no confidence in what we bring in front of you. You know, and we don't want to turn out bad projects. The developer doesn't want bad projects. He's building all the homes in this development, and if the backs of all these lots start sliding off into the lake, he's going to have law suits, we're going to get sued, and it's just not going to be pretty. So, it's, by all means, something that we want to make sure gets built correctly.

Kevin Snodgrass: One last question that I'm not clear on. The corner where the creek comes underneath Mohr Road and heads through the tunnel underneath the railroad pass, who owns that property?

Jim Morley, Jr.: There is a little bit of ground on the far side of the creek that is owned, that will be part of this development, but the majority of that is owned by CSX, and what that railroad runs on.

Kevin Snodgrass: Their right-of-way?

Jim Morley, Jr.: Yeah, the rock area—

Kevin Snodgrass: The rock area—

Jim Morley, Jr.: —the majority of that is all CSX's property.

Kevin Snodgrass: —but on the other side of the bank, that's your property?

Commissioner Mourdock: What are you calling the bank?

Kevin Snodgrass: The, where the creek runs through, what would be, let me get my bearings, to the west, is that rock parking area—

Commissioner Mourdock: Right.

Kevin Snodgrass: —that belongs to CSX?

Jim Morley, Jr.: The majority of it is, yeah.

Kevin Snodgrass: Okay, on the east side of that, that would all be your property then?

Jim Morley, Jr.: Are you talking about the west edge?

Commissioner Mourdock: No, the east side of the creek.

Kevin Snodgrass: The east side of the creek.

Jim Morley, Jr.: Yeah.

Kevin Snodgrass: That would be yours? Who's going to be responsible for maintaining that property? Who's going to own that property?

Jim Morley, Jr.: That (Inaudible) that's on the far side of the creek—

Kevin Snodgrass: On—

Jim Morley, Jr.: There's a lot. Lot 8. I mean, there's—

Bill Jeffers: Lot 8.

Jim Morley, Jr.: There's a lot that has that. The one nobody wants.

Kevin Snodgrass: These lots across the back, these are, they are going to have to maintain this waterway?

Jim Morley, Jr.: Yes.

Kevin Snodgrass: They are going to actually own this property, and they are going to have to maintain that?

Jim Morley, Jr.: And that's on the plat, that the lot owners are to maintain the drainage structures on their property. In this situation, like we're talking about, it would be the grassed waterway that would be the secondary discharge. That's, the plat has a big drainage easement on it, and it's, you know, you won't be able to miss it when you go out to buy these lots. It's not, you know, it's 32' wide.

Kevin Snodgrass: So, the owner of lot 8 would be responsible for any erosion control, or the fact that some of those trees may come loose and make up part of the creek and come over. The owner of lot 8 is going to have a lot of swamp land to take care of, more or less, in that corner?

Jim Morley, Jr.: If they want to, I mean, by law, yeah, Locust Creek is, you know, it's a natural waterway with all kinds of trees in it, and brush floats down it and everything else. It's no different than somebody that buys a house on the Ohio there, they've got to roll trees out of their yard every once in a while when the waters come up.

Kevin Snodgrass: So, it would be safe to assume until lot 8 was sold to a private owner, the builder would be responsible and maintain lot 8 from then until it is sold.

Jim Morley, Jr.: Until the lot 8 is sold, the owner is the developer, and, therefore, the developer maintains that.

President Mosby: Any other questions or comments? Seeing none. The chair would entertain a motion.

Commissioner Mourdock: Ladies first.

Commissioner Fanello: Motion to approve.

President Mosby: I have a motion to approve on preliminary. That's right, right, Bill? Preliminary. This is still—

Bill Jeffers: Preliminary tonight for Highland Pointe.

President Mosby: Do I have a second? I will second the motion. We don't need a roll call on preliminary, do we? With a motion and a second, on preliminary, I will say so ordered. This will come (Tape Flipped to Side B)--

Commissioner Mourdock: Probably next month. I would presume you are going to go back to APC the start of the month.

Jim Morley, Jr.: (Inaudible. Not at mike.)

Commissioner Mourdock: Right, yeah, and then are you—

President Mosby: Are you on the agenda for—

Commissioner Mourdock: —going (Inaudible. Talking over each other.) to final?

Jim Morley, Jr.: The final plan (Inaudible. Not at mike.) All of the construction (Inaudible) probably be a couple of months.

President Mosby: Next, we have Lot 7 of Vanderburgh Industrial Park. You can just stay there if you want, Bill.

Jim Morley, Jr.: Thank you very much.

Bob Schu: I'm Bob Schu, representing New Tech Construction. There was a spec building built in Industrial Park, and I believe you did the original plat, and everything on that (Inaudible. Stepped away from mike.)

Unidentified: We didn't do the plat (Inaudible. Away from mike.)

Bob Schu: Oh, okay, well, anyway the original plat and building and such was all approved. It was built as a spec building. Completely empty, no, very few doors and such as this. The owner who bought the building has made a couple of changes in it, and one of them is that he would like to run, all the traffic was on the north side of the building, he would like to run a driveway down the south side of the building. It will mainly be used for getting equipment in and out of the building. Those two doors at grade level, and it's a heavy duty black top, and part of it is, has a curve on it, the back part does not. We would just like to submit the changes. Bill probably knows a whole lot more about this than I do. The two partners, one is out of town, and one teaches an apprenticeship class on Monday night.

Madelyn Grayson: Sir, what was your name, for the record.

Bob Schu: Bob Schu, S-c-h-u.

Bill Jeffers: Okay, this is Vanderburgh County Industrial Park, and the preliminary drainage plan was done by Bernardin Lochmueller and Associates, Mr. Henry Nodarse. Then the individual lots came in one at a time, with their individual final drainage plans, and this plan here was approved for a speculative building, located on lot 7. This plan was done by Lee McClellan from Morley and Associates, just for this one lot. It shows the speculative building, with all the loading docks and parking areas on this side of the building over here. There is a drainage swail that runs down this side of the building, due east, till it arrives at a point down here, and then it runs across the front of the lot. When Mr. Schu's plan came in—

Bob Schu: (Inaudible. Not at mike.)

Bill Jeffers: Mr. Schu's plan into site review, subsequently, it was represented as only being the addition of a driveway for pick up trucks to come in here, and they want to run the ditch, that used to run right down the middle where the driveway is located, they want to run it over here, closer to this side. Then when it got to a certain point, they were going to run the water over top of the driveway, up against this evaporator unit, and down here. Then the rest of it coincides with the original drainage plan. I didn't think that was the best service, I mean, considering that this was a spec building, and it was designed by one person one time, had a sufficient plan. Currently, they say they want to do this. That's fine. I don't have any problem with the road being there. Typically, they would pick water up in inlets, and pipe it down here, and discharge it out to this swail. I referred that idea to them that, typically, all they needed to do was show me where these inlets were along the way of this service road, the discharge point being protected by a rock chute. They don't want to spend that kind of money, is what was told to me. They wanted to run the open ditch along this side of the road. Well, it's not design engineer, Mr. Schu, that doesn't want to spend the money. It's the owner who doesn't want to spend the money on that kind of improvement. He wants to run water across the pavement, which would cause erosion on this side of the pavement, on this side of the pavement. Then he's got a series of about ten little outlets where water would come out here, and keep it from going out into the street. Each one of those would have to be addressed with erosion control, and it just seemed like a sub-standard plan to me.

Commissioner Mourdock: So, you're, and this is for a preliminary? Or this is a modified?

Bill Jeffers: This went to site review, and I turned it down, so they are coming to appeal to you.

Commissioner Mourdock: You're recommendation is it doesn't meet standard?

Bill Jeffers: To me, it's sub-standard.

Commissioner Mourdock: Alright.

Bill Jeffers: There were a couple other minor issues, but, basically, I was really concerned that I would be doing them, the owners of this building, a disservice to approve a plan that would be, what I considered to be sub-standard, and a potential maintenance problem for them long term. Of course, like I say, they sent their representative to plead the case, and you are the design engineer.

Bob Schu: Oh, no.

Bill Jeffers: Or you're the—

Bob Schu: I'm a flunky.

Bill Jeffers: You've come in front of drainage boards before.

Bob Schu: Oh, yeah, I've been there, but I don't—

Bill Jeffers: I mean, you're not the owner are you?

Bob Schu: No.

Bill Jeffers: You're a representative of the owner from an engineering firm.

Bob Schu: I represent New Tech Construction—

Bill Jeffers: Yeah.

Bob Schu: They're the one's (Inaudible) finished work on (Inaudible).

Bill Jeffers: Basically, I included him on the agenda simply because the drainage ordinance does allow, when the Surveyor does not recommend a drainage plan, the drainage ordinance does allow for appeal. Mr. Schu is here making that appeal.

President Mosby: Questions by any member of the Commission? Anybody in the audience that wants to speak? The chair would entertain a motion. We have no motion.

Commissioner Mourdock: So, it's denied.

President Mosby: There being no motion, then it's denied. Okay, I ain't going to throw a fit.

Bob Schu: Can I ask one more question, if I may?

President Mosby: Sure.

Bob Schu: If we know what Bill wants to do, if we have our design man redo the design, and present it to Bill, with his approval, could we go ahead, or does it have to come back to another meeting?

Commissioner Mourdock: It would still need to come back to us, since it's part of the appeal process.

Kevin Winternheimer: You're right. It would be better.

President Mosby: We need a motion.

Kevin Winternheimer: Yeah, giving it some more thought, so that there's no mistake about—

President Mosby: You're either going to make a motion to accept or deny.



Kevin Winternheimer: –yeah, that it's not a no action vote. The motion could be to affirm the Surveyor's original decision, or you could have a motion to deny, however, you want to frame it. So, that way the record is clear.

Commissioner Mourdock: Sure. Okay, well, just to clear the record then, I will make a motion for approval of the request.

President Mosby: Motion for approval of the request?

Commissioner Mourdock: Right. It would appear it dies for lack of a second.

Kevin Winternheimer: Now, make a motion you can take a vote on. Whether it be to affirm the Surveyor's decision.

Commissioner Mourdock: Okay.

Kevin Winternheimer: See what I'm saying.

Commissioner Mourdock: Yeah, I'll move that we direct the County Surveyor to work with New Tech to come up with an acceptable plan that can be brought back to us next month for possible approval.

Kevin Winternheimer: But, specifically, denying his actual request tonight.

Commissioner Fanello: (Inaudible. Mike not on.)

President Mosby: I can't make a motion as President. I would just make a motion to deny, but–

Commissioner Mourdock: Yeah, I understand motions are meant to be made in the positive, since it died for lack of a second, I thought that's what we had accomplished. Just to put a bullet in this thing, I will move the motion of denial then.

Commissioner Fanello: Second.

President Mosby: So ordered.

Commissioner Mourdock: I'll also move that we direct the, or request the County Surveyor to work with New Tech to develop a plan that might come back to us for possible approval.

Commissioner Fanello: Second.

President Mosby: So ordered.

Bill Jeffers: I think what Mr. Schu was actually after, possibly, was, well, you all are making motions so fast, that under normal circumstances, if his modifications were not significant enough to over, to disrupt the previously approved final plan, and would meld with it in a harmonious way, then it could be reviewed and approved at site review. Everyone else at site review has signed off on this but me, because I didn't think this was an appropriate modification. So, if we work out an appropriate modification, outside the Drainage Board, what he is looking for is early ground breaking.

Commissioner Mourdock: Okay.

Bill Jeffers: I'll still bring it back to you next month, with the appropriate modifications shown, but at least give him—

Commissioner Mourdock: Okay, I've got ya.

Bill Jeffers: —some idea that he can go ahead and put the garage doors in and that type thing.

Commissioner Mourdock: Yeah, I'm comfortable with that. So, I would move that it would be the understanding of this board that Mr. Jeffers can act on our behalf. Although we do need a report back next month.

Bill Jeffers: Right.

Commissioner Fanello: Second

President Mosby: So ordered. Faith Bible Church.

Bill Jeffers: Thank you, Mr. Schu. Okay. Simply this is a church located at the corner of Oak Hill and St. George Roads. It meets all the requirements for a drainage plan. In that regard, the County Surveyor recommends approval of the final drainage plan for Faith Bible Church of Evansville, located at, that will be located at Oak Hill and St. George Road.

Commissioner Mourdock: Move approval on final.

Commissioner Fanello: Second.

President Mosby: So ordered.

<p style="text-align: center;"><b>Surveyor's Report on Faucett Lake Modifications Related to Millay Petition</b></p>
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Bill Jeffers: Okay, last August or July the Faucett's and the Millay's were here with their legal representation with regard to a lake that the Faucett's had built adjacent to the Millay's ground on North Congress Avenue. Because of the late date of the construction season, etcetera, you instructed them to go ahead with their new outlet from the lake, to restore the discharge to a point where it had previously, naturally discharged onto the Millay's property. That consisted of a plan that was drawn by Morley and Associates for an extension and redirection of a pipe, along with a rock chute outlet at the end of the pipe. That has been accomplished. I was out there after the rainfall last Sunday, a week ago. The only thing negative that I have to report is that the emergency overflow is not fully stabilized by erosion control methods as needs to be done. Considering that there was some obvious erosion in the emergency overflow, not, the primary overflow was very stable, and was operating in accordance with the plan, but the emergency overflow was not stabilized. A lot of bare dirt. I would like to take a chance to go out and look at it after the last couple of rainfalls and report back to you next month with a more final, hopefully, report on the condition of the emergency overflow only. At this time, the primary overflow was built in accordance with the plans from Morley and Associates.

**Recommendations and Approval of Contracts for  
Maintenance of Regulated Drains for 2002**

President Mosby: Recommendations on contracts.

Bill Jeffers: (Inaudible. Away from mike.) Here is the hand outs recommending the contractors. There should be a copy for each of you.

Commissioner Mourdock: Okay. I'll make a motion we accept the recommendations of the contractors, or of the Surveyor regarding contracting for maintenance of the regulated drains.

Commissioner Fanello: Second.

Commissioner Mourdock: And further move that we have those signed by stamp, since there are quite a number of them, I think.

Bill Jeffers: There is quite a number of them, and they are coming in from the successful bidders starting tomorrow. After your action, they will start coming in with their signatures, and we'll process them through your office.

President Mosby: So ordered.

**Open Bids for Additional Maintenance to Barr Creek and Baehl Ditch**

President Mosby: Open bids for additional maintenance to Barr Creek. We will instruct the attorney to do that, while we ask if there is other reports.

Bill Jeffers: Okay, other reports.

Commissioner Mourdock: Bill, do we need to sign what is in this packet then?

Bill Jeffers: No, that is just information for you.

**Other Reports:  
McCutchanville Court, Elpers Commercial Sub & Rode Road**

Bill Jeffers: Okay, on the first report I have for you, has everyone had the opportunity to read the letter that the County Surveyor sent to Mr. Ken Fisher, developer of McCutchanville Court? I would like to give a copy of that to your attorney.

Madelyn Grayson: Do you have a copy for the record also, Bill?

Bill Jeffers: It's the same as last month. Does anyone else need a copy?

President Mosby: I got one back there.

Bill Jeffers: Subsequently, we've had discussion with Vanderburgh County Soil and Water Conservation District technicians, and board members, who are still seriously concerned about this situation. A phone call today that yesterday's rainfall

overtopped the dam in several places and washed out soil from the back side of the dam, and filled the off-site lakes and downstream tributaries with heavily loaded silt-laden water. So, and I have not a had a reply from Mr. Fisher or from a representative of Mr. Fisher to this letter. So, I just wanted to reinforce the seriousness of the situation, at least as perceived by various county personnel, and board members. There is a Soil and Water Conservation District board meeting tomorrow night, at which this will be discussed. Bearing in mind that we have a new legal counsel, I would at least give him time to review what's written here, and see if he has any questions about it. Unless it's your pleasure to take an action at this time, I'll report to you again next month.

President Mosby: That's fine.

Bill Jeffers: Same with the petition to enforce the completion of the drainage plan in Elpers Commercial Sub. I would like the opportunity to discuss that. This is not an emergency situation. There is no danger to property or person with regard to this, any more than any other unfinished project. I would like the opportunity to talk to your attorney about that, before we take an action. With regard to Rode Road, we have assigned an easement size and placement that we feel is necessary to preserve the natural surface watercourse across that property. However, we have not, the owner of the property has not yet found an entity to which to donate the property to achieve the tax free status that he is looking for. You know, out of a donation. In other words, he's willing to donate the property, he hasn't yet found a tax free organization to take the property. Since we're not in the business of receiving real estate, when we don't have to, I would like to postpone any action on that until next month. Hopefully, we'll find the proper entity that would be willing to accept a donation of a nice piece of property from a benefactor.

#### **Ditch Maintenance Claims**

Bill Jeffers: We don't have any ditch maintenance claims.

#### **Encroachment Agreements**

Bill Jeffers: I'm not aware of any encroachment agreements.

#### **Receiving of Petition for Obstruction**

Bill Jeffers: I do expect to receive a petition to remove an obstruction submitted by Virgil Site?

Unidentified: Suitt.

Bill Jeffers: Suitt, excuse me.

Madelyn Grayson: It is in the signature file.

Bill Jeffers: It's in the signature file, accompanied by a check for \$100.

Madelyn Grayson: Yes.

Bill Jeffers: Mr. Site, or Suitt, I've got another guy named Sights, that I expected tonight.

Unidentified: Don't worry about it.

Bill Jeffers: Mr. Suitt alleges an obstruction on a neighboring piece of property. That petition will serve as my release to go on to that piece of property and file a report with you next month, and for you to schedule a hearing regarding the petition within 90 days of today. No sooner than 60, or no sooner than 30 and no greater than 90 days from today.

Commissioner Mourdock: But we need to formally act tonight to accept the petition, if he's provided the check.

Bill Jeffers: Correct.

Commissioner Mourdock: So, I would so move.

Commissioner Fanello: Second.

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

<b>Correspondence</b>
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Bill Jeffers: I have no correspondence.

<b>Other Persons Wishing to Address the Board</b>
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Bill Jeffers: If there are no other person wishing to address the board, nor if there are any further business from the board--

<b>Reading of Bids for Barr Creek and Baehl Ditch into the Record</b>
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Bill Jeffers: – then we only have to read in the bids we've received on Barr Creek and Baehl Ditch.

Kevin Winternheimer: Are we ready for that?

President Mosby: We're ready. Do you want to start with Barr Creek?

Kevin Winternheimer: Yeah, on Barr, first bid is from Naas and Sons, Inc., and their price is, I'll just read the total, \$5,502. The other bid received on that project is D, is it DG Construction?

Bill Jeffers: That's correct.

Kevin Winternheimer: And their price, this again is on Barr, \$14,700. On Baehl Ditch, first bidder is Naas and Sons, Inc., their price \$737.50. The other bidder is DG Construction, their price is \$2,500. That's all the bids I have.

Bill Jeffers: Thank you, Mr. Winternheimer. I would recommend that we take those bids to the Auditor's office, from whence they will go to the Surveyor's office for

examination for appropriateness and come back with a recommendation for a contract next month.

Commissioner Fanello: Motion to take under advisement.

Commissioner Mourdock: Second.

President Mosby: I have a motion and a second. So ordered. There being no other persons wishing to address the board—

Commissioner Mourdock: Motion to adjourn.

Commissioner Fanello: Second.

Commissioner Mourdock: We're waiting for David to say so ordered.

President Mosby: Oh, so ordered.

The meeting was adjourned at 8:55 p.m.

**Those in Attendance:**

David W. Mosby	Catherine Fanello	Richard E. Mourdock
Kevin Winternheimer	Madelyn Grayson	Bill Jeffers
Jim Morley, Sr.	Jim Morley, Jr.	Bob Schu
Jon Kipling	Tom Norton	Richard Moll
Lisa Adler	Mike Thomas	Kevin Snodgrass
Kent Rexing	Others Unidentified	Members of Media

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Richard E. Mourdock, Member**

**Recorded and Transcribed by Madelyn Grayson.**



**Vanderburgh County  
Drainage Board  
May 20, 2002**

The Vanderburgh County Drainage Board met in session this 20<sup>th</sup> day of May, 2002 at 7:36 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

**Call to Order**

President Mosby: Call to order Vanderburgh County Drainage Board for May 20, 2002.

**Approval of Minutes**

President Mosby: Motion to approve the minutes of the previous meeting.

Commissioner Fanello: Second. Oh, I'm sorry. Motion to approve the minutes.

President Mosby: Second, and so ordered.

**Second/Final Reading of Ordinance Establishing  
An Impacted Drainage Area in Eastern Vanderburgh County**

President Mosby: Final hearing establishing impacted drainage area. County Surveyor.

Bill Jeffers: I assume you all heard this, and adopted it in the County Commissioners earlier today?

President Mosby: Yes, we did.

Bill Jeffers: I have not heard anything from anyone objecting to the language that was adjusted a couple of hearings ago. Of course, the County Surveyor would recommend that the Drainage Board either adopt, or confirm the adoption by the County Commissioners. However is appropriate.

President Mosby: Do we need to vote on what we voted on earlier?

Kevin Winternheimer: As long as you guys want to be the Drainage Board, which you don't have to be, but as long as you want to be the board.

Bill Jeffers: Or just acknowledge the adoption of it.

Kevin Winternheimer: That's fine.

Bill Jeffers: For the record. That's how we do it.

Kevin Winternheimer: Bill, we did on the second page, there was a blank there about June. We just inserted June 1<sup>st</sup> there. That first complete paragraph there.

Bill Jeffers: Sure.

Kevin Winternheimer: So, that was the only change.



Bill Jeffers: Thank you.

President Mosby: So, you said if we want to be the Drainage Board, we have to adopt this. I vote no. No, I'm just teasing. I guess, we—

Commissioner Fanello: Do I need a motion then?

Kevin Winternheimer: Well, actually, you can just acknowledge it in the record that you did pass it earlier this evening.

President Mosby: We did pass this earlier this evening in the regular Commission meeting, so.

Bill Jeffers: It will fall under a header, and then if somebody is looking through the record to confirm it, they will see that it was done on this day.

<b>Drainage Plans</b>
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Bill Jeffers: Under drainage plans, we have three tonight. Evansville Post Office Credit Union, which is in Waterford Place, 6209 Vogel Road. It's a final drainage plan for Lot 9B of that subdivision. It's setting on the table if anyone would like to view it. The Surveyor recommends approval of the final drainage plan for Evansville Post Office Credit Union, 6209 Vogel Road, Waterford Place.

President Mosby: Anybody here wanting to speak to the final drainage plan on the Evansville Post Office Credit Union?

Commissioner Fanello: I'll make a motion to approve.

President Mosby: I will second, and say so ordered.

Bill Jeffers: The second drainage plan is Cross Pointe, Section 7B. It's a final drainage plan comprising three lots in Section 7B. All three lots combined, at this time, to facilitate the building of one project. It's been reviewed by the County Surveyor. The County Surveyor recommends approval of the final drainage plan for Cross Pointe, Section 7B. Final.

President Mosby: Anybody here to speak to Cross Pointe, Section 7B? Seeing none.

Commissioner Fanello: Motion to approve.

President Mosby: Second, and so ordered.

Bill Jeffers: The third drainage plan is known as Crosby Trucking Service. It's in Airport Industrial Park. The address given is 3700 Kansas Road. I am awaiting some details that regard concerns that the County Engineer and the County Surveyor shared regarding keeping water from flowing out onto Kansas Road. Some undersized, roadside ditches along Kansas Road. Everything else about the plan is appropriate, and would substantially comply with the preliminary drainage plan for this address. I would like to ask preliminary approval, with the understanding that the County Engineer and the County Surveyor can sign off on this project in site review when those final details come in, and they appropriately

address the concerns we have about excess water, potentially spilling out onto Kansas Road. It is sitting in site review right now awaiting our signatures. A survey crew was out there Friday and today, from a private engineering company, getting those final details, getting the data to address those. So, I would ask for preliminary approval, and, at least, allow the County Engineer and the County Surveyor to sign off for a foundation release. As soon as weather permits, they could get building the foundation, and come back to you at a subsequent meeting with the final plan.

President Mosby: Is there anybody else that wants to speak to 3700 Kansas Road—

Madelyn Grayson: David, your mike is not on.

President Mosby: Anybody else that would like to speak to 3700 Kansas Road, Crosby Trucking Service?

Commissioner Fanello: I'll make a motion to approve, with the stipulation stated by County Surveyor, Bill Jeffers.

President Mosby: So, are you making a motion for preliminary?

Commissioner Fanello: Make a motion for preliminary.

President Mosby: I have a motion. I will second that. So ordered.

<p style="text-align: center;"><b>Surveyor's Report on the Suitt Petition: to Remove Obstruction at 1205 W. Boonville-New Harmony Road</b></p>
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Bill Jeffers: Excuse me. The next item is the Suitt petition to remove an obstruction alleged to be located at 1205 West Boonville-New Harmony Road, Darmstadt, Indiana. The County Surveyor has investigated the site, on Tuesday, May 14, 2002. At this time, the Surveyor reports lack of conditions to support the alleged obstruction of a watercourse. However, in case the petitioner wishes to pursue the course of action as laid out in 36-9-7, excuse me, 36-9-27.4, the statute that covers this, or enables this action. In case he wishes to pursue it, the County Surveyor suggests the board go ahead and set a hearing date for June 24, 2002, to allow the man his due hearing. The County Surveyor also requests the board permission to encourage Mr. Suitt to meet with Soil and Water Conservation District, and the County Surveyor together, and consider other remedies to address the erosion and chronic wetness that he is experiencing in the watercourse in his property. If a satisfactory remedy leads to a resolution of his complaint, before the hearing date, the County Surveyor also suggests that the board refund Mr. Suitt's filing fee, so he might use it to help pay the cost of the remedy, which I believe is going to be a simple remedy that can be worked out between SWCD and the two property owners and myself. If a resolution cannot be reached before the hearing, the County Surveyor will supplement this preliminary report with more data, including pictures and a narrative description of the exact nature of the complaint.

President Mosby: The only thing that you are asking is that we set a hearing date for June 24<sup>th</sup>?

Bill Jeffers: Right, and consider, just consider over the next 30 days, refunding his money if we can come up with a different remedy. I think his money would be better

spent on the erosion control fabrics, and other soil conservation measures, than to go forward with this, but he may not agree.

President Mosby: Okay. That's fine.

Commissioner Fanello: I'll make a, excuse me, make a motion to set the hearing date of June 24, 2002.

President Mosby: I will second, and so order.

Madelyn Grayson: I hate to be repetitious, but that also would require no advertising?

Kevin Winternheimer: That's the regular Drainage Board meeting, right?

Bill Jeffers: Yes, sir.

Kevin Winternheimer: Yeah. No, as long as it's in the regular Drainage Board meeting, that's fine.

Bill Jeffers: Well, now that creates a petitioner and a respondent. So, those two people do have to be notified—

Kevin Winternheimer: Right, but she's talking—

Bill Jeffers: —by the statute.

Kevin Winternheimer: —about newspaper.

Bill Jeffers: Oh, a newspaper, no.

Kevin Winternheimer: She's talking about newspaper ads.

Bill Jeffers: I'm sorry. Yeah, but the respondent and the petitioner have to be notified by registered mail.

Kevin Winternheimer: Right.

Bill Jeffers: Okay.

Madelyn Grayson: Is that, do you do that?

Bill Jeffers: Why heck no.

Madelyn Grayson: You're on the record now.

Bill Jeffers: The Auditor does all that. Linda and I will help you with that, Madelyn. We'll come up with the notification. Yeah, we can do all that. We did it last time, that's right.

Madelyn Grayson: Great. That's what I like to hear. Good answer.

Bill Jeffers: Yeah, that's right, we do have a good rapport with the mailing department now.

**2002 Regulated Ditch Maintenance Contracts**

Bill Jeffers: Under contracts, was informed, or reminded that you had already turned those over to Madelyn, and enabled her to process them for you.

**Awarding of Barr Creek and Baehl Ditch Contracts**

Bill Jeffers: We do have the two bids that we opened at last month's meeting, and those were read into the record at last month's meeting. There were two bidders that submitted bids on Barr Creek and Baehl Ditch, silt dipping and embankment repair projects. The lowest bidder on both projects was Naas and Sons, Incorporated. It's the County Surveyor's recommendation to the Drainage Board that the Drainage Board award both bids to Naas and Sons, Incorporated. The Baehl Ditch project was bid in the amount of \$737.50 to dip silt out of 1,250 lineal feet. That's .59 cents per foot. The Barr Creek project was 1,400 lineal feet of embankment repair. That successful bid was \$3.93 per foot, for a total of \$5,502. Again, we recommend both be awarded to Naas and Sons, Incorporated, who has previously been a satisfactory and responsible bidder for the Drainage Board on several projects. The company is located in Haubstadt, Indiana. Here is some paperwork, in case anybody wants to see what our projected balances will be after this, if this were to be awarded.

Commissioner Fanello: I'll make a motion to award the low bids.

President Mosby: Second, and so ordered. (Turned mike on.) Second, and so ordered.

**Report on Emergency Drainage Situations**

Bill Jeffers: I've got two emergency situations. One due to the wet season. We've had super saturation of woodland soil, and we had a couple of trees blow over during a wind storm, and they fell into the channel of Barr Creek on the property of Bill Luigs, who told me he could saw them up and dispose of them for us if we could get an excavator backhoe to lift them out of the ditch. They are pretty substantial trees. This is an emergency because they are down in the channel, and should we have any additional heavy rainfalls, they would cause flooding. I'm asking that the Drainage Board authorize the County Surveyor to spend up to \$100 an hour, for no more than eight hours work, for an excavator to remove those from the ditch, and allow Mr. Luigs to attempt to cut them up and dispose of them. If I have an additional problem, where Mr. Luigs is unable to do so, I will come back next month with a more detailed bid sheet.

President Mosby: Can Ralph not help you from out at the garage, in any way?

Bill Jeffers: Well, I wasn't sure that you would want county equipment out on private property. We usually, if they can't reach it from the road, we usually don't ask them... if it's associated with a bridge, we do, but if you get way out onto private property—

President Mosby: Well, I mean, it's actually a ditch though.

Kevin Winternheimer: Yeah.

Bill Jeffers: That's not...we just have a right-of-entry to maintain the ditch open. It's not really an easement. We usually have used contractors for this.

Kevin Winternheimer: Who's property is it? Is it Mr.?

Bill Jeffers: Bill Luigs.

Kevin Winternheimer: If you want a legal opinion, I don't have any problem having the County Highway Garage do it, as long as he gives us permission for the equipment to be there.

Bill Jeffers: If Mr. Luigs does?

Kevin Winternheimer: Yeah, whoever the property owner next...that you have to drive across.

Bill Jeffers: He only asked me could I get a backhoe out there? Or an excavator? Because he didn't have that equipment. He's a farmer.

Kevin Winternheimer: Yeah.

Bill Jeffers: But he's not a farmer who uses excavation equipment.

Kevin Winternheimer: That's your choice. Whatever you want to do.

Commissioner Fanello: Can we explore that option, maybe?

President Mosby: As long as he don't have a problem with it, I don't see why—

Kevin Winternheimer: There is a public, the key is there is a public purpose. The public purpose is getting that ditch open. All you are talking about is being able to access that ditch. So, if the property owner, Mr. Luigs, says it's fine, that the county excavator drives across that property, I have no problem, from a legal standpoint, of doing that.

Bill Jeffers: I understood that there is a way that one entity can contribute to another entity to offset costs, but that's hidden in the statute somewhere. If that were to come up.

Commissioner Fanello: Well, I would make a motion that we direct the County Surveyor to get a written, something in writing, that Mr. Luigs...does it have to be in writing?

Kevin Winternheimer: Well, that would be (Inaudible), but what I was going to suggest is, because it's been raining about every other day in the past four or five months, why don't you...and I assume that, you said there was an emergency here, and that time was of the essence, that you authorize both ways. First, try the County Highway Garage, and if for some reason they can't fulfill the requirement, that you authorize, if that's your pleasure—

Commissioner Fanello: Okay.

Kevin Winternheimer: —to go out and get a private contractor to get this done, before somebody gets flooded.

President Mosby: Right.

Commissioner Fanello: Okay. I'll make the motion to explore the Highway alternative first, and if that does not work out, pursue the private contractor to take care of the problem.

Bill Jeffers: Okay, thank you.

President Mosby: I will second, and so order that.

Bill Jeffers: The second emergency is located on the property of Helen Nuebling. The tenant farmer, Tom Kissel, is requesting approval for him to perform needed dirt removal, and bank repair due to recent erosion and continued erosion in Maidlow Ditch. The removal of the dirt and the repair would be sub-contracted to Randy Martin. The money to pay for this project, to pay Randy Martin, would come from the Big Creek Drainage Association Fund, not the county fund. The bid price that Mr. Martin submitted was \$2,000. The project has been approved by the President of the Big Creek Drainage Association, and the Maidlow Ditch Board members. So, this is at no cost to the county. Big Creek maintains their own funds for emergency, or extra work like this. By statute, they simply have to name the sub-contractor that's working under them, and that sub-contractor is Randy Martin. The County Surveyor recommends you allow Big Creek Drainage Association to sub-contract Randy Martin, at their cost, to perform this work on Miss Helen Nuebling's property, to be supervised by the tenant farmer, Tom Kissel.

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

President Mosby: Second, and so ordered.

<b>Encroachment Requests &amp; Agreements</b>
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Bill Jeffers: Okay, encroachment requests and agreements. On Sonntag-Stevens Ditch, on a, the property owner is asking for the relaxation of the 75' right-of-entry for Sonntag-Stevens Ditch across the northeast corner of an unaddressed commercial lot, located on Lynch Road, 683' west of Hitch Peters Road. Robert Reinlander, the petitioner's attorney, submits these legal documents requesting the relaxation, to allow for more full use of the lot, which has recently been rezoned commercial. The County Surveyor recommends the relaxation to a distance of 30' each side of the top of the bank of Sonntag-Stevens Ditch, measured perpendicular to the ditch bank. The legal documents are submitted here for the review by the board's attorney, to determine the ability to record these legal documents. This, basically, is allowed by statute. You have a 75' right-of-entry, the reason it's 75' is it contemplates the spreading of spoil whenever you work on a ditch. The statute allows you to relax the right-of-entry to any distance, no less than 25' from the top of the bank. I'm recommending 30' to allow for our mowing machines, which, generally, take 23' to 28' to do the mowing. I would say to you that 30' is enough for the excavator to work in, and haul the dirt away, should it need to be repaired. This would allow the owner of the property more full use on the commercial lot. I would like to ask that you make the motion to relax it to 30', and then let Mr. Winternheimer go through these documents to make sure they're recordable.

Commissioner Fanello: So moved.

President Mosby: I have a motion, second, and so ordered.

Bill Jeffers: The next one is Keystone Subdivision's request for permission to locate a decorative sign facing Greenriver Road, within the lake maintenance easement, for their retention lake along Greenriver Road. These documents show you the location of the sign at the entrance to Hightower Drive. It's just an informative, brick sign. It's located so that it doesn't interfere with the maintenance of the easement, or the replacement of those pipes that are shown in the easement. Documents accompanying this drawing indicate the Keystone Homeowners Association, or Lot Owners Association, will maintain the easement, the sign, and everything outside the right-of-way of Greenriver Road. The County Surveyor recommends allowing the sign to be placed within the lake easement as shown on this drawing.

Commissioner Fanello: So moved.

President Mosby: Second. So ordered.

Bill Jeffers: Okay, we had another one from 3711 Arrowood Drive, and unless the homeowner is here to speak tonight, I'm awaiting some additional information to bring that one up to a more approvable condition.

President Mosby: Do we have the homeowner present on 3711?

Bill Jeffers: He's not here tonight. So, we're going to skip that, and bring it back next month.

President Mosby: Go right on.

<b>Petitions</b>
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Bill Jeffers: I know there's...are there any petitions to come before the board tonight for removal of obstructions? Did you receive any, Madelyn?

Madelyn Grayson: No, I did not.

Bill Jeffers: Okay.

<b>Other Persons Wishing to Address the Board</b>
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Bill Jeffers: I have a stack of correspondence from the month of...since our last meeting a month ago. Some of those people are here in the audience tonight that I corresponded with, so I'm not going to bring those to the podium until they speak. There are several people here tonight that wish to speak regarding recent flooding. Other than that, the County Surveyor's business is finished, except to supply information that may come from their comments.

President Mosby: Do you have a sign in sheet? Madelyn, right here.

Bill Jeffers: Is everyone here from Greenriver Estates or (Inaudible)? I think we probably should take the Greenriver Estates first. It's been the longest running issue. Do you all have a spokesperson that you would like to (Inaudible)?

Steve Batthauer: Good evening, I'm Steve Batthauer, 4224 Wethersfield Drive in Greenriver Estates. Would really like to speak with you and put some things on record, if we can. Actually, coming tonight with hat in hand to discuss some things and try and understand your procedures, and how to proceed with our problems. Can I show you some exhibits of some recent flooding? This was some flooding on April 21<sup>st</sup> on our property. This is some adjacent property to us. This is 4224, Mr. Jeffers. (Inaudible. Stepped away from mike.) I don't believe you had our address in your Surveyor's report, so I wanted to make you aware of that. So, we're one additional lot that's involved with that. That, as you look at that, the water was all the way up to the foundation, and, actually, into the crawl space. This is, actually, the second time this has happened in a period of about eight years. So, it's, yeah, it's discerning, yeah. Now, I don't know how you want to proceed with this, and how much detail you want me to get into, and what my hypothesis is on this. You explain to me how you want to proceed.

Commissioner Fanello: Well, I guess, oh.

President Mosby: My question is going to be either with the Surveyor or the County Engineer, I mean, because I would tend to say, you know, this is a problem that John Stoll is going to have to look into, and tell me where we're heading from here.

Bill Jeffers: Well—

Steve Batthauer: (Inaudible) figure out who to talk to.

Bill Jeffers: —on your map, there is one more address to the right hand side of 4222, and that's Jeremy Roll, correct?

Steve Batthauer: Yes, yes.

Bill Jeffers: Do you know his address?

Steve Batthauer: He would be to the east of us, so. Right here, correct. That is, his property is, this is his property.

President Mosby: Okay.

Steve Batthauer: That's this one. Then these other one's, this is us.

Bill Jeffers: Or Jeremiah Roll.

Steve Batthauer: Jeremiah, yeah.

Bill Jeffers: Jeremiah Roll, okay. In 1998 and '99, Jeremiah Roll and his wife and co-owner petitioned the Drainage Board to remove an obstruction that was, basically, located in several spots from his, from his yard down in this area...the water flows this way, and into this ditch. There were various high spots along the ditch line before the subdivision to the north was even considered for development. The County Surveyor and crew went out there and staked the grade line, and these folks are here in the audience tonight, and others, cleared that ditch, and the drainage problem, or, not the drainage problem, but the drainage obstruction that caused some flooding that's being discussed tonight, that happened several years ago, seven or eight years ago—



Steve Batthauer: Right.

Bill Jeffers: –was alleviated for a period of time. Then a developer came in and brought in a subdivision now known as Windham Hill, and that's what I'm showing you on that map. It wraps around those two properties, one of which I have highlighted as Hass, H-a-s-s, and another one Rueger, those two fellows are in the audience as well. Then the subdivision wraps around their property and comes down and has a common boundary with Greenriver Estates, where the rest of these folks own property. When they received their letters of notification, of course, they were alarmed, or concerned that since they had had this flooding problem that they thought could reoccur if the ditch became obstructed again, or overloaded with excess storm water from a development. They came in and remonstrated against the subdivision, in a very polite and sensible way. The only concern they expressed was control of excess drainage water. They didn't get into any other...they didn't branch out into any other remonstrance other than the control of excess drainage water. Now, I've drawn on that map to show you where the natural water comes down in a pink arrow. Comes down through Mr. Hass, and then also comes down through what's the next, going to be the next phase of this development. It's supposed to, supposed to end up in a detention basin that I have outlined in green. If the natural water that came off of Mr. Hass and Mr. Rueger's woodland out there continue to come through where I've shown in pink, that would not overload the ditch along the back side of these Greenriver Estates residents, except in very unusual circumstances. For example, if there's an obstruction, or if there's just torrential rainfall for an extended period of time, they would experience problems. However, the developer has a plan, on file, that's been approved, and has been represented to be capable of intercepting up to 60% of the water that I show coming across there in pink, and running it into that detention basin in the next phase of his development. What happened in these rainfalls that these folks here tonight are here to talk about, is the developer is operating over here in phase one, which is bounded off like that, and this part, which we'll just call phase two, because I don't know which direction he's going yet, he has come over here and disturbed some land. He's run utilities down this line. The trees that he's scalped off of this line over here, he's pushed up in a big debris pile. So, he has made some land disturbing activities over here in what's still farm ground, or could be farm ground. He has created some land disturbance. The effect of it is, it intercepted the watershed from quite a large number of acres, came down and hit a brush pile that he has pushed up, and the water was diverted over into the woods, and joined up with some natural water that comes out of the woods, all on it's own. Then there was an area up here that was uncontrolled, and this whole area that drains down through here jumped over the silt fence, took a lot of mud with it, and the result you see in the pictures. Now, this happened to these folks two or three times in the last 40 days. They called me the first time, I went out there, there was...well, actually, the size of what you see on this fellow's pictures, there was mud all the way up on the door step, back door step and patio of this yard, and, actually, mud and water free flowing out into the street, and down the street. I don't recall that ever happening.

Steve Batthauer: Let me just state one other thing. There was free flowing water coming here to here–

Bill Jeffers: Between the houses?

Steve Batthauer: Yes, between the houses on ,right here, and right here, on that, what was the April 21<sup>st</sup> rain.

Bill Jeffers: There was one that was particularly intense, and after that one, both Mike Wathen and I walked on, separately, two different times. There's a gentleman back here that caught me out in the field, looking at the developing area, and took me around and showed me where the water and mud came out his back yard. His address is 4200. So, I walked back through the woods, and that's what I determined. The water came down, there was a lot of excess water hit that brush pile, went, was diverted eastward through the, Mr. Rueger's woods, picked up a lot of mud as it went, and then turned south and joined with the rest of that water, some of which was spilling out of the subdivision, and some of which naturally gathers up in the woods, and put all that mud and water into the backyard of all these homes. Consequently, their worst fears from 1999 were realized. Subsequently, I've sent the developer two very long, and detailed letters saying that I think, I think that he should finish, or at least temporarily finish an intercepting swail all along his property line, come down here, and, at least, at a minimum, install some sort of temporary erosion and sediment control basin where he intends to build the lake, and, for lack of any better way of saying it, live up to his promise to intercept 60% of the water that he told these folks, at that microphone, that he would intercept and bring to that location.

President Mosby: So, what's our response been? Or how long ago did you send the letter?

Steve Batthauer: I think that letter was sent, Mr. Jeffers sent that letter on April 25<sup>th</sup>, was your first letter.

Dave Rueger: My name's Dave Rueger. I own 20 acres at 8800 North Greenriver Road, and I'm the woods that these people's property back (Inaudible). I was advised to have the State Forester, Mr. Steve Marling, come in and assess the damage. Mr. Marling spent a couple of hours with me and (Inaudible) wandering through our woods. That woods is virgin oak. It's one of the few standing eight to ten acres of woods. It's never been touched. We wanted it that way. That's what we bought it for. Now, we've got eight to ten acres of swamp. I'm not trying to color this anyway, the woods always attracted water (Inaudible. Stepped away from mike.) It has always (Inaudible) water. Mr. Marling said it's obvious to him that we've got two problems. One of them, we've got to stop the excess water coming off of the new site, the new project—

Steve Batthauer: Windham Hill.

Dave Rueger: Windham Hill, and we've got to get that ditch open so that it can drain what water does fall. We are contemplating a damage suit. We don't know to what extent the damage is already at, because Mr. Marling said it would two to five years to find what the damage is to that woods. Thank you.

President Mosby: Thank you. So, let me go back to my previous question for a minute. In your letter to the developer of Windham Hill, did you give him a time to, a time limit to respond? Have you asked him to be here at a meeting? Or, I mean, what is?

Bill Jeffers: I don't believe I gave him the, any particular time to respond. I'm not sure I have the authority to do that.

Commissioner Fanello: Well, that was going to be my question, what is our authority? What extent can we, I guess, make him do something to correct this problem immediately?

President Mosby: If he's got a, if he's got a plan on file that was passed by this Drainage Board that says he will capture up to 60% of that water, and he's not living up to it, then why can't we call him back in for a hearing?

Bill Jeffers: I suppose we can. It's a relatively delicate situation, because, actually he has installed the majority of his conveyances and stuff there in section one. He's got all of that in place. My argument is, had he not touched anything over here in this other section, he most likely would be in a situation where he could have left it, as natural farm ground, and just left it be. In fact, he did come over the crest, he did run a sewer line down there, and he did do some land disturbing activities around here that resulted in, what I think is, possibly, a disruption in the natural watercourse.

President Mosby: Has the drainage plan on this been accepted?

Bill Jeffers: Not in it's final form on that area. Just in preliminary form.

President Mosby: Okay. He's already started putting sewers in, and stuff like that?

Bill Jeffers: That's correct.

President Mosby: Then I say we get him in, and he finalizes this plan right away.

Bill Jeffers: Okay.

President Mosby: I mean, if he's went out and started moving dirt, and he's putting sewers in, I would think it would be to his best interests.

Bill Jeffers: I would think it would be to his best interest—

President Mosby: I mean, I hate to say that, but.

Bill Jeffers: —to spend his money wisely to protect—

President Mosby: Right.

Bill Jeffers: —the periphery of this property, rather than what I know is in the process of happening. He's been, there have been reports forwarded through...I mean, Mike Wathen and I work closely together on these kind of issues. Mike from the perspective of erosion and sediment control, and our office from the perspective of drainage. Mike has already had representatives down here from the state, and the complaint has been forwarded to the state. The property may be subject to a substantial fine. I hate to see money, I mean, the state of Indiana is in dire straits, I know, but I would rather see the money spent on corrective measures than just to go to waste as a fine. I have not heard back from Scott Railey. I mean, this is probably one of the most detailed letters I've sent to anybody. I've sent, you know, drawings with it. I've sent the minutes of the meetings at which various statements were made by the developer and his engineer. I've sent copies of the complaints, and everything else. I have seen him respond with work over there in section one. He has dressed up section one.

President Mosby: I'm worried about the trash pile and all this over here.

Bill Jeffers: Yes, sir. I am too. I'm worried about the damage potential to adjacent landowners, when, in fact, this area is going to be a lake, and the periphery is going to have an intercepting channel. The least we could see, on a temporary basis, to use that to intercept this water, and to send it down here to a stilling basin, a sediment control basin, at least on temporary.

President Mosby: That's what I'm thinking.

Commissioner Fanello: Uh-huh.

President Mosby: Get this out of the way, and get it down here.

Commissioner Fanello: Well, why don't we make a motion to direct the Surveyor to draft a letter requesting mandatory attendance at the next drainage board meeting to address this problem.

Bill Jeffers: With encouragements to move forward—

Commissioner Fanello: Exactly.

Dan Hass: I would like to see it on...my name is Dan Hass, and I live at 8900 North Greenriver Road. I own the ground next to the subdivision.

President Mosby: Down here, yeah.

Dan Hass: I know Bill can back me up on this. The developer hasn't done anything, unless he was forced to do it. There was no silt fence put up until I called Bill. There was no ditches dug, there was no drainage, at all, until I called Mike Wathen or Bill Jeffers. He has done nothing on his own, only after complaints has he even started to do anything. Am I correct on that?

Bill Jeffers: I can't deny what you are saying.

President Mosby: (Inaudible. Mike not on.)

Steve Batthauer: Mr. Jeffers, may I make a couple more comments? If I could. I'm not a drainage expert, by any means, but another issue that concerns me, and we've walked this in down pouring rains to try to get an idea of what the waterflow is. One thing that does concern me, maybe you can shed some light on this. The water drop from here to here goes downhill. There's not a real huge drop, but it's, I think, within spec, I know at least this area here is close to within specification, because we went off of (Inaudible) your Surveyor's several years ago about digging the ground out properly, and to a plum line. Now, my concern, if you look at this, there is a tremendous amount of water, a huge velocity of water that goes down this ditch here—

Bill Jeffers: That's correct.

Steve Batthauer: —okay. And, again, I don't know, you would know better than I, but what it looks like to me, is we've got water flowing down this way, there is so much velocity of water here, it, basically, just starts to back this water up. Because the drop, the fall, is considerably greater going down this ditch than it is this ditch. I think

this also contributes to the fact that the water just starts to back up, and pool up in this area. Now, what would your opinion be on that?

Bill Jeffers: Well, the velocity at which water moves is based on head, and you've got plenty...what you have is a very flat ditch from your backyard down to 4110, which is where I say there's an obstruction. I went out there and I put some stakes—

Steve Batthauer: Right.

Bill Jeffers: —and I asked, I think I talked with your wife—

Steve Batthauer: Right.

Bill Jeffers: —and encouraged you all to go down there and talk to the man that owns that 4110, to clean his ditch out equally or better than his next door neighbor to the west. There is a break point there, and there is considerable fall, a rapid fall from that point down to this ditch—

Steve Batthauer: From here (Inaudible)--

Bill Jeffers: —from there west—

Steve Batthauer: Okay.

Bill Jeffers: —and if you can get that water past that man's backyard, I don't think you will have any problem. That's where the obstruction is. Now, you've actually just been overloaded with excess water, that's compounded that problem. If you'll notice, his whole ditch is overgrown in rose bushes, wild rose, multiflora rose, and there's mud and dirt all out in the middle of his ditch, that's holding the water back. The water, as it went through that easement, didn't get outside the ditch until it came to that one spot that he has so much build up, that's where it kicked up and went across his yard.

Steve Batthauer: Uh-huh. I would agree with you. We've done some work. We've gone down there and shoveled some stuff out ourselves. (Inaudible).

Bill Jeffers: Well, it needs, I mean, it needs a major cleaning.

Steve Batthauer: Okay. Who, I guess, tell us, I don't know. I mean, what are the specifications? Are there certain specifications, or are there certain amounts of earth that need to be removed from this? We don't know. I mean, can you recommend that? Or who can recommend that? What I'm trying to understand is what the (Inaudible) is supposed to be?

Bill Jeffers: Well, it needs to be put back the way it was constructed.

Steve Batthauer: Okay.

Bill Jeffers: You know back in 1986?

Steve Batthauer: Yeah.

Bill Jeffers: Something like that. '88. Well, the drainage plans came through between '86 and '92, so, in that period of time there was a time when that ditch was first constructed—

Steve Batthauer: Right.

Bill Jeffers: —and the next door neighbor to 4110 has a pretty good handle on how that ditch should look.

Steve Batthauer: Which next door neighbor.

Bill Jeffers: To the west of 4410.

Steve Batthauer: Okay.

Bill Jeffers: If the fella at 4110 would make the ditch in his backyard look just like the ditch behind his neighbor's, I don't think there would be an obstruction there any longer.

Steve Batthauer: I mean, I'm not disagreeing with you. My only concern is this, if you look at these ditches, these ditches are a lot narrower, for example, than what our ditches are. I mean, it's very, very narrow, and I'm not 100% convinced that what you're saying will even be corrected. I hope it will. I mean, it's awfully narrow. I mean, is that, maybe that doesn't have anything to do with it, I don't know. Let me ask you one question, I'm trying to ask for some advice here on how to handle this. Do we go back to the original drainage board plans? Because we've got several issues going on here.

Bill Jeffers: Well the drainage plan, the drainage plan for that particular subdivision can be found at Andy Easley Engineering, 1133 West Mill Road.

Steve Batthauer: Do we...to get to the baseline of that ditch, do we go, do we do that? Is that our responsibility?

Bill Jeffers: Yes, it's the property owner's responsibility to maintain the ditch as it was constructed in accordance with the plans that Mr. Easley drew up.

Steve Batthauer: When does it become the county's responsibility on these ditches that you've discussed? The ditches that you discussed earlier in the evening. What is it that differentiates the county's responsibility—

Bill Jeffers: On a regulated drain...regulated drains are major drains in the county, they are not individual subdivision drains that are, basically, mutual drains. In other words, that's a mutual drain. That's a drain that was constructed to serve two or more pieces of property. It remains the property owners responsibility to maintain those drains open.

Steve Batthauer: Would you, okay, would you, so, again, just trying to understand this, would, for example, would this ditch, the expense of this, would this be shared between all the homeowners, and, possibly, this Windham Hill gentleman?

Bill Jeffers: No, those are all on your property.

Steve Batthauer: Those ditches?

Bill Jeffers: Those...the ditch behind your, behind Wethersfield Drive—

Steve Batthauer: Uh-huh.

Bill Jeffers: —is 100% the responsibility of the lot owners along that tier of lots through which the ditch passes. Those are all on—

Steve Batthauer: Okay.

Bill Jeffers: —those are all within Greenriver Road Estates—

Steve Batthauer: Okay.

Bill Jeffers: —and those properties are responsible for maintaining them.

Steve Batthauer: Now, let's say when this is happening, and we're getting sediment and so on from this property down into this ditch, which is part of the reason I think this is closed up. That's why I disagree with you somewhat, but I'm not, I don't care who's responsibility it is—

Bill Jeffers: No, that, I never, wait a minute—

Steve Batthauer: (Inaudible. Talking over each other.)

Bill Jeffers: —I never, there was a substantial amount of sediment—

Steve Batthauer: Right.

Bill Jeffers: —on that man's back porch at 4110. I don't doubt for a minute that some of the obstruction that's coming from silt laden water off site. Absolutely. There was a lot of mud that came across the line, and a lot of it was deposited in your back yard, and other people's back yards there. I never contested that.

Steve Batthauer: Okay. So, again, though, it's our responsibility to take care of that ditch, even though we've got water coming from someone else?

Bill Jeffers: We're going to try to take care of that issue.

Steve Batthauer: It's still our responsibility?

Bill Jeffers: It's still your ditch. It's still your property. It's still your maintenance responsibility, however, if you wish to pursue a civil, civil action to help offset your costs, that's something outside of this board. That's totally outside of this board. We will take the appropriate action that this board has initiated by asking Mr. Railey to proceed with his plan, and show up at the next meeting to explain his course of action.

Steve Batthauer: So, in summary on that, you feel that a lot of this could be corrected, a lot of these issues here could be corrected. This is going to finally reduce the likelihood of flooding again?

Bill Jeffers: According to the design engineer for Mr. Railey, it will reduce the flow of water by up to 60% from the ground that Mr. Railey is developing. Reduce the flow of water that currently crosses the line by as much as 60%.

Steve Batthauer: This line?

Bill Jeffers: And through the woods.

Steve Batthauer: And through the woods.

Bill Jeffers: Yes, sir.

Steve Batthauer: This line. This line here.

Bill Jeffers: Well, you're getting a lot of water from, through the woods, it comes off—

Steve Batthauer: No doubt. You can see it. It's like a sheet. Okay.

Bill Jeffers: Did you get the copy of the minutes I sent your wife.

Steve Batthauer: Yes.

Bill Jeffers: Okay. Where they made the statement that up to 60% could be captured.

Steve Batthauer: Yeah.

Bill Jeffers: They meant from any area contributing water into Greenriver Estates.

Steve Batthauer: And that's good, because that clarifies (Inaudible), because I thought this actually meant this ditch here.

Bill Jeffers: That ditch, I would, that ditch doesn't play into that statement. The ditch along the west line of his...no, the ditch you just pointed to earlier. Along the west line of the ultimate project, and down through Covington, that's not, that was not indicated by that statement.

Steve Batthauer: Okay.

President Mosby: So, you are going to send a letter to Mr. Railey asking him to appear, right?

Bill Jeffers: Yes, sir.

President Mosby: Okay.

Unidentified: (Inaudible. Not at mike.)

President Mosby: Yes. You made the motion, I seconded and so ordered.

John Hunsinger: My name is Hunsinger. I get all the water from him. My next door neighbor, where it passes me, does a lot of business with surveyors, contractors, and so forth. So, it's hard to really get anything done with him. It's never been addressed of what the swimming pool next door to me has done. Nobody seems to want to talk about that. He raised the area, he narrowed the ditch several feet when he built his swimming pool. The dirt from his swimming pool went to raise his back yard, and cut the water flow, the way I look at it. Have you ever considered that?



Bill Jeffers: I've never been asked to consider that.

Commissioner Fanello: I'm unclear as to who we're talking about.

Bill Jeffers: Okay.

John Hunsinger: (Inaudible. Stepped away from mike.)

Bill Jeffers: He's talking about 4134, built a swimming pool and raised the elevation of their back yard, and squeezed the ditch size, horizontally squeezed it. Mr. Hunsinger, I hate to be this way, but if I were to go looking for every yard in a subdivision that altered their grading plan, and adversely affected their neighbor—

John Hunsinger: Uh-huh.

Bill Jeffers: —I could probably find 100 a day. I would have no other time to do anything. So, until someone files a petition alleging the obstruction of a drain or watercourse, I just take care of the 10 or 15 I get a week, on the telephone.

John Hunsinger: Like I say, he's done a lot of business—

Madelyn Grayson: Mr. Hunsinger, can you make your comments at the microphone please?

Commissioner Fanello: Yeah, we need for you to talk into the microphone.

John Hunsinger: Nobody wants to address that problem because he does so much business, I guess, with them.

Commissioner Fanello: I don't understand what you mean by that statement, really.

John Hunsinger: You don't?

Commissioner Fanello: Who does a lot of business with?

John Hunsinger: My next door neighbor.

Commissioner Fanello: Oh, okay.

John Hunsinger: He works for a company here in town that is hired by the city, and he does business with surveyors, contractors, and so forth. So, they are very touchy about the whole nine yards.

Commissioner Fanello: I don't know that to be true, but I just, I think, if the problem is brought to our attention, we'll investigate it. Is that not true?

President Mosby: Are you saying that he does a lot of work with the County Surveyor?

John Hunsinger: I'm not sure if he does or not.

President Mosby: Well, I mean, I wish you would clarify that, because, I mean—

John Hunsinger: (Inaudible. Talking over each other.)

Commissioner Fanello: I don't even know who he is.

President Mosby: Who?

John Hunsinger: Greg Coburn.

President Mosby: Greg Coburn?

John Hunsinger: Yeah.

Commissioner Fanello: The name means—

President Mosby: I mean, I was over in the city for 14 years on City Council, and—

John Hunsinger: He works for the Waterworks, or the (Inaudible).

Kevin Winternheimer: Oh, he may be, I don't know if he still is, the name sounds familiar. Maybe with the EMC, or whatever, EA2.

President Mosby: Oh, manages EA2 (Inaudible. Talking over each other.)

Kevin Winternheimer: I don't know if he still does. He used to.

John Hunsinger: He's still manager, as far as I know.

Bill Jeffers: Well—

Kevin Winternheimer: But that's neither here nor there.

Bill Jeffers: I've been the technical advisor to the Drainage Board since, at least, 1984, that I can remember, and, in particular, in the last 12 years, I've never seen the Drainage Board act in a political manner, partisanly, or in favor of a petitioner or a remonstrator, or a respondent to a petition. I mean, really, I kind of take, I kind of take offense at that, because I've never seen them play that game. They've always responded in an appropriate manner, according to statute and code. If you would like to file a petition alleging the obstruction, I'll do my best to determine, I mean, the drainage plan that was implemented, was implemented 12 years ago, and this is the first I've heard that it was....if you'll remember, when Mr. Roll filed a petition, I asked this same fella to clean his ditch out behind his house where that root had grown up out of the large tree on the other side of the fence. He did the same, put up the same effort of cleaning his ditch as the rest of you all did. You told me yourself out there in the field that up until this Spring, it worked just fine.

John Hunsinger: Okay.

Bill Jeffers: So, and I'm sure if the fella you're talking about is a reputable surveyor, or engineer, or technician, or whatever he is, that he would do everything he could to cooperate, I would assume. I have no reason not to assume, I mean, to assume otherwise.

President Mosby: Well, I would just say that, if you want, I mean, make petition. Make a petition through the Surveyor to the Drainage Board, and we'll be glad to look at it.

John Hunsinger: Okay.

President Mosby: I have no record of it.

Steve Batthauer: I want to make just one more comment, or just so I understand what's going on.

Madelyn Grayson: Can you state your name again, also?

Steve Batthauer: Excuse me, yes. Steve Batthauer, I spoke earlier. We're going to go ahead and try to work on that ditch...what do we have here? The 4110, right, Bill? I think that's the one that you're saying. I mean—

Bill Jeffers: I'll be happy to write the owner of 4110 a letter from my office encouraging him to cooperate with his neighbors, and for him to clean his ditch out. I'll try to specify some parameters for cleaning it. It is your responsibility as, I mean, if you'll read the plat, if you'll read your covenants and your restrictions, if you'll read the notes that are on the plat, every homeowner in that subdivision, can enforce the covenants and restrictions that they entered into with all the homeowners in there.

Steve Batthauer: Yeah, that—

Bill Jeffers: And that includes cleaning the ditch.

Steve Batthauer: (Inaudible) I'll tell you what, hold on—

Bill Jeffers: You know.

Steve Batthauer: —why don't you let us, hold on, why don't you let us talk to the gentleman first and see what we can do. If we don't get any cooperation, then I would like to have you get involved. Is that okay?

Bill Jeffers: That's fine.

Steve Batthauer: We'll leave it at that.

Bill Jeffers: If you walk down that ditch, you've already seen the stakes that I drove in the middle of the ditch—

Steve Batthauer: Yeah, I did.

Bill Jeffers: —and left notes on them as to where—

Steve Batthauer: I sure have. I've been out there digging around, trying to open it up. Okay, so , no, I appreciate that immensely. The reason I'm asking this, and, again, I'm not trying to, I don't want you to get defensive, I'm just trying to ask, if you think that will really help the flow of the ditch, I'm all for it. I want to do that. Also, if you think, secondly, for the record, if you talk to this, what is it Scott Railey, if you think your discussion with him on the specs meeting, can get things resolved, and can get the water issues resolved for the ditch people, and for the woods people, then I'm all for it. We'll go for it. We'll do it.

President Mosby: Well, that's our every intent.

Steve Batthauer: Okay. Very good.

President Mosby: Okay.

Steve Batthauer: Okay. Thank you.

President Mosby: Thank you.

Madelyn Grayson: Sir, will you please state your name again, for the record.

Dave Rueger: Dave Rueger, 8800 North Greenriver Road. Just one question, folks. Would this meeting even be necessary? We came down and remonstrated against the drainage plan originally. It was passed. We asked people to go out and look at the situation, because you don't have to be an engineer to see that elevation from 519' down to 400 and some odd, is a hell of a drop, and a lot of water comes down that hill fast and furious. The whole thing, this whole thing tonight would not even have been necessary had the original drainage plans been followed. Am I correct, Bill? You don't want to answer that. That's alright.

President Mosby: I mean, as an outsider looking in, I'm saying if this had all been done, it probably wouldn't have happened, but he's working into the phase, and he's piled up the trash here, and that's what I'm looking at, so.

Unidentified: (Inaudible. Not at mike.)

President Mosby: Oh, that's another issue. Okay, well, on this issue, I mean, we are going to let them deal with 4110. We're going to send a letter to Mr. Railey, so, we've got a motion to that effect, so, that will happen starting tomorrow. You all can deal with 4110. If you can't resolve anything, make a petition, and we'll send the Surveyor out.

Dave Rueger: Thank you.

President Mosby: Thank you. Cheryl, do you want to come forward then? Here's your pictures.

Unidentified: Thank you.

President Mosby: No problem. Here's that other picture too. Oh, the other gentleman left.

Cheryl Shallenberger: Hi, my name is Cheryl Shallenberger. I live at 1400 Heinlein Road. Oh, I'm sorry. I corresponded with Mr. Jeffers, and he spoke to me on the phone, and I've received a letter from him explaining what our responsibility is in this area, and I do understand that. I guess, I learned a lot tonight, because I didn't realize that homeowners could file petitions alleging obstructions of waterways. So, I think we need to maybe look into that. My question is for, on Heinlein Road, I've called several times to ask the county drainage, whoever is responsible for it, I guess, County Highway, to clean it. A few years ago I had to call, and call, and call, and, finally, they did it. It's, they've marked part of the road, and we told them where the obstruction was. On that particular issue, the whole, on that day, the really bad day, April 21<sup>st</sup>, all of the water that was coming down Heinlein Road crossed Heinlein Road, and came down our side of the road, because there were trees and all kinds of things in the culvert. We went up there on Wednesday night, the night of the

tornado warnings to see where all the water was coming from, and we figured it out. So, my husband, and my family and a couple of neighbors, we got all the stuff out. I called the county and I told them that we pulled most of it out, but it still needed to be cleaned out. So, I guess, I just want to know if I need to file a petition to that sort of thing, and getting the county to do that?

President Mosby: Is this on county property?

Cheryl Shallenberger: That is. The ditches are.

President Mosby: The ditch that you're talking about that's got the obstruction in it?

Cheryl Shallenberger: Uh-huh.

President Mosby: No, you don't have to file a petition.

Cheryl Shallenberger: Okay.

President Mosby: We'll file that for you in the morning.

Commissioner Fanello: We'll make a phone call and file that for you.

Cheryl Shallenberger: Okay, thank you. The whole, all of Heinlein Road is bad. All of it, and they only marked a certain section, and they didn't even mark where I told them that the whole area was. We threw everything (Inaudible) the ditch. Okay, my other question is, it does involve our property, which I have corresponded with Mr. Jeffers about. We have property that is, the natural waterway flows from the subdivision of Whetstine and Broadlawn, behind our property. It hits a corner, and then it comes back out on the street. So, and we've recently found out from talking with Mr. Jeffers that the original homeowners knew what needed to be done to handle the water coming from the subdivision, and, I guess, it had been surveyed and all the specs had been laid out and everything, so, we have called someone to come and get the specs from Mr. Jeffers and to give us an estimate on the cost of dealing with this water. This is the second time that we have flooded our barn. Our outbuildings have flooded, and also, as a side issue, we will probably be trying to figure out, and talking with some legal counsel on whether or not the original homeowners were responsible for actually doing this before they sold the property to us. Because they were told that the outbuildings needed to be taken out, and this little wooden bridge needed to be taken out, and the ditches all needed to be widened to handle the water. We were not told that. I brought the little survey thing, or the little, I found it, I told you I couldn't find it. I found it. He said that somewhere on this it says that the fences, drives required to be removed for construction of this water main...this is, they were going to put in city water here, and it was going to be a subdivision, and it was going to be three lots. It ended up, we just ended up owning the whole thing, because the owner couldn't get permission to do whatever he wanted to do. So, I guess, I'm leading up to my question is, if our, once we do what we need to do to get our ditches able to handle the water from the subdivision, as it's flowing from Heinlein down to underneath Fox Hollow, and then it's got to go around a little pond that they have there. And then there's some other...I learned a lot too, because I was listening to all those people. There are some other homeowners down there that the ditch just looks really bad, and, so, I guess, there's no way of knowing whether or not...when we spend all this money, which we have no idea how much it is going to cost yet. After we spend all this money, then how will we know that we actually won't flood again? If the water, if the waterway up

from us, as it circles around, if that's not able to handle all of our water, then is it going to back up? And we put our house on the market to sell, because we are trying to move to Louisville, and about a week later was this flood on April 21<sup>st</sup>. Since that was the second time the barn flooded, it raised an issue in our mind as to, legally, what would happen to us if we sold this property to someone, and didn't tell them that our barn flooded, and then next Spring they bought the house, would they come back on us? That's what we have to find out. We don't feel consciously right about selling that, and moving on. We want to do what we can do to make it right for the next owner. If the property does flood, after we've done everything we can do, then, I guess, legally, we couldn't be held responsible for it? If it does?

President Mosby: You say it's flooded twice in how long?

Cheryl Shallenberger: The first year was in 1998. I found out where we had to clean out our system that year, as well. So, that was in 1998. We had bought the property in '97. In speaking with Mr. Jeffers, he mentioned to me that in 1996 you had a really bad rain here. June 9, 1996, he probably, he figures that that property probably flooded, and that was right before they put their house up for, on the market. We were in California, at the time, and we had no idea any of this was going on.

President Mosby: I, personally, think you're talking about two just unforeseeable incidents. If it's only did it twice, and some of the rains that we've had recently, it's a wonder you haven't flooded three or four times.

Kevin Winternheimer: I would suggest, though, that you contact a good real estate lawyer.

President Mosby: Yeah, because I'm not going—

Kevin Winternheimer: It's easier to pay for a consultation fee, than if somebody ends up suing you, and, you know, if it's your home, it's probably your life savings is in it. Mine is. So, it, given the situation, talk to a good real estate lawyer. As far as your first question, I guess, you would have to talk to a good engineer. Because that is who's going to answer you about whether water is going to come back, but if you have, sounds like you have legal concerns, you ought to talk to somebody. It's a lot cheaper now to talk to than after stuff happens.

Cheryl Shallenberger: Yes. Okay. Alright.

President Mosby: But, what was the address on Heinlein Road that you was wanting cleaned out?

Cheryl Shallenberger: The whole thing.

President Mosby: Well, the whole thing, but you say it's marked—

Cheryl Shallenberger: Between 1300, 1330, and 1400, you can't hardly see. When you are coming out of our driveway to look to the right, you can hardly see. That's really, there's trees, there's all kinds of things. Someone came to our house yesterday, we had an open house that I decided not to cancel, and their question to the realtor was, who is responsible for all this? Because they noticed how bad it looked. They were wondering about it, so.

Bill Jeffers: I think where she would like to see it cleaned would be from the Fox Hollow Subdivision entrance east to Broadlawn Estates, on both sides.

Cheryl Shallenberger: Up a little farther from Broadlawn, because up a little farther—

Bill Jeffers: Where they are doing that—

Cheryl Shallenberger: Where those—

Bill Jeffers: Where somebody is doing some work back on the south side there, tearing some houses down or something?

Cheryl Shallenberger: Yes. I think a lot, I don't know—

Bill Jeffers: I think a lot of the mud, and the sticks and stuff may be coming from the work they are doing.

Cheryl Shallenberger: Okay. But these were huge logs that were actually blocking the culvert on the—

Bill Jeffers: I'll get the addresses for the board. I'll get the address for the board—

President Mosby: We've got her address at 1400.

Bill Jeffers: —and a small map.

President Mosby: So, if nothing else, we'll send them to 1400 to talk to her.

Bill Jeffers: Well, yeah, let them come out and talk to you. This week I'll have a map for Ralph of...it's from Birch Park Drive east on up towards the end of Broadlawn.

Cheryl Shallenberger: I know they are really busy, and I called to ask them where we are on the schedule, because they have actually come down and marked part of Heinlein. I just kind of want to know, since we are trying to sell our house, and we would like to get out of there, legally.

Bill Jeffers: What Mrs. Shallenberger was referring to earlier is that the developer that sold her the house she is living in, had a three lot subdivision lined up to go, and during the review of the preliminary plan I had asked several questions from Morley and Associates as to how to size the ditch behind her house, and along side her house to take all the flow that is coming out of Broadlawn and Edinborough, because it's the same ditch. I believe they came up with a volume of 57 or 58 cubic feet per second that that ditch would have to handle. That's like a 3' bottom ditch, with 3 to 1 side slopes, or whatever I told you on the phone. It was a substantial ditch improvement that would have to be made before the ditch that runs behind her house, along side her barn and her shed, and then takes an abrupt right hand turn, and comes out to Heinlein Road, as she described, there was quite a bit of work that needed to be done to that ditch to bring it up to equal condition with the rest of the subdivisions surrounding it. It was the last parcel that was being sold off by Mr. Effinger. It was his home place. So, there was a preliminary drainage plan there that had been approved, but it hadn't been finalized. When Mrs. Shallenberger found this out, she asked me could she have access to that file, even though it wasn't a file that went forward. I opened the file up, and on the front page it said this subdivision was withdrawn January 1997, but I'm keeping this plan in the file,

because I know there will be a drainage problem associated with it in the future. I dated it 1997. So, she asked me if she could have access to it, and I said, yes. She called a contractor, and the contractor's representative came over and took the file to his office, and they are currently working up a bid to let the Shallenberger's know how much this project would cost to finish. That's, basically, what she's concerned about when she asked the rest of those questions. How much is it going to cost me? Can the county help me from wherever I finish my work, can they help me in the right-of-way down to Baumgart Road? There are some ditches along the way that are insufficient or overgrown. Then the legal questions, which, of course, she got some good advice on that. So, we'll continue to work with Mr. and Mrs. Shallenberger on this.

President Mosby: And we'll get a hold of the garage tomorrow, and see that somebody gets out there to clean these out.

Cheryl Shallenberger: Thank you very much.

President Mosby: Thank you very much. Any other business to come before the board? Seeing none.

Commissioner Fanello: Motion to adjourn.

President Mosby: Second, and so ordered.

The meeting was adjourned at 8:51 p.m.

**Those in attendance:**

David W. Mosby	Catherine Fanello	Kevin Winterheimer
Bill Jeffers	Madelyn Grayson	Steve Batthauer
David Rueger	John Hunsinger	Cheryl Shallenberger
Dan Hass	Others Unidentified	Members of Media

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

**Recorded and Transcribed by Madelyn Grayson.**





**Vanderburgh County  
Drainage Board  
June 24, 2002**

The Vanderburgh County Drainage Board met in session this 24<sup>th</sup> day of June, 2002 at 6:55 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

**Call to Order**

President Mosby: Call to order Vanderburgh County Drainage Board for June 24, 2002.

**Approval of Minutes**

President Mosby: Do we have approval of the minutes?

Commissioner Fanello: So moved.

Commissioner Mourdock: Second.

President Mosby: Motion and a second, and so ordered.

**Hearing on the Suitt petition**

President Mosby: Hearing on the Suitt petition.

Bill Jeffers: Bill Jeffers, Vanderburgh County Surveyor. The Suitt petition hearing is canceled. Mr. Suitt has withdrawn his petition. Mr. Suitt's neighbor removed certain components of his waterway improvements that extended vertically above the flow line grade and there is no obstruction in the waterway at this time. Mr. Suitt plans to make improvements to halt erosion and stabilize the channel on his property. Mr. Suitt will work with SWCD and the County Surveyor to use methods recommended in the Indiana Handbook for Erosion Control. The county has not incurred any cost beyond ordinary postage for two letters that I sent to Mr. Suitt and to his neighbor and the County Surveyor recommends that the Board refund the \$100 filing fee to Mr. Suitt to help him pay for the waterway improvements.

Commissioner Mourdock: Suits me. So moved. I couldn't help myself.

Commissioner Fanello: Thank you.

President Mosby: I have a motion and a second, so ordered.

**Report on Windham Hill Subdivision**

President Mosby: Windham Hill, is that the one that Les wanted to continue?

Les Shively: No, that's the one further down under Old Business.

President Mosby: Oh, Millay, okay. I got confused.

Commissioner Mourdock: Windham Hill is that off of Kansas Road, Bill?

Bill Jeffers: Right, this report that I just handed you is exactly the same thing that I have in my script that I handed out earlier, but it just refers to Windham Hill, it's the portion that refers to Windham Hill. Windham Hill is located on Green River Road between Millersburg Road and Kansas Road. It's north of Green River Estates, and was the subject of discussion the last couple of Drainage Board meetings with regard to flooding incidents on neighboring properties during this spring's heavy rains. On Thursday, June 20, 2002 at about 4:00 p.m. the County Surveyor inspected Windham Hill subdivision, drainage improvements and erosion control measures. The developer Scott Railey and his legal counsel, Jerry Atkinson, both of whom are in the audience today, accompanied the County Surveyor. This was in reply to the Drainage Board's request that Mr. Railey appear tonight. The report begins with comments on Windham Hill, Section One which is the recorded subdivision within which construction of streets, utilities and housing is occurring at this time. The drainage system for Windham Hills, Section One including roadways, curb and area inlets, pipes, yard swales, perimeter swales, primary conveyance swales, detention lake, lake outlet structure, and the outlet channel to Green River Road all appear to be installed appropriately. The inspection did not include detailed measurements, so the exact sizes and locations of these improvements is not determined at this time, but will be determined upon final inspection. Appropriate erosion control measures are in place within the roadway and drainage system for Windham Hill, Section One. The developer has established a grass cover over most of the exposed areas of Section One, and the grass cover appears to be adequate, being 50% to 70% sprouted and growing in areas seeded last year, and is becoming adequate in areas seeded this year. The developer has installed appropriate silt fencing along the property line separating Windham Hill, Section One and the Hass property to the south. The developer has installed operating check dams in the discharge channel from the detention lake to Green River Road. The developer is advised that he must make periodic inspections, and maintain and repair his drainage improvements and erosion control measures in Windham Hill, Section One. The developer should closely inspect his drainage system and erosion control measures, especially after each heavy storm, to assess their performance, and determine their need for maintenance and repair. The county retains the developer's letter of credit, which guarantees completion of the streets and drainage system in Section One. The letter of credit will not be released by the County until final inspection determines correctness of installation, and the stability of the lake banks and the stability of the various open channels. Now that covers the inspection of the recorded Section One where the development is going on at this time. Now with regard to the unrecorded, undeveloped part of the project adjacent to the Hass property, the Rueger property and Green River Estates properties. The developer is not required to install and maintain storm water drainage and detention facilities for property not under development. No letter of credit is held by the county to guarantee completion of streets and storm water facilities for the property adjacent to the west line of the Hass and Rueger properties or adjacent to the north line of Green River Estates, because no plat has been recorded for this part of the future development. Because land in the undeveloped area of the project was disturbed in association with construction activities in Section One, the disturbed area is covered by the requirements of state "Rule Five", but it is not subject to requirements of the county's drainage ordinance. Simply for sake of convenience, this report calls this part of the developer's property Section Two. I am not sure if that will be Section Two, but tonight it is. The County Surveyor inspected, and reports on Section Two as a result of drainage complaints called directly to or referred to the Surveyor's office over the past three months. A record exists in the County Surveyor's office of drainage problems and drainage related complaints in Green River Estates that predate the initial planning for the development of

Windham Hill subdivision. During the planning for development of Windham Hill, adjacent property owners shared their drainage related concerns with the Drainage Board. That is a matter of record. The developer's design engineer developed a plan that he says will capture up to 60% of the storm water from Section Two that otherwise arrives in Green River Estates, and the plan will convey the run-off to the southwest corner of Section Two, where it will discharge into an established ditch. During heavy storms in the spring of 2002, excess storm water left Section Two through natural surface watercourses on the Hass and Rueger property. Upon arriving at the north line of Green River Estates, this excess storm water spilled out of the Rueger's woods and overloaded the ditch along the rear of the lots on Wethersfield Drive. The County Surveyor made certain suggestions, delivered in writing, to the developer of Windham Hill, asking him to intercept excess storm water from Section Two, and to convey it away from the Hass, Rueger and Green River Estates property in a manner that would approximate the planned future drainage system. Thursday's inspection of Section Two reveals; the developer has installed temporary swales along the boundary of Section Two adjacent to the Hass property, the Rueger property and Green River Estates property. The developer has installed earthen berms directly behind the temporary swales to contain excess storm water in Section Two and together the swales and berms intercept the storm water from Section Two, and convey the flow into a long, narrow sediment control basin located along the south boundary of Section Two. An earthen berm separates the sediment control basin from Green River Estates so that any overflow from the basin will not spill into the ditch along the north line of Green River Estates. There were three unfinished rock check dams in the sediment control basin on June 20, 2002. The developer expressed his intent to have the rock check dams properly installed as soon as possible. The sediment control basin is located where the future lake will be in Section Two, and releases the accumulated storm water into the established ditch along the west line of the project all as shown in the approved drainage plan for Section Two. The disturbed area of Section Two has been heavily seeded and grass is becoming established on previous farm crop land. The developer showed me pictures in the hallway just before the meeting that clearly demonstrate the statements that I have just made, and I am sure that he will present those to the Board. During the inspection, the County Surveyor advised the developer that temporary drainage and erosion control measures should be inspected after every significant rainfall to determine the adequacy of performance and need for the maintenance and repair. Two particular locations exist, both identified to the developer during the inspection, where temporary drainage and erosion control measures are most likely to be over-topped if not carefully maintained and periodically repaired. Both these locations are where natural surface watercourses historically enter the Hass and Rueger properties. The rock check dams in the temporary sediment basin must be finished correctly to insure proper operation and discharge into the established ditch at the southwest corner of Section Two. The pictures that I mention clearly shown that the work had been finished since Thursday and the developer acknowledged each of the three advised items above. That concludes the Surveyor's report. Like I said, the developer is here at your request. He is represented by Jerry Atkinson, and also by Morley Associates as the design engineer. Mr. and Mrs. Hass are here, Mr. Rueger is here, and I think I see people from adjacent Green River Estates are here also in the audience.

Commissioner Mourdock: Bill, before you step away from the microphone, if you start on what is the, I guess, third page here that starts with that line, Thursday's inspection of Section Two reveals and then you have the developer has, when were those things put in place? It is something that was done on the Wednesday before the Thursday or is it something that was put in place in the coming, several weeks prior, were those last minute developments?

Bill Jeffers: On the individual report that I broke out of the meetings script I attached to it an on-site evaluations to the back of that. These evaluations come from Soil and Water Conservation District staff. One of them is dated 6/13 which shows, at that time, most of the items were satisfactory on the 6/13 inspection. They did say the appropriate perimeter sediment control is marginal, and that the storm drain inlets, meaning the ones on the streets, are unsatisfactory but this shows that work was conducted earlier than last Thursday. I believe Mr. Railey, the developer, had begun work to address the situation possibly greater than 30 days ago, but it is just now coming to the point of being very satisfactory.

Commissioner Mourdock: Okay and on that same report you just referred to from June 13<sup>th</sup>, there are status of sediment retention on-site, two boxes are checked today, site conditions present a high potential for off-site sedimentation and there is evidence of off-site sedimentation, so both of those are a direct result. I must assume that only one of those "M"s that are circled up above.

Bill Jeffers: That is not necessarily a complete statement. If you look at the next page under the very last item, other requirements, SWCD is recommending a restrictive flow inlet on the basin discharge. In other words, they have a large lake out there but it has a direct discharge pipe and as soon as it starts raining water is immediately discharged.

Commissioner Mourdock: There is not enough free board?

Bill Jeffers: There is for detention purposes. It is perfectly designed and implemented at this time. What Soil and Water Conservation District is recommending there is a temporary stand pipe to allow more time for silt to settle out. There is arguments for and against that. Obviously, if it is a slotted riser, whatever goes out through the slotted riser is just as muddy as what is kept in the lake, and, well, there is various arguments, but that is the Soil and Water Conservation Districts recommendation that a slotted riser be installed on a temporary basis. That is not an item that would fall under the drainage code. However, Soil and Water Conservation District would like for the Drainage Board and the County Surveyor to agree with them on that, because it does fall within a drainage easement. There were also, with regard to your question, there were some perimeter locations, not associated with the complaints here tonight, where mud was discharged near the entrance of Green River Road. There was some mud on the street, and there is some silt that leaves Windham Hill and goes under Green River Road and into Windfield Farms on the other side, or whatever it's called over there.

Commissioner Mourdock: Which is the same developer.

Bill Jeffers: So the silt is leaving this site, yet it goes immediately across the street into his next system from which hardly any water is being discharged, at this time, because his lake is so large in that system that it's containing the silt over there. However, the way that they write the Rule Five is that it's leaving one site entering the right-of-way for Green River Road and then immediately going into the second site. So it is a matter of interpretation. Personally, if the right-of-way could be considered public property he is just conveying his somewhat silty water directly to his next series of silt containment measures. Any other questions?

President Mosby: Any other questions?

Bill Jeffers: How would you all like to? Would you like to hear the persons who voiced the complaints first? Or would you like to hear from Mr. Railey who you invited to come tonight?

President Mosby: Does anybody from the neighborhood want to speak? Okay, that is what we will do. We will take comments from the neighbors and then we will let the developer speak.

President Mosby: Are you representing the neighbors?

Les Shively: Yes, I am. Mr. and Mrs. Hass and Mr. Rueger, two of the neighbors. My name for the record is Les Shively. What I would do, Commissioner Mosby, is give an overview, and then they have some specific comments and observations on current conditions that they would like to provide you this evening. I appreciate all of the work that Bill has given to this particular project, but I respectfully disagree with him on one little part in terms of the fact that you don't have any jurisdiction over Section Two. The answer is, yes, you do, and I will tell you why you do. When Mr. Railey came here on October 23, 2000, one of you were here, two of you were not here at that time. There was a very lengthy discussion about drainage, at that time, in conjunction with preliminary approval of the drainage plan for the entire project. The Hass's were here, the Rueger's were here, and looking at page one of those minutes, Mr. Daniel Hass, who you will hear from in a moment, expressed a concern that we are having here. You have heard a lot of verbiage here, but pictures speak a thousand words, so let me show you from Mr. Jeffers map that he provided to the Drainage Board last month. This is the Hass property. This is the Rueger property, okay. This is Phase One over here, and this is Phase Two. The problem areas are basically here, here, and here. I am going to come back to these in a moment with a time line as to what has been done, and what hasn't been done. But, essentially, this was the area of concern back on October 23 of 2000, when this matter came before this body for preliminary drainage approval. At that time their engineer, Morley and Associates, stated the following: they acknowledge they need to intercept the water, what we need to intercept the water. Yes, and Mr. Hass specifically asked about berms. Mr. Morley stated, "there will be a berm at all locations where we need it to intercept the water that comes from this. If it is an area where we don't need a berm to intercept the water then there won't be a berm". So, it's like, and then there was more discussion. Mr. Morley then reiterated exactly, "so we'll have a berm every place that we need one to capture the water". Let me tell you what has been done, and what needs to be done. Mr. Daniel Hass explains it a lot better than I do, and he'll do a good job here in a second. Right along here, this border here, they put in a ditch, and with the, about a 3 1/2' ditch, and with the excess dirt they have created that berm effect in here which is working. Okay, but they stopped it right here. Essentially what needs to happen is that theme, an idea consistent with what their engineer said, is that we are going to put this in all places where it is necessary. It needs to be continued where this orange part here down here through the yellow. Now this pink area, Mr. Hass will tell you, the pink area they have, in fact, and this was very much a concern a month ago, they have, in fact, done the appropriate, corrective measures there, and it seems to be working at this time, but, again, picking up from comments Mr. Jeffers made, that is a dynamic situation out there. What we want, these folks will tell you, they want what has been done up here to continue along this line here, the orange and yellow. Now, when I, when the Hass's and Rueger's first contacted me I wrote a letter to Mr. Railey and what I referred to in that letter on May 1<sup>st</sup> was the report of Mr. Jeffers of April 25<sup>th</sup>, then updated April 26<sup>th</sup>, where he listed all of his concerns, things that needed to be addressed. We requested a copy of correspondence or a plan of how they are going to meet the County Surveyor's concerns that had been addressed. I received a letter on May 23<sup>rd</sup> from Mr. Atkinson simply saying that everything had been

addressed, and everybody should be happy, and a bunch of money had been spent. However, it was not really responsive to my letter. I didn't get a detailed plan of what they were going to do. Now again, that date is important, May 23<sup>rd</sup> and it goes back to one question that I think Mr. Mourdock asked. This analysis done by Mr. Jeffers which he has dated 5/21/02 indicates that nothing had been done in the pink area, and this was marginally sufficient in the orange, and in the yellow area it was temporarily sufficient. What you will hear this evening is the fact that the problem has not been fully addressed, and these folks who have lived out there know how water drains, know the problems, experienced the flooding, told this body in October of 2000 that would be a problem and the developer's engineers acknowledged that, and said where they have to hold water back and handle it they will put up berms or some type of structure to that extent. That needs to be done, and all we ask them to do is continue that theme consistent with the representations they made two years ago. With that, I am going, in my comments to kind of give you an overview, this is my only copy, but I will leave this up here for you to refer to as these folks talk with you. Like I said Mr. Rueger is here, the Hass's are here, and some folks from Green River Estates on the other side and I will be more than happy to answer any questions you have of me right now.

President Mosby: Any questions?

Bill Jeffers: Before we go on, if that's sufficient that is fine, but Morley and Associates has a larger map that shows an aerial photograph, don't you? Of the same area if you need to refer to that.

Les Shively: That's fine. I just want to make sure I get that back because I actually borrowed that from Dan over here.

President Mosby: Mr. Hass do you want to go next?

Daniel Hass: My name is Daniel Hass, and I live at 8900 North Green River Road. This is the first time that I have seen this report, June 20<sup>th</sup>, and when you went through the area over there, and one thing I can say, when I received this paper on May 21<sup>st</sup>, the orange part here that you have hasn't been touched since May 21<sup>st</sup>. From the time that you were out there on May 21<sup>st</sup> to this June part, that part that was marginal then has not yet been touched today. So, if it was marginal then, I don't understand how it is corrected now.

Commissioner Mourdock: Let me field that one for Bill, because I want to be sure that I understand it, but I don't think that is what Bill is saying. The date of this entire document was -

Daniel Hass: June 20<sup>th</sup>.

Commissioner Mourdock: Was June 20<sup>th</sup>, but you also heard him refer to the report that was here from June 13<sup>th</sup>, which is the Soil and Water Conservation, and it is indicated as marginal there. So, it was marginal on June 13<sup>th</sup>, which was after May 21<sup>st</sup>.

Daniel Hass: It still hasn't been touched today.

Commissioner Mourdock: Okay.

Commissioner Fanello: I think we are all in agreement with that.

Commissioner Mourdock: Yeah, okay.

Daniel Hass: I mean, when I read this it said it was sufficient on the very front of his comments.

Commissioner Mourdock: Well, then he, well I don't know where you see the word sufficient in that, but he goes on to speak about Section One, and then speaks about Section Two, and I think that all of the issues here are effectively Section Two. Bill, is that correct?

Daniel Hass: We are still on Section One, and that's why-

Bill Jeffers: The orange area that Mr. Hass is pointing to is what I am calling Section Two. It's not part of the recorded subdivision. It is a temporary diversion channel with a berm behind it and silt fencing, all of which is considered temporary by anyone that is familiar with construction and development. Those are temporary features in an area that's not currently under development, and is not a part of a recorded plat, and the report here from Soil and Water Conservation District is a report that is the result of an inspection by Lynn Miller, who is Indiana's Soil and Water Conservation, Department of Indiana Department of Natural Resources. Mike Wathen, Norma Duckworth, both from SWCD, Bill Jeffers and Tom Nix, both of whom are board members of SWCD, and it says marginally. Appropriate perimeter sediment control measures have been implemented and are marginal.

Daniel Hass: So, the west side of the street that he has in here is Section One or Section Two?

Bill Jeffers: The streets are in Section One. The orange area that you pointed out adjacent to your property with the berm and the temporary ditch is what I am calling Section Two, undeveloped, unrecorded area.

Daniel Hass: The berm stops right around this street.

Bill Jeffers: I saw what I saw.

Daniel Hass: The real reason why we're here is the promises that we were made two years ago. What we have a problem with is that we were told that they would be installed. The only reason they were installed is after contacting Bill and having Bill go back. Nothing was installed in advance. All of the damage to our properties, Green River Road Estates III property, the Hass property, the Rueger property, all of the damage was done before, any soil or water conservation measurers were put up. Now, I couldn't be the minutes from last months's meeting, which I did have Bill make a comment on that, and he supported my thought with that, and that is the only reason that we are still here. Scott wanted to be a good neighbor, and he was going to install all of this stuff, but he wouldn't install it until he was forced to install it. Thank you.

President Mosby: Any questions of Mr. Hass? Sir, do you want to speak? Then I will take you next.

Reginald Gibson: Yes, I am Reginald Gibson, 4110 Wethersfield Drive directly, property directly south, I think, of the development Section Two, the under developed part. Our concern, of course, is, I have some pictures to show you the results of the flood before. The water is about 8" deep. I was taking them from the steps/stoops of my back, back door looking out over the field there, and you can see the background there. Of course, the erosion control was not in place that you



mentioned earlier, and that was my concern all along and didn't know who to contact at the time but of course they had the big rains there and all the big mud and the silt just came through and it uprooted our whole, our brick patio, uprooted that and it subsequently has partially collapsed and cracked as a result of all that water pressure underneath there and being there for that long period of time. We have been in the area since 1998 and of course it hasn't rained since then and what water was coming through or over that particular property at the time was clear water you know coming off of the farm land because it only had plants and other things there to check the erosion or whatever it was, it was minimal but there was water coming through but the ditch that we had did contain it at the time up until this last time when they cleared all of the land off of there and just left the soil bare. It just came down in torrents, and you could tell where the brunt of the water was coming onto our particular property is where it mainly came through and mixed with the clear water that was coming in off of other people's property there. So you can see the difference from where it was originating from. I just want to mention the fact that it did cause some damage, which we have not looked into as far as repairing is concerned, but we are going to have to do something. I just wanted to make my point.

Commissioner Mourdock: Did I hear you say, Mr. Gibson, that you have lived there two years.

Reginald Gibson: '98.

Commissioner Mourdock: Four years.

Reginald Gibson: Four years.

Commissioner Mourdock: And did I hear you say that it had flooded before?

Reginald Gibson: No, it had not flooded before. We never had water. Any rains that we have had since we moved here were within that particular ditch that is on our side, I guess if you want to call it that. There was some concerns of previous neighbors had about the grading of the ditch, and I think maybe the Surveyor came out and put some stakes out there and us and the Cobourns next door to us and a couple of houses down followed the stakes that the surveyors put out and leveled our ditch accordingly, and apparently it met satisfaction of the surveyors. We never heard any more about it, but that was a year before, and then they scraped all of the soil off, vegetation off, and then let them lay fowl, and that is when the rains came.

President Mosby: Any questions? Thank you very much, sir.

Dave Rueger: Hello, my name is Dave Rueger. I own the property at 8800 North Green River Road. Folks, we can really simplify this thing. In the first meeting that I came to, Drainage Board meeting, we were assured by the developer and by the engineer that we would not have these problems. Mr. Mourdock, you were present, we expressed our, we knew that water come off that hill like hell. We were concerned about it then. We're concerned about it now. All we are asking is simply for the developer to keep the excess water running off of his development onto our ground. The last meeting that I was here, I think, Mr. Mourdock you were absent. I had the Indiana State Forester come look at approximately 10 to 15 acres of woods that I have. He said that it would take 5 to 10 years to assess if there is permanent damage from flooding of that woods. But, what he did tell me is if we don't stop it now, I can kiss that woods goodbye, and it is one of the few remaining woods and

we value it highly. So, all we are really asking folks is not a big bunch of discussion, we are asking what they promised us they'd do from the very first thing. Thank you.

President Mosby: Thank you. Any questions? Mr. Railey, Mr. Atkinson, who wants to speak.

Jerry Atkinson: My name is Jerry Atkinson, and I am representing the developer tonight. Let me apologize first to the difficulty of communication. Since this first came to your meeting or attention in a meeting I believe back in April. As I understand the circumstances, on April 21<sup>st</sup> there was a heavy deluge of a storm that flooded the area. On the 25<sup>th</sup> of April, Mr. Jeffers sent out a letter to Scott Railey. On the 29<sup>th</sup> of April that was received by Jim Morley, the engineer for Mr. Railey, and on the 3<sup>rd</sup> of May, Mr. Railey became ill with a debilitating (I can't say the word) disease called labyrinthitis. He was forced to stop working for a period of three to four weeks. He was with his parents and they provided care for him. He was unable to function on any effective basis. He turned the matter of dealing with the drainage issue over to the Morley firm, and they interacted with workmen who, in fact, have now put a perimeter around the entire area. As you see in the photographs that were taken today there is old growth of grass. He started immediately by virtue of giving the direction to go forward and help solve the problem. There are two sections of this land. One is a section that is being currently developed. It is platted, as Mr. Jeffers has indicated, pretty well permanently bermed, and permanently established with regards to drainage. The second area is an area that the developer is not yet developing. The water has for a long time come down the hill. We don't disagree with that. Mr. Morley did say that the development would interdict the water, and we don't disagree with that. Mr. Railey has, in fact, done what he said he would do. He didn't get it done as quickly as he would have liked it done. He did not respond in writing to request a schedule from Mr. Jeffers because it simply wasn't within his ability to do at that time. The work of putting a temporary perimeter of his property has been done. It is in place, and if I could pass some photographs around. The very first photograph is a photograph of the orange area as it exists today with an existing silt fence, with an existing trench with dirt piled up, with existing grass that has been growing for several weeks.

Commissioner Mourdock: Let me define today, Mr. Atkinson. Has it been since June 13<sup>th</sup>?

(Inaudible)

Commissioner Mourdock: No, that wasn't my question for the photographs. I want to be sure. You said the work has been done, all of this has been done. Has any of this been done since June 13<sup>th</sup>? Which would have been a week ago.

Jerry Atkinson: Yes, what has been done, the rocks catch, sediment in the drainage ditch has been directed. We met with Mr. Jeffers. As he pointed out they needed to be reshaped.

Bill Jeffers: All of that seeding and straw mulching that you see has been done since, most of it has been since the 13<sup>th</sup>. Some of it was done prior to the 13<sup>th</sup>. Basically it has been beefed up since the 13<sup>th</sup> and the silt basin that Mr. Mosby is looking at was constructed approximately during the middle of June.

Commissioner Mourdock: Bill, you were out there on the 20<sup>th</sup>?

Bill Jeffers: Yes, sir, I was out there on the 13<sup>th</sup> and the 20<sup>th</sup>.

Commissioner Mourdock: In your opinion, do the things that were lacking in the report that Soil and Water did on the 13<sup>th</sup>, have they been fully mitigated? Or maybe that is not the right word. Have the fixes required under the June 13<sup>th</sup> document been put into place as of your visit on the 20<sup>th</sup>?

Bill Jeffers: Number five, the storm drain inlets being adequately protected. They show those as unsatisfactory. I believe those are the street inlets and I think they are referring to sand bags. I can't tell you truthfully at this time if those sand bags have been put around the inlets. Because I generally look at ditches and so forth.

Commissioner Mourdock: How about number two?

Bill Jeffers: Number two. Appropriate perimeters, sediment measures have been implemented. They were assessed on the 13<sup>th</sup> as marginal. Basically those are, that is silt fencing and that is always marginal. In my estimation silt fencing has to be constantly monitored because even a deer or a dog can knock silt fencing out of place. So even the people that tell you have to have silt fencing, the Department of Natural Resources will tell you that it is only 30% effective because of this marginal nature.

Commissioner Mourdock: Has the area in orange on Mr. Shively's map, has that been worked on to a state that would otherwise allow it to have the water pass through there where apparently it was previously not doing that?

Bill Jeffers: The area that you show in orange there along the north line of the Hass property adjacent with Section Two is one reason why it is called marginal. That is a natural surface watercourse where historically water has passed from the McCutchan farm onto Mr. Hass's property, and what we are trying to do is reroute water so that it doesn't take its natural course at that point, and Mr. Wathen and I both say it is marginal, because every time it rains, like it is doing right now, he will have to go out there tomorrow, and if any erosion has occurred uphill and deposited enough silt into what Mr. Railey had done that I say was sufficient yesterday could be insufficient tomorrow, because of the amount of silt that fence has trapped. If that swale and silt fence has trapped enough sediment, it's got to be reset. So, it is always marginal, especially in a place like that, and he realizes that. The Department of Natural Resources realizes that, and I think that we all have to realize this is something that has to be monitored after every significant rainfall.

Commissioner Mourdock: Okay.

B.J. Farrell: Can I make a tape change, please?

**(Tape change)**

Commissioner Mourdock: Let's cut to the chase here, and sorry to disrupt an attorney, but, Mr. Atkinson, can I call Jim Morley? Or whoever from your firm, Jim, to talk about the orange line on the map? Thank you. The comment has been made and you have heard it said here about the representations that were done in October of 2000. I do recall those to some degree. What is it going to take to get that system to work? Is it at that point, do you think, now? And what is going to be done to make it work?

Jim Morley: Well, that is the location of the natural flow of the water coming that way. We had not intended that they would construct all of the, we match, we match

development, the portion of the development with all of the berms and the diversion structures with that portion of development. Sometimes future phases never, ever get recorded. Now, in this particular instance we would not normally have expected any sort of berms or erosion control or anything else out in the area of the farm field. In fact, he could have went ahead and farmed the field, is what Bill calls Section Two. You know that could have been farm ground and nothing would have normally happened. Now, what did happen is that across that field, Mr. Railey installed a sanitary sewer force main. There is a trench across it and they disturbed it. Also the contractor in clearing trees, moved trees and root wads out into that area. We did not, it would have been sufficient from a standpoint of what he was doing to simply mulch and seed the disturbed sanitary sewer area as quickly as he had gotten, as he disturbed the area, re-vegetated it and he would have been fine. There was no reason for him to go out and build a berm in that future section until he got ready to do that because he would not be increasing any flow from houses and streets and any other development. So the flow of water coming that direction is exactly the same. Nothing changed the flow of water but what he did do is that he went out and disturbed the area which would not change the flow of water but it would change the amount of sediment that was impacted on that. So, he proceeded, I guess, first of all without our suggestion of continuing across that area with berm and silt fence and then John Kipling who is with us here tonight went out and made some inspection and we had Scott come into the office and said, look as long as, since you've disturbed this area, and knowing that there is a problem down in Green River Estates with the grades on that ditch, which you heard about earlier, and the problems, by the way, still exist today on that ditch in Green River Estates, we ask Railey why don't you go ahead and do this anyway? Do the diversion ditch, complete the diversion ditch on around and he went ahead and did it. So, you know, I, you know I think, what you have heard here tonight is moving things, you know he starts work over here and you know apparently the neighbor thinks that okay everything is finished. It doesn't mean that everything is finished.

Commissioner Mourdock: I understand. But, I also understand the neighbors position and they may not recognize Phase One and Phase Two, they just recognize water in their back yard.

Jim Morley: Sure.

Commissioner Mourdock: It is not a bad thing to recognize. I would also recognize that they did hear the statement made that all of these things were going to be put in place, and I understand what you are saying in that they would be done in phases, but I also know what they heard which is that they are going to be put in place and, obviously, they weren't. All that being said, is it your engineered opinion that the structure that is now in place along that orange line is going to prevent any more occurrence of what has already happened to the Hass's, Rueger's and to Mr. Gibson?

Jim Morley: I can't, John, can you, did you address the height of that section along there with anything? I can't answer that Mr. Mourdock. Perhaps John can. Do you have a picture of it John?

John Kipling: Yes. This is one view of the area. This is another view from another direction.

Bill Jeffers: That's John Kipling from Morley and Associates.

John Kipling: The attempt to put in our typical swale, one foot deep with a one foot berm. Basically he removed the material from where this ditch is and placed it here

to create the berm and then installed the silt fence, and, of course, you can also see it's grassed, 50% to 70% grass. So an attempt has been made to put in a typical swale section that we promised.

Jim Morley: Let me show them on this.

John Kipling: Oh, yeah. This is the orange area that you are talking about. It is shown here as Phase One. The area in question, this is the orange area, and then, I guess, this is what he's got highlighted in yellow. But the view of the two photos are right in here looking at this, and this here is a photo looking that way, and just to give you reference, this is Green River Estates right here. You are kind of looking down this way.

Commissioner Mourdock: Where is Mr. Gibson at?

John Kipling: Gibson?

Bill Jeffers: That is on the west side of the power easement. First house on the west side of the power easement.

Commissioner Mourdock: Is that Wethersfield Drive?

John Kipling: Right. The statement was made that they knew that water was coming down the hill. I can't remember the exact statement. We know that water is coming down through here. It has been farm ground and it's now being seeded and we've got temporary structures in and until he starts to develop this area we can't get a permanent fix on where everything is going to be. He started to do something and once Lynch Road is finalized we can come in here and finish the work as shown per planning for that drainage for that section. But, we did have a typical detail of one foot ditch with a one foot berm.

Commissioner Mourdock: Is this line fairly accurate?

John Kipling: Yes.

Commissioner Mourdock: So, you've cleared, I presume, through this area?

John Kipling: No, the other promise was not to do any tree clearing. So, we moved our easements for drainage are up here in the street line and you've some utilities that are scurbing drainage also.

Reginald Gibson: Are there any berms going down through there?

John Kipling: Yes, let me see if I have a photo here.

Commissioner Mourdock: Let me jump to where I think Mr. Gibson is going with his question.

John Kipling: This is a silt basin with a ten foot wide ditch, basically.

President Mosby: How deep?

John Kipling: It is about one foot, and you've got a one foot high berm here, and then you have a silt fence that's behind it.

Reginald Gibson: And this is going, all of the drainage goes down here?

John Kipling: This is the other view looking this way.

Reginald Gibson: Where are those rocks?

John Kipling: These are right in this area right here and these are rock check dams and that's the discharge point.

Unidentified: Okay, so that is where the water hits the berms again?

John Kipling: Right here.

Unidentified: To the same ditch?

John Kipling: Yes. Well, it's going not to the ditch that's along your, the north property line.

Unidentified: Does that restrict that ditch at all?

John Kipling: Which ditch?

Unidentified: The flow of that water, does it restrict the ditch?

John Kipling: Yes, it restricts the velocity, not your ditch.

Unidentified: Does it impede the flow?

(Inaudible)

John Kipling: All we are trying to do is stop the water from getting to your all's ditch.

President Mosby: We are going to have to get everybody back on the mike though because we are not going to pick up parts of this.

Unidentified: I don't have to be on the mike here. Question for Mr. Morley. I want to ask you -

Commissioner Mourdock: State your name please.

Steve Batthauer: Steve Batthauer, 4224 Wethersfield Drive. One of the questions that I have had. You are the expert at this. From this north, south ditch right here, you've got a lot of water, if I understand it, and this is just watching this when you have a huge down pour. You have got a lot of velocity of water going down this ditch, okay? It just appears to me that not only do you have the problem of water coming off of the field this way, you have a lot of water coming down this way, and to me you can see it, the water, there is so much velocity here that it almost acts as a dam and what it does is that it backs up the water in this ditch? Now, is that possible? I mean I am seeing it.

Jim Morley: No, sir.

Steve Batthauer: Are the dynamics possible?

Jim Morley: No, sir. When Green River Estates was built, and I don't know if John has them with us here tonight, but the original drainage swale went south across

Green River Estates. The developer of Green River Estates dug a diversion ditch along the north line of Green River Estates in an attempt to divert the flow to the west to the main ditch. Whether or not, yeah, here's, why don't you show them that. Here is the original 1964 contours before there was a Green River Estates, and you can see from the flow arrows how the water flowed straight south across that subdivision. That diversion ditch may never have been constructed at a proper grade to the west.

Steve Batthauer: You said it never was constructed?

Jim Morley: It may have never been constructed right, but I don't have the personal information to know that for sure. There have also been various landscaping and lawn improvements in the back yards of homes along that area, and there were obstructions, and we took shots along the ditch. It has a very inadequate slope, the west end of the ditch needs to be deepened by a minimum of one foot in order to make that ditch slope properly to the west, and that was the reason early on when we were presenting the original information on this subdivision we said that we did no plan when we developed this portion to use that ditch at all because we recognized its inadequacy. It is not right now, and the Green River Estates ditch is not right now, and hasn't been for a long time. I think that Bill's office may have set some stakes, and I don't know if you guys hand dug it or how you worked on it, but in all honesty you need quite a bit more work to get good drainage there, and that's the reason. Those photographs of the flooding that they have around the houses, that is due to that ditch, and we had a profile along that ditch, and it only takes a drop when it gets there to the extreme west end right there approximately where that other ditch ties into it at that location.

Steve Batthauer: It takes a what route?

Jim Morley: It only drops good at the extreme west end of the ditch.

Steve Batthauer: Where one end intersects the other?

Jim Morley: The slope on that ditch needs to be rebuilt all along there. All the way back to, it needs to be rebuilt all of the way back to the Roll property. All the way back to the Roll property and if it is graded back to the Roll property then that will solve the water ponding issue. Now, there are some encroachments in the easement, it's going to be somewhat difficult with sewers in there and so. It is not an easy job. It's a kind of a neighbor thing.

Steve Batthauer: That's just it. Who do we call? Who do we call to get the proper perimeters set up?

Jim Morley: It is a recorded drainage easement. It is a recorded drainage easement. Therefore, it would appear to me, and I would assume that the County Surveyor could assist you in that, and it is a drainage easement in your subdivision. You have a right to make sure that the drainage easement is maintained.

Steve Batthauer: So what, what I'm saying, I'm not being defensive, what I am asking is that you're saying that it's inadequate now and it has been inadequate. So, we do we contact a firm like yours to figure out what the proper slope is? Because almost what you are telling me now is-

Jim Morley: We could do it, maybe even Bill could do it. Bill has done so much preliminary work on it, but he may not be willing to go out.

Jeremiah Roll: My name is Jeremiah Roll, I actually have the property that you were speaking to earlier. I filed a petition in 2000 with the Drainage Board.

Commissioner Fanello: We need him to.

Commissioner Mourdock: State your name please, and stay close to the mike.

Commissioner Fanello: Or you can take it with you.

Jeremiah Roll: No, that's fine. It seems to me that we went through this, the surveyors were out and surveyed the properties out back there. I had to put fill in behind my property in order to bring it up to a level because it was pulling behind my property and it wasn't just a heavy rain, it was just normal rains and it would fill up and would pull back there. I moved in, in 1996 and that is when I started noticing the problem, the next spring in 1997 and it was every spring after that. So, I petitioned because I thought something was wrong. The ditch wasn't right and the surveyors came out and shot it and I was required to basically. I put some fill in and everybody else dug out according to what the stakes were set and shot, they lined it and shot it. So, I am hearing Morley, Jim say that it is not right. Were you not the same firm that shot that originally?

Jim Morley: No, no. It is not enough and it needs more.

Jeremiah Roll: Did you have surveyors come out before you started that construction project? It apparently wasn't adequate? I guess I am confused as why we proceeded without implementing?

Jim Morley: No, the ditch, when we took shots on it originally, we found that ditch was not adequate. We never intended to use that ditch.

Jeremiah Roll: Okay.

Commissioner Mourdock: Let me interrupt here for a question here. The ditch that is running east, west along the north side of Green River Estates is the one that was inadequate and therefore you never planned on using it, correct?

Jim Morley: Right, that's right.

Commissioner Mourdock: And what you were intending to do as part of Windham Hill future whatever that means, you were basically going to put in a separate ditch parallel to it on the north side of the line.

Jim Morley: Right.

Commissioner Mourdock: If you put that ditch in and it intercepts the water does that not logically seem to take the burden off the ditch that's presently there not doing it's job because most of the watershed is on the north side of that line.

Jim Morley: There are some grade shots that we shot along there that you can see, we will be diverting a lot of the water that flows into the ditch. I believe that it will create a reduction in the flooding and the ditch is so poorly graded that there will be sections of the ditch where the water is just going to stand. If you will follow along



the highlighted spots that I have shot, that we show along there, you will see points that are six inches downstream, that are six inches higher than points upstream.

Commissioner Mourdock: Okay, time out for a moment. You are saying that there are spots where the water will stand in the ditch. And I said, is that true now? And I think, sir, you said it is true.

Jeremiah Roll: Well, it stood after this August, April rain, it stood sometime in the back.

Commissioner Mourdock: Okay, that being the case, though, I want to keep us on focus here as much as I can. What happens south of that property line and with that ditch is somewhat beyond the scope of what we are talking about here, not that it isn't a legitimate issue but from the Drainage Board point of view, the drainage that we need to deal with is the what is going to be intercepted on the north side of that line. North side?

Unidentified: Since October of last year I have been watching silt my property is 4242, I watched the silt and water and I have been looking at this because I had the drainage problem, I filed the petition, I watched water flow through this woods and carry silt into this ditch.

Commissioner Mourdock: And I agree and that is what we are trying to deal with because it is not in this case, it's not this ditch that we are talking about, it's the ditch up here that is the orange line.

Unidentified: You are talking about this line here?

Commissioner Mourdock: No, at the moment I am talking about the line up here. What you are getting is drainage here, isn't flowing this way, it's coming from up here and through the woods.

Steve Batthauer: And it is coming through this.

Commissioner Mourdock: And that is what Mr. Morley is saying. They are going to put a separate ditch, and already have, through here that should be intercepting the flow that is coming through what he is deeming and you all are saying is inadequate here.

Steve Batthauer: I will not disagree. Let's say our ditch over here and it's not adequate but the point I want to ask and Mr. Morley and I am trying to get to the root of the problem, you say go to the county and get the specs from the county and cut the ditch to the county specs, but it sounds like you are saying that the county specs aren't even right.

Jim Morley: I don't know that the county has prepared any specs for you, and in a way I don't know if it is really appropriate for you to expect the county to do that.

Steve Batthauer: I am not expecting the county to do anything. All I am expecting, I just need the specs. I want the specifications as to what the ditch is supposed to be.

Bill Jeffers: I believe in the minutes of last month's meeting, said that plan, I said it last month and I am going to say it again today right now, the plan for Green River

Estates is on file in Andy Easley's Engineering office , 1133 Mill Road, 424-2480, the plan I said that last month and now you have the address and phone number again.

Commissioner Mourdock: Did Mr. Easley do the original design work on that? Is that what you are saying?

Bill Jeffers: Yes, he did and I have sent copies of portions of that plan to people who are asking the question here tonight. Did you receive a cross section that shows?

Steve Batthauer: Yes.

Bill Jeffers: Those were excerpted from Mr. Easley's plan for Green River Estates.

Steve Batthauer: Do you think that's adequate?

Bill Jeffers: The ditch that's there today is not adequate. It is not built to those specifications.

Unidentified: I agree with that.

President Mosby: Okay, we have to get one person back at the mike here so we can get some, come to a solution.

Jim Morley: I will stay up here but I think I was finished.

President Mosby: I guess the one and only question that I have and I am confused. Is everything in place? I mean everything that we are talking about. The orange line, the green line, is everything in place tonight as it is raining?

Bill Jeffers: Yes, sir, everything is in place as witnessed by the photographs and the report that I submitted and other testimony here tonight.

President Mosby: And the gentleman that is here at 4242 where the water is coming I guess through the woods, I guess he would be protected by the orange line?

Bill Jeffers: Yes, sir. The watercourse would extend from that orange line straight south through the woods to Mr. Roll's property.

Jim Morley: He will still get the water off his back yard, but he shouldn't get as much as he would have gotten before the diversion.

Commissioner Mourdock: But, let's pick up on Bill's point earlier that what we are calling here the orange line is an artificial structure that is going to require over a long period of time a lot of maintenance to make sure the grade is maintained, so that water is taken from its original course westward-

Bill Jeffers: And southward to the basin.

Commissioner Mourdock: And southward.

Bill Jeffers: That is correct and after what we are witnessing outside right now, I would say let's all pray that it dries up this week so that he can get out there and dress it up again for the next storm.

Commissioner Fanello: So, is this a temporary solution then?

Bill Jeffers: Yes, ma'am.

Commissioner Fanello: Okay.

Jim Morley: All erosion control measures are temporary and they are part of the Rule Five commitment. That you continue and if any part fails you work on that and you know you fix it, you can't refer to a plan and say, well I did whatever the plan work and if it didn't work, it didn't work. You are never exempt from finishing the job.

Commissioner Mourdock: I would just say, Catherine, it's permanent, it is not temporary, it is permanent but it requires regular maintenance.

Commissioner Fanello: That is what I was kind of thinking.

Bill Jeffers: Continual, regular maintenance.

Commissioner Mourdock: And the area that is on Mr. Shively's map here that is pink where uncontrolled ponding area. That structure has now been put in place as well, running east, west.

Jim Morley: There will be with the Phase Two and actual basin, or pond built there. Today, there is a swale created across it with some control structures as it goes to the west. It is in place today.

Commissioner Mourdock: And that swale was sized for the watershed that was out there?

Jim Morley: That is the most recent and the-

Bill Jeffers: There is also a berm south of and parallel to the swale that seals off the three pink shaded cuts that I showed. One which went directly into Mr. Gibson's back yard. Those have been sealed off, those are cuts that were made by the farmer prior to Mr. Railey's acquisition to drain his field into Green River Estates. Those farm cuts have been sealed off by a berm as well.

Commissioner Mourdock: And does the farmer understand that is not to be cut through again.

Bill Jeffers: There is no farmer now, he's gone.

President Mosby: I have a question. You say this is temporary but permanent and that is it going to require maintenance. Ongoing for, let's just say-

Bill Jeffers: Until the permanent swales and ditches are cut in with the final drainage plan for Section Two which is not.

President Mosby: Okay, I guess that was my question because that is what I was getting to. If Section Two was done would that still be there just like it is today?

Bill Jeffers: It would be improved. There would be a lake where the sediment basin is and those temporary channels that skirt the woods would be up against the property line and the woods would be cleared, the hedge row would be cleared and those structures would be put permanently in place rather than skirting the woods

and vegetated area because right now, the adjacent property owners enjoy a screening of woods and vegetation that would later be removed.

President Mosby: I guess it is impossible for him to put this in place now?

Bill Jeffers: Personally, it's economically unfeasible. I wouldn't do it and I don't think anybody sitting here today would spend their money on an undeveloping piece of ground when they have a development to care to.

Jim Morley: Well, remember there are always the temporary things. The silt fence, the silt fence is temporary, it is never permanent. You know it is one of those things that you put up. I mean that's part of the, that is why we use the terminology temporary, it just means that it is not going to be there forever. But, it is the right thing to do the job at any certain given time but requires constant maintenance.

Bill Jeffers: He is operating under Rule Five, which is an erosion control requirement by the state. I really don't want to get into a situation where we are asking developers to go into an unplatted area and make permanent improvements that may later be completely torn out when he changes his marketing layout. I just don't think, I am not going there.

President Mosby: I am not going there either as long as they keep the water out of these peoples yards.

Bill Jeffers: Exactly, exactly as long as the temporary measures suffice.

President Mosby: But, if they don't keep the water out of their yard we're going to go there.

Jim Morley: I think that Mr. Railey has gone ahead and he has moved ahead and done diversions that aren't even on the sections that he is working yet. So, that should, you know, we will see in the morning and we listen to the rain fall outside, we will find out if all of the swales work properly and if they don't we will set some grade stakes for him to rework the areas.

Commissioner Mourdock: But, it is your opinion that the things that have been done out there to date, and if we were standing in Mr. Gibson's back yard right now, we wouldn't be looking at a backyard full of muddy water and that the other things.

Jim Morley: We should have our diversion all the way around that takes most of the flow away. Mr. Gibson will still receive water from portions of the land outside of the project, you know, and his back yard, so it may be ponded in his backyard.

Commissioner Mourdock: Outside of the project meaning?

Jim Morley: The woods that drain over onto there, all of that area drains that way. But, we should have intercepted most of the water and taken it right around and we will find out when the rains end tomorrow.

President Mosby: And if we haven't?

Jim Morley: We'll go back and check. Then we will set new grade stakes and he'll re-cut the ditch. Right? Right.

President Mosby: Okay, that is what I want to hear on the record.

Jim Morley: Yes, sir absolutely. Absolutely.

President Mosby: Comment?

Unidentified: You know there is really a simple solution to this damn thing. If he would have went up to the corner, the high corner, which would be on the map there, and built a berm say fifty yards down the, each side of the property, all of this water could have been deflected from coming onto Hass and Rueger and ending up in these peoples back yard. I don't understand, Scott, or Mr. Railey, why you would go ahead and develop the thing without taking precautionary moves to start with? I am not an engineer and I'm not a lawyer but it looks to me like there has always been a simple solution to this. If the berm would have been built to make a ninety degree up at the corner of the property the water would have to go two different directions. Thank you.

Commissioner Mourdock: For the record that was Mr. Rueger.

Jerry Atkinson: The photographs show that the berm he is referring to is there now.

Dave Rueger: It is not adequate.

Unidentified: No, it's not adequate.

Daniel Hass: My name is Daniel Hass and I want to use their pictures for a second. The orange part that we are talking about is right here and you can see these electric boxes and his berm stops right as the electric boxes and that is someone's back yard.

Commissioner Mourdock: Wait a minute, I am confused. You are saying that there are electric boxes up here at this corner?

Daniel Hass: No, I am saying electric boxes right here on this corner.

Commissioner Mourdock: Okay.

Daniel Hass: Here are the electric boxes. Here is the sufficient berm. That is the way that would be. The berm stops right here. This is where we will have the water problem, this is where we have lost two big oaks.

Commissioner Mourdock: This is why I have asked the question five times now. As to the dates as to how all of this comes together. They're telling, wait a minute, let me, let me make my point. They are saying all of these things are in place, so that the way it's raining out there right now, Mr. Morley's expert engineering opinion that every thing out here is going to work, and you are telling me these things are not in place.

Daniel Hass: The orange line is right here, and as you can see where he said was sufficient stops right here, and that is what we've got left. All we are talking about is making it over your silt fence and that is why it was marginal. This is his picture.

Commissioner Mourdock: And you are Mr. Hass, right?

Daniel Hass: Yes, I am.

President Mosby: And do you disagree with Mr. Morley?

Jim Morley: It will be inspected in the morning. If there is any part of the system that has failed, Mr. Railey has just given his assurance that it would be fixed.

Commissioner Mourdock: Mr. Atkinson?

Jerry Atkinson: The photographs, if I may, shows that the berm does not stop.

President Mosby: Go ahead while he is looking.

Mind Hass: May I go ahead. Okay, Mind Hass, I live at 8900 North Green River Road. We have heard from the very start of this project, Scott Railey assured us that there would be absolutely no damage to our property. All along again he is saying this. Who is going to make him accountable? He has not been accountable yet. Dad's property, five or six acres, was under water, absolutely flooded. He is a realtor and he knows that you can't sell swamp land. Let me point out that right now we are still getting drainage right now. Here is where my house is. I walked back there to do, there is a flow, a ditch that is etched in out of nowhere, that was never there before, guys, never there before, come here and I will show you. It is wet now. It inches right through here, and if you want you can come to my house in the morning and I will show you. It's wet, they are saying oh, they stopped it, they stopped it, they stopped it but I am tired of all of this, oh I will fix it, I will fix it, yeah it's right. Where is my house from here, right here.

Unidentified: This is your house?

Mind Hass: Okay, is this where the house is or where the lake is?

Unidentified: Wait a minute, I have a better photograph.

Commissioner Mourdock: That's a lake, here's a house.

Mind Hass: I am way up here in this corner. I am wet right now. How long has it been dry. I still have this little etched road. I mean I don't understand this, he keeps making these promises. Mr. Jeffers says that he is accountable, what he says to you guys and what he is saying to us, I'm sorry, it's been two different things. I don't understand this.

Commissioner Fanello: Okay, that's what I want to know. What is our possible solution and what is our course of action? Because these people need to have some kind of relief and if they are not happy what's going to make them happy? What kind of compromise can we come to here?

Commissioner Mourdock: Bill has been uncustomarily quiet tonight because I think he knows the (Inaudible). The recourse from what Ms. Hass just said is basically take it to the courts and let the courts decide. From the point of view of the Drainage Board, our jurisdiction in this thing and, Bill and Kevin, correct me if I am wrong, our jurisdiction in this thing is to make sure that the construction plans that were submitted are built. Again, I have asked the question a number of times, I have been told by the builders representative that the structures that are out there are in place as originally designed and as put in the original drainage plan. Is that correct, Bill?

Bill Jeffers: In Section One, the platted portion of the project.

Commissioner Mourdock: Okay and Section One stops before the drainage gets to the orange line, correct?

Bill Jeffers: That is correct. The orange line is the boundary between an undeveloped portion of the project and the Hass property north line.

Commissioner Mourdock: For the area for which no drainage plan has been approved they are still working under the auspices of Rule Five.

Bill Jeffers: There has been a preliminary drainage plan approved which was represented as being capable of being able of intercepting up to 60% of the water and conveying it to a lake that I am saying is in the approximate location of the sediment control basin that they have temporarily put in along the north line of Green River Estates. There is a preliminary plan as you know, preliminary plans are subject to modification as they come to us later as a final plan.

Commissioner Mourdock: But, as a preliminary plan was issued-

Bill Jeffers: A preliminary plan is reviewed for sufficiency as if it were implemented. If it were implemented it would be sufficient. If the preliminary plan was finalized and implemented it would be sufficient, and we approve it on that basis. Then we encourage phase development. The state encourages phase development, the United States EPA encourages phase development, everybody concerned with clean water standards and development practices encourages phase development to minimize the overall impact of development on off site properties. That is what he is doing he is in Phase One now.

Commissioner Mourdock: And what was permitted in the preliminary plan you are saying has been built to specs?

Bill Jeffers: What was shown in the final plan for Section One-

Commissioner Mourdock: I am talking about what you call Section Two.

Bill Jeffers: What was shown in the preliminary plan for Section Two has been approximated. It is a facsimile of what is shown on the preliminary plan for Section Two. However, it skirts the edge of the woods, in other words the woods that you can see on these aerial photographs is going to be removed all the way back to the Hass and Ruegers actual property line that has not been removed yet. So, his berm and diversion swale skirts that woods at this time. It is not finished in absolute final form that it will be finished in when he plats and develops Section Two.

B.J. Farrell: Excuse me, can I make a tape change, please?

**(Tape Change)**

Scott Railey: My name is Scott Railey and I would like to refer to these photos one more time and as far as the issue of me not being accountable, those ditches didn't happen by themselves, you can look at see that this has been placed. This goes down hill, there is higher ground behind it. This ditch continues, there is the corner of this transformer and there is the ditch that continues down into this large permanent ditch above the ditch is a mound of dirt and above that is the silt screen. Now if we get a rain that is going to go through that then we all need to get an ark instead of a house because during that last rain, in April, that we had, there were

people killed during those rains in Illinois and there were severe rains and a lot of ground in this entire community that was under water and it was a very abnormal heavy rain. We went out there and began working on it right after that and that is why see the grass is there. It hasn't rained substantially in several weeks now so that grass didn't just start growing. We put a lot of effort into this and if there is something else, you can see the straw bales out there and we have been working on this for a long time. The comment made that I was not accountable is just, I am going to stand up for myself here. Maybe they don't want the subdivision there, that might be it, but that is a ditch there to intercept the water and a berm behind it and while they are talking about being permanent, is whenever it's made deep enough and wide enough to carry the water. When it is made permanent is going to sloped real nice and pretty to be the back of someone's yard but right now it will carry the water same as any other ditch and that water would have to come up five feet down in this area and that is the low area and that is where it is going to run and that ditch does continue and that berm does continue through there. We've done all of the things that Bill has said we've done, we didn't wait until the last minute to do it, you can see that entire field has grass in it and you know sometimes Mother Nature creates situations that a lot of people don't like. That's, I appreciate everyone's time.

Commissioner Mourdock: Bill, in your opinion is there anything that is out of spec currently with the Phase Two area with the preliminary plan?

Bill Jeffers: Yeah, I think everybody is missing something here?

President Mosby: Well, tell us.

Commissioner Fanello: Well then, please tell us.

Commissioner Mourdock: Well, please direct us.

Bill Jeffers: I have tried to explain this. In other words, what I am calling Phase Two, the only reason that it is even under consideration is because legally, the only reason that it is legally under consideration is because he disturbed some land in what I'm calling Phase Two. He disturbed it to put in a sewer main and to store some grubbed out trees and root balls, and he disturbed it in association with Section One which has an erosion control plan. So he falls under Rule Five. Because that dirt was disturbed in association with construction activities, over here in a permitted area, it comes under Rule Five. So, all he really had to do was put up silt fence to contain the silt from flowing off of there. He did not have to dig any of these diversionary channels. What happened was because of the seriousness of the flooding that occurred due to natural causes, supersaturated soil in association with heavy rain falls one after the next is a natural occurrence and that caused excessive run off that carried silt from the disturbed area onto the neighboring properties, and because of the seriousness of it, our office felt it would be appropriate to suggest to Mr. Railey that he go ahead and install something that mimicked the preliminary drainage plan for Section Two in such a way to intercept this estimated 60% of the water that will travel across that ground before he crossed onto neighboring properties, that he would capture it as represented by his design engineer two years ago. But, only in a temporary fashion. Because as he just pointed out, he will have to come back when he goes into that Section Two with a final plan he will have to in there as if he is building houses and streets and move all of this back right up against the property line, re-grade it and establish it in a condition that looks like a lawn not a cornfield and that is all that really is right now, a cornfield that is being grassed over. Like I say you can go out there and crop it right now but the farmer who was cropping last year doesn't want to touch it because of all of this. And can you blame him? In fact, 99.9% of all the silt that runs off into



the streams into this state comes from farm ground. None of which has a silt fence around it. Here is a farm that has a silt fence around it and it was done because we suggested it. We felt it was appropriate because of the concern of this Drainage Board for the neighboring properties and because of the stated intent, long term intent, and the ability to intercept 60% of the water. We asked him, would you consider going ahead and doing that now on a temporary basis? And he has done that and I would like for anybody to point to another development or farm field that has this type of perimeter protection for neighboring properties. It ain't there.

Commissioner Fanello: So you are satisfied?

Bill Jeffers: Yeah, but tomorrow morning the first thing that I would do is go out and make sure that the silt fence along that orange area was adequate tonight and will be adequate again as soon as possible. Because it will be filled with silt. These are all temporary measures that are taken in accordance with the Indiana Handbook on Erosion Control, which is published by DNR, which says silt fence is only 30% effective. But, these are the directions that they give us to follow and it's all we got folks. I mean, it is what they give us and it's what we got. I mean, what, the next thing I guess would be a concrete wall. Let's just keep the water from taking it's natural course. Put up a concrete wall, I mean, that is the degree of my frustration at this point. But, that is not the intent of Mother Nature and there is no, I mean, we are going to get into some legal ground that you don't want, I'm telling you folks, you don't want to go there.

Les Shively: For the record again, my name is Les Shively. It seems to me that what Bill is saying is that the rest of the drainage plan involves Section Two does not have to go in until Section Two comes before you for final plans etc. and is ready to go. Until that time, Bill has recommended that they put in a system that mimics what the Section Two drainage plan would do. Is that a fair assessment?

Bill Jeffers: That is exactly correct Mr. Shively.

Les Shively: So, he thinks that has been accomplished but I also think that I am not going to put words in his mouth, he is not here to tell you tomorrow that he is going to see something different than he saw on the 20<sup>th</sup> of June. Is that fair to say, Bill?

Bill Jeffers: I said it in my report. I said in report that I specifically pointed out to Mr. Railey and I will add that Mr. Atkinson was in our presence at the time that I pointed to the specific area marked in orange that this will be an ongoing problem area and it will have to be monitored, repaired and maintained over the entire period of time that it's got this temporary erosion control and diversionary channel.

Les Shively: I don't know what kind of action this Board is going to take but I would ask that what part of whatever this Board decides to do this evening, this matter be continued for review next month. We have all spent a lot of time on this, we have Exhibit A outside to both Exhibit B tomorrow the inspection and I don't know whether the motion has been made but I would please ask that you continue your review of this matter for next month's meeting, so that we will have some fresh data to look at.

Commissioner Fanello: I think that is all we can do at this point. I mean, I really do, at this point.

President Mosby: And I agree.

Bill Jeffers: I don't want, we had this last month, we had it this month, and I would like to respectfully submit that next month we don't come in here beating dead horses.

Les Shively: And I think one thing-

Bill Jeffers: Can we say to the specific issues at hand? In other words there are issues down in Green River Estates that date back to 1986. There is a long record of a drainage problem along that ditch. I don't want to beat that dead horse next month.

Les Shively: What I would suggest to, so that we can save that horse, that what we might want to do also before next month, and if everybody can be cool, and do it in an appropriate time that and interested parties meet on site to discuss not the problem of Green River Estates, because I do agree with Mr. Jeffers that is a separate issue, and I am familiar with that issue with other representation, and he is correct in his assessment of that. I think it would behoove everyone, the interested parties in particular, the Hass interest, the Rueger interest, as well as the folks with Mr. Railey's development, that we meet on site with Mr. Jeffers and possibly Mr. Wathen or somebody from his office and everybody physically be there and look at it so that we can narrow the issues and come back here and report in a little more insightful way post rain storm tonight.

Commissioner Fanello: I think that is a very good idea and I think that is all we can do. Mr. Gibson?

(Inaudible - not at microphone)

Commissioner Fanello: Do we need a motion to that effect, to continue it over?

President Mosby: I would say we need a motion of some sort.

Commissioner Mourdock: I will move that we be prepared to continue this next month depending on the results and the effectiveness of the structures that have been put in place.

Commissioner Fanello: I will second.

Commissioner Mourdock: I do want to say as Bill was saying, this isn't about what the Green River Estates issue is on the south side of that line, it is a separate issue. But, I know and understand that most of the people are angry because the original representation that was made in October of 2000 was that these problems wouldn't be in place and that these problems wouldn't be in place. That these problems would be otherwise intercepted. They weren't hearing Phase One and weren't hearing Phase Two, they were hearing that water wouldn't run off of this project onto my property and I hope that the structures are in place today, be them final, be them temporary, be them intermittent, to meet that objective because I think that is why most of the people in this room are mad. I don't blame them.

President Mosby: I have a motion and a second, so ordered. We will see what the results of tonight rains brings. We will move forward to drainage plans, Wabash Plastics. Bill, do we have anything else that is going to require any legal? He has to get to Indianapolis yet tonight.

Bill Jeffers: No.

President Mosby: Do you think we will be okay without legal, sir?

Bill Jeffers: That will be fine and have a safe trip, Kevin. I hope it is not raining as hard up there as it is down here.

Commissioner Fanello: Your pictures are right here.

<p><b>Drainage Plans</b> <b>Wabash Plastic Warehouse Addition</b> <b>Modification @ 3711 Arrowwood Court. Lot 38 Arrowwood Sub</b> <b>Old Boonville Hwy Bridge over Boesche Ditch</b> <b>Cross Pointe Section E; Final Plan</b></p>
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Bill Jeffers: All of the plans before you tonight have been reviewed by the County Surveyor and are available on this table over here for viewing if necessary. Wabash Plastics is a site drainage plan for a warehouse expansion and the Surveyor recommends approval of the plan.

Commissioner Fanello: So moved.

Commissioner Mourdock: Second.

President Mosby: So ordered.

Bill Jeffers: 3711 Arrowwood Court is Lot 38 in Arrowwood Subdivision. The homeowner is wishing to pipe an open drain, the plan contains a great amount of detail intended to preserve the protective grain around the house and to address a very sensitive site and the Surveyor recommends approval with caution to the homeowner to observe every minute detail provided by his design engineer in this plan and recommends approval.

Commissioner Mourdock: Is that prelim or final, Bill?

Bill Jeffers: That's final.

Commissioner Mourdock: So moved on final.

Commissioner Fanello: Second.

President Mosby: So moved.

Bill Jeffers: Old Boonville Highway Bridge over Boesche Ditch is a replacement bridge over a regulated drain proposed by the County Engineer. The Surveyor recommends the County Engineer's bridge plan.

Commissioner Fanello: So moved.

Commissioner Mourdock: Second.

President Mosby: So ordered.

Bill Jeffers: Cross Pointe, Section E is a final plan for commercial subdivision. The Surveyor recommends approval of the final plan for Cross Pointe, Section E.

Commissioner Fanello: So moved on final.

Commissioner Mourdock: Second.

President Mosby: So ordered.

#### **Old Business: Millay Petition**

Bill Jeffers: I inadvertently scheduled Les Shively to speak about the Millay petition but his request for next month.

#### **Regulated Ditch Maintenance Claims**

Bill Jeffers: On your desk are several claims submitted for payment for work completed in 2002 on various regulated drains, the required paperwork accompanies the claims, the work has been inspected by our office for completeness and the County Surveyor recommends approval of the claims.

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: So ordered.

#### **Encroachment Agreements**

Bill Jeffers: Next item is relaxation of the separation distance from a lake to a dwelling in Wolf Creek Subdivision.

Commissioner Mourdock: Which is Wolf Creek, Bill? That sounds familiar.

Bill Jeffers: Wolf Creek is located on Eickhoff Road on the west side, south of Hogue, north of the University. Okay, basically what's happened here is the developer of Wolf Creek enlarged his lake for water quality and beautification reasons which reduced the distance that separates the lake from the building pads for the homes. Our drainage ordinance requires a fifty foot separation. The developer is requesting the Drainage Board exercise his discretionary power given you in the Drainage Ordinance to reduced the required separation from fifty feet to twenty-five feet between the lake and the closest wall of a dwelling. The fifty foot requirement is in the Drainage Ordinance as an arbitrary separation distance. The requirement was put there basically recommended from a model ordinance back in 1994. Some Indiana communities have officially reduced the required separation distance to twenty-five feet in their local ordinances. Legal counsel for the developer, Mr. Atkinson, has prepared documents to be recorded in the Recorder's office and become a part of the chain of title for all of the effected lots in Wolf Creek sub. The document language is designed to indemnify the County for all liability for any loss or damage that may result from your action. Here is the indemnification agreement, it is modeled after one that the Board exercised several years ago in another subdivision where the exact same thing occurred and the Board reduced it to twenty-five feet, The surveyor recommends the Board to allow this request and

give these documents to your legal counsel to find their sufficiency and they protect the county against all liability associated with this discretionary move.

Commissioner Mourdock: Do we need to act on this tonight?

Bill Jeffers: Yeah, I would like for you to, the County Surveyor recommends that you act on this by reducing the separation distance from fifty feet to twenty-five feet for Lots 2,3,4,5 of Wolf Creek Estates. Take that action but just make sure that the County Attorney looks at this before it is recorded.

Commissioner Fanello: Can we make it pending his approval?

Bill Jeffers: Yes, ma'am.

Commissioner Fanello: I will so move to that effect.

Bill Jeffers: And.

President Mosby: Hold on.

Commissioner Mourdock: Mr. Atkinson rose to his feet, I don't know, are you involved in this one?

Jerry Atkinson: Yes, I am. I represent Haas Development, Developer, Inc. and we prepared the indemnification agreement, a private covenant that also burdens the lots so that the owners of the lots as well can not sue the County and are obligation to identify the County. I also have, for your counsel, a paragraph that we are inserting into the restrictions that also puts everybody on notice that the obligation on the indemnification does exist and it runs as a covenant to the title.

Commissioner Mourdock: Well, I, because Kevin left, I think Catherine quite appropriately made the motion that we pick this up pending his review. I would obviously want to go ahead and do that, so I will go ahead and second that motion.

President Mosby: So ordered.

Bill Jeffers: Along the same lines, James A. Peters and Albert Bromm, trustees of the Bromm children and Peters land trust agreement, etc., submitted this last month, you approved it based upon Mr. Winterheimer's review, he has reviewed it, found it sufficient as has the County Surveyor and I am just letting you know this is going to need recording and that has to do with a piece of property on Sonntag Ditch. We took the same action there as we were asking for at Wolf Creek, reducing a set back.

<b>Receipt of Petitions</b>
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Bill Jeffers: Richard E. Smith petition, all we need to do tonight is acknowledge the receipt of Mr. Smith's petition to remove an obstruction in a watercourse, initiate the site investigation by the County Surveyor and set a hearing date of August 26<sup>th</sup> to receive the report and hear Mr. Smith and other people's statements to the Board so that you can make a finding and determination regarding this obstruction petition.

Commissioner Mourdock: I move acceptance of the petition and scheduling as requested.

Commissioner Fanello: Second.

President Mosby: So ordered.

B.J. Farrell: Bill?

Bill Jeffers: Is that okay with you then? I will be out to look at your sight in the next month and we will have a hearing on August 26, 2002 to hear your side and your neighbors side.

B.J. Farrell: When do I need to advertise this?

Bill Jeffers: Two weeks ahead of time. We will have to give you a list of affected property owners.

B.J. Farrell: Just advertise one time?

Bill Jeffers: You just send notices directly to the affected property owners. It doesn't have to appear in the paper.

(Inaudible)

Bill Jeffers: Mr. Smith had initially requested his neighbor, four years ago, to remove the obstruction, the neighbor has not yet removed the obstruction and he includes that letter with his petition. He has some pictures but those would more appropriately be shown at the hearing. Tonight we just need to acknowledge receipt of the petition along with the fact that Mr. Smith submitted his \$100 filing fee check on June 11, 2002 at the Auditor's office and everything has been stamped received down there in the Auditor's office as well. You got your pictures back that you dropped outside, didn't you?

Richard. Smith: Yeah.

Bill Jeffers: Okay, I will be in contact with you in the next 30 days and we will get set up for that hearing. Thank you, Mr. Smith.

Richard Smith: Thank you. It has been an educational experience.

Commissioner Mourdock: We do this once a month, come back anytime.

<b>Report on McCutchan Court</b>
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Bill Jeffers: Okay, brief statement regarding McCutchan Court because this is an ongoing issue with SWCD, the drainage improvements installed at McCutchan Court remove out of conformity with the approved drainage plan, out of compliance with the requirements of the Drainage Ordinance. The developer has not responded to any correspondence from our office. His contractor continues to install fixtures that are out of compliance with the improved drainage plan. The contractor complains that a modified plan is forthcoming but no modified plan has been discovered to exist. The Soil and Water Conservation District Board is very apprehensive regarding this project as reports that I have submitted to you for the past two months reflect.

Commissioner Mourdock: Who is the builder?

Bill Jeffers: Ken Fischer. Kenneth Fischer.

Commissioner Mourdock: And we have sent him legal notice?

Bill Jeffers: I have sent him some pretty strongly worded documents to which he has not replied, I wouldn't call it legal notice. I have asked to discuss this situation with Mr. Winternheimer on how to proceed regarding possible fines, etc. and now that Mr. Winternheimer is more available than he was in the past two weeks, I will be discussing it with him again. Indiana Department of Natural Resources representative, Lynn Miller, indicated a hefty fine from IDEM, along the lines of \$40,000 for this project are possible. That is why we go through certain legal steps before it gets to that point.

President Mosby: I say we proceed with Mr. Winternheimer and go for it.

Bill Jeffers: I mean really, I didn't mean to get out of hand earlier but we've got to follow certain procedures when we are involved in this because we are talking about issues like \$40,000 fines and things like that.

<b>Correspondence</b>
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Bill Jeffers: Anyway, under correspondence, I sent a letter that's attached or should have been attached to the back of your reports. It is a letter to Mr. Patel, the developers of Elpers Industrial Subdivision, the downstream neighbors, if you'll remember, I gave you a handwritten petition a couple of months ago asking the Board to require the developer to complete his drainage facilities according to the approved plan. The petition is a part of your record at this time, I believe it was in April. The developer remains out of compliance. The Surveyor sent a letter warning the developer of a potential of a fine from the Drainage Board of \$100 a day per violation. There is at least one violation. I did get a green card, returned receipt, acknowledging his receipt of that letter and a copy of the letter is submitted for the record. I just need to locate it.

President Mosby: I have one right here.

Bill Jeffers: You have one, okay. I will see that the Recording Secretary has one as well.

President Mosby: Do you want this one?

<b>Any Other Person Wishing to Address the Board</b>
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Bill Jeffers: You could pass it to her, I guess. Seeing no other persons wishing to speak in the audience, I would only ask if you guys have any questions before you adjourn.

President Mosby: None.

Commissioner Mourdock: None here, except I wish when the Morley's of the world stand before us and say that will all be taken care of and all of that will happen, that even when they don't, they may think of Phase One and Phase Two, but the

neighbors don't hear such specifics and I think that would have saved us a lot of this. Motion to adjourn.

Bill Jeffers: I do agree with you, but we do encourage phase development.

Commissioner Mourdock: I understand.

Bill Jeffers: And it is unfortunate that people don't fully understand it at the same level as the Board and the Surveyor are operating. I do understand their frustration when they see a wall of muddy water coming down their hill.

Commissioner Fanello: Second.

President Mosby: So ordered.

Meeting adjourned at 8:43 p.m.

**Those in attendance:**

David W. Mosby	Catherine Fanello	Kevin Winterheimer
Bill Jeffers	B.J. Farrell	Richard E. Smith
Richard Langston	Reginald Gibson	Gloria Gibson
Yvonne Cobourn	Oscar M. Haas	Mind Hass
Daniel Hass	Dave Rueger	Jeremiah Roll
John Kipling	Steve Batthauer	Jennifer Batthauer
Jim Morley	Jerry Atkinson	Les Shively
Scott Railey	Others Unidentified	Members of the Media

**VANDEBURGH COUNTY  
DRAINAGE BOARD**

\_\_\_\_\_  
**David W. Mosby, President**

\_\_\_\_\_  
**Catherine Fanello, Vice President**

\_\_\_\_\_  
**Richard E. Mourdock, Member**

**Recorded and Transcribed by B.J. Farrell**



**Vanderburgh County  
Drainage Board  
July 22, 2002**

The Vanderburgh County Drainage Board met in session this 22<sup>nd</sup> day of July, 2002 at 7:17 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

**Approval of Minutes**

President Mosby: Call to order Drainage Board meeting of Vanderburgh County, July 22, 2002. Do I have a motion to approve the minutes of the previous meeting?

Commissioner Fanello: So moved.

Commissioner Mourdock: Second.

President Mosby: So ordered.

**Fenway Park Subdivision Drainage Plan: Final**

President Mosby: Drainage plans. County Surveyor.

Les Shively: Do you want me to step outside, and be the town crier, and tell them it's started?

President Mosby: Are they here for this meeting?

Les Shively: Yeah.

President Mosby: Oh, okay. Well, in case they are here for one of these.

Bill Jeffers: Bill Jeffers, Vanderburgh County Surveyor. Under drainage plans, we have Fenway Park Subdivision, a final plan. It's been reviewed by the County Surveyor. The plan is available for viewing by any interested party. The County Surveyor recommends approval of Fenway Park Subdivision, final drainage plan, with the understanding that the County Engineer reserves the authority to require compliance with the county street standards for all components of the drainage system shown in dedicated county right-of-way.

Commissioner Fanello: So moved.

Commissioner Mourdock: Is there anyone here to speak to Fenway Park? I don't think there is. You made the motion, I will second, on final.

President Mosby: I have a motion and a second on Fenway Park Subdivision, final plan. Seeing no remonstrators. So ordered.

**Keystone Subdivision Drainage Plan  
Section 7E: Final Plan**

Bill Jeffers: Second drainage plan is Keystone, Section 7E, also a final plan. The plan has been reviewed by the County Surveyor. The plan is available on the table over here for viewing by interested parties. The County Surveyor recommends approval of the final drainage plan for Keystone, Section 7E, with the understanding

that the County Engineer reserves the authority to require compliance with county street standards for all components of the drainage system show in dedicated county right-of-way.

President Mosby: Any remonstrators present for Keystone, Section 7E, final plan?

Commissioner Mourdock: All of that is south of Heckel?

Bill Jeffers: All of that is south of Heckel, and almost immediately north of Furlich and Pigeon Creek. It all drains directly into Pigeon or Furlich Creek.

Commissioner Mourdock: I'll move approval on final of Keystone, Section 7E.

Commissioner Fanello: Second.

President Mosby: A motion and a second. So ordered.

<p><b>Brooklyn Apts. (Main Street Apts.), Lot 7 Glass Sub Final Plan</b></p>
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Bill Jeffers: The next final drainage plan was submitted as Main Street Apartments, but has a new name, as of today. Do you know the name?

Unidentified: Brooklyn—

Bill Jeffers: Brook?

Unidentified: Brooklyn.

Bill Jeffers: Brooklyn. Please put it in the minutes as Brooklyn Apartments, so that if someone looks for that, it was changed to Brooklyn Manor, or Brooklyn Apartments. It was submitted as Main Street Apartments. It is Lot 7 Glass Subdivision. It is a final plan. Lot 7 is located directly behind Sam's new warehouse store. It has a Virginia Street address. The County Surveyor has reviewed the plan. The plan is available for viewing. The County Surveyor recommends approval, with the understanding that the County Engineer reserves the authority to require compliance with county street standards for all components of the drainage system in Columbia Street right-of-way.

President Mosby: Any remonstrators present?

Commissioner Mourdock: Seeing none. I will move approval for the final for Main Street Apartments, a.k.a., Brooklyn Apartments.

Commissioner Fanello: Second.

President Mosby: A motion and a second. So ordered.

<p><b>Report on Windham Hill Erosion &amp; Drainage</b></p>
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Bill Jeffers: Next item of business is your updated report on Windham Hills erosion and drainage. I presented the board, in their packet, with a report on Friday of my last inspection of the site, which occurred Tuesday morning, June 25<sup>th</sup> immediately

after the rain storm that was on Monday night last Drainage Board meeting. My report is available for others that I am passing it to that are interested parties.

Commissioner Mourdock: For what it's worth, Bill, I'll also say that the director, I have a memo from Norma Duckworth, who works for the Soil and Water Conservation District. At last week's Commission meeting she came, or maybe two weeks ago, I think it was last week, she came to the meeting, and I asked her for an update. She didn't have many facts at her fingertips, so she provided us with a memo of the various reports that she and Mike Wathen made. So, I'll just go ahead and add that to the record.

Bill Jeffers: Okay. Other than my comments that I've handed out and applied directly to what I viewed on that day. The last paragraph indicates what Mr. Mourdock is referring to, Mike Wathen, Soil and Water Conservation District technician, forwarded a notice of compliance for Windham Hills erosion control measures that indicates compliance with Rule Five up to July 11, 2002, when an inspection was made by Mr. Wathen, and by Mr. Lynn Miller of Indiana Department of Natural Resources. That was forwarded to me Friday. Then, subsequently, and attached to what I just handed out, is Mr. Wathen and Norma Ganderson, who is also a SWCD technician, every item from November 27, 2001 through July 19<sup>th</sup>, which is Friday, 3:29 p.m., when they faxed the County Commissioners and our office copies of the notes. This shows all the actions that have been taken, or a brief description of the actions taken by Mr. Wathen and Norma Ganderson at Soil and Water Conservation District. I'll submit this final, this is the only copy I have remaining, I'll submit it to your secretary, at this time. There are people here who are interested parties in this item, and I'll stand down and let them speak to you. We have the owner of the subdivision and his legal and engineering representative, and we have the neighbors, and their legal representative.

President Mosby: Is there anyone wishing to speak?

Les Shively: My name is Les Shively. For the record, I represent Mr. and Mrs. David Rueger, who are with us this evening, and the Haas', who are in Mexico, and could not be with us this evening. They were here at our last Drainage Board meeting. You were very patient last time to give us the opportunity to explain, from all perspectives, the concerns that these folks have. In fact, you also heard from some folks from Greenriver Estates. Let me just again refresh your recollection of the last time. I know you've seen a lot of plans, and taken care of a lot of other business since then. The area of concern that we still have, which we acknowledge has been, silt fences have been put in, the grass that was planted some time ago appears to be growing—

Madelyn Grayson: Les, can you use Commissioner Fanello's mike, or—

Les Shively: I'll just grab this one.

Madelyn Grayson: Okay, thank you.

Les Shively: Will that work better? How's that?

Madelyn Grayson: That's fine.

Les Shively: Woke me up. The area that's still of concern is the area right along here, the orange, the yellow, the yellow-green, and this area right in here, is still of

concern. We do acknowledge the fact that they have put in silt fencing, and we have not had a major problem since we were here last, but here's the concern. It's two fold. These photographs here, basically, show if, I guess, we had them going this way, shows the woods, or the Rueger property. The area where you see the grass growing is, what will be someday be the additional section to Mr. Railey's subdivision. These are photographs of what occurs when a significant rainfall takes place. The problem we have here is the fact that it does require the developer to monitor this on a regular basis, until such time as they are ready to go forward with Section Two. We don't believe that the, that the way to attack this problem is to wait to see if a silt fence fails, or see that the grass gets tall enough. We believe what should be done, at this point in time, is along that perimeter install this portion of the overall drainage plan. That would be the berm, and the swail ditch along all of the borders of this property, that borders the Rueger-Haas property. If this is done, it will alleviate the necessity for being out there after every rain to see if it's working. We're taking a reactionary approach to this problem, rather than a proactive approach. By putting in the swail, and putting in the berm, that's proactive. We already have approved a drainage plan that says that will work. Since the soil and the area out there has already been disturbed with some of the collateral development, we think it's the appropriate thing to do. The appropriate thing for this board to order, at this particular point in time. Again, I want to make sure we're perfectly candid with you, the silt fence has worked thus far, but, again, please understand that what we are doing here is putting in place, until they want to record and go forward with the development, complete development of that other area, is to monitor after it every rainfall to see if it works. I don't think that's the appropriate way to deal with this particular kind of problem. I've been told, too, it's going to be another two to three years before that area in question is fully developed. You know, if those comments that...Mr. Rueger, did you want to add anything? Mr. and Mrs. Rueger, as I said, are both here this evening, and, essentially, we would, again, ask you to look at a solution here that is more proactive than what is being offered right now. Thank you.

Commissioner Mourdock: Mr. Shively, I have a question.

Les Shively: Yes, sir.

Commissioner Mourdock: A question for you...let me have that first picture, please. Is this the picture you held up, and said this is what it looks like after every rain?

Les Shively: It's with a significant rainfall.

Commissioner Mourdock: Okay. When we were here meeting back in June, there was a pretty significant rainfall happening. Did it look like that immediately there after?

Dave Rueger: That's, that's the result of the—

Madelyn Grayson: Mr. Rueger, can you come to the mike?

Commissioner Mourdock: You need to come to the microphone.

Dave Rueger: Let me see which one...this was taken after a real hard rain in the Spring.

Commissioner Mourdock: Okay.

Dave Rueger: I'm not sure what date.

Commissioner Mourdock: Okay, but my question is, after the rain that...were you here when we met last month?

Dave Rueger: Yeah. I've been here for three or four months.

Commissioner Mourdock: Okay. Did it look like that the next day? Or that evening?

Dave Rueger: The next day?

Commissioner Mourdock: June 24<sup>th</sup>, when we were here, there was a significant rain going on—

Dave Rueger: No, no, no.

Commissioner Mourdock: —did that event make—

Dave Rueger: They've got grass, they've made some improvement. There's no question about that.

Commissioner Mourdock: Okay.

Dave Rueger: There is grass growing. There is a silt fence. Our question, our concern, is simply this, we need something done to prevent this from happening again, and I don't think what they've done so far is adequate to prevent that. All we're simply asking folks is a very simple thing, and that is for Mr. Railey to take adequate measures to keep our property from flooding from his subdivision. That's all we're asking. Nothing more. No arguments.

President Mosby: Is there anybody else that would like to speak?

Jerry Atkinson: I believe that the representative from the Morley engineering firm will be able to address that. I would point out that there is already a berm in place. There is already a swail in place, in addition to the grass. The report, Mr. Jeffers, who went out after the large rain that we had when we were here last, looked and saw, and walked it, says there is no overtopping of it. It worked. Water didn't escape from the developers land into this woods. It's working. Any, if you will, temporary system is going to require monitoring. There is a legal obligation on the part of the developer to do the monitoring after every significant rainfall, to make sure that no damage has occurred, and to correct silting in so that water doesn't escape. I believe the engineer will explain to you how this is adequate, and it will work, and it's more than is required, if you will, by law, at this point. He's happy to have done this, and to help out, but there is, if you will, no particular need to go further, at this point in time.

Scott Railey: My name is Scott Railey. One, something I would like to add to what Jerry said is that a lot of that work had just been completed prior to the last meeting. The dirt was not settled, compacted. There was not grass growing on all of it. It was probably at it's most vulnerable at that time. You know, uncompacted, loose dirt is going to be a lot easier to wash away, than compacted dirt with roots in it. Since we had no, excuse me, no erosion, no overtopping of the berm, everything worked as Jim Morley stated it would, it did. Since then a lot more grass has grown. The dirt has settled out. All of the straw and mulch that was placed prior to the last rain is

still in place. It hasn't washed away. Even by putting in a permanent swail and berm, as I stated in the last meeting, really the only difference between the permanent berm and a temporary berm is how pretty it is. They are both the same height, the swails are the same depth, and a permanent berm would still have to be monitored. All we're going to do, if we do something like that, is go out and tear this dirt up again, put new, loose dirt out there, and rake it out real pretty, put straw on it, and hope it doesn't rain for a while until grass gets growing on it. So, I think, and even once that's happened, there is still always the potential for erosion. There is always the potential for an enormous...we had 5" of rain that one night back in March that began, that started all of this. You know, we still have to go out and check it after that. It wouldn't matter if you call it permanent or temporary.

Commissioner Mourdock: Was your structure in place the night of the 5" rain?

Scott Railey: No. No, it was not. Quite honestly, all that happened, that's what brought us to this to begin with, was that the sewer work was put in, all it was doing was extending a sewer main through there. We had the trees that were mentioned, you know, I think we just didn't really realize that that water was going to be diverted like it was, because it did not, hadn't really altered the grade of the ground any. It was a situation that we then became aware of, and began working, after that, to correct. We've corrected it now. I don't want to end up in here again. I don't think you do. I don't think they do. You know, it's, but I don't think that we just need to keep beating a dead horse either. You know, we're going to check it, and, you know, I've got Soil and Water Conservation to answer to as well. Really, if we do have a problem with this, beyond this point, it will be caused, it will be because we had erosion, and that's an erosion problem. You know, I'm fine, I'm in compliance with those guys. That's a very broad term. We've done an awful lot of work out there. That's about all I have to say. Thanks.

President Mosby: Is there any other questions or comments?

John Kipling: John Kipling with Morley and Associates. We've been hired by Scott Railey to do inspections since the last Drainage Board meeting. I did take photographs after the storm even, well, during the last Drainage Board meeting, and I did take photographs of the very last storm event, which was Thursday, Friday.

President Mosby: This says June 2001.

Commissioner Fanello: The year is wrong.

John Kipling: Yeah, our year's wrong on our camera. I hadn't noticed that. I'll have to get that corrected.

Commissioner Fanello: Yeah, you will.

Madelyn Grayson: Mr. Shively, and Mr. Kipling, may we keep these pictures for the record?

Les Shively: You mean, in the file itself?

Madelyn Grayson: Yes.

John Kipling: (Inaudible. Not at mike.)

Commissioner Mourdock: So, it's your contention, John, that the improvements that were made that...you said you were out there a month ago tonight, effectively, the system that's designed was then working. Since then there is more vegetation established.

John Kipling: Yes.

Commissioner Mourdock: Is that accurate?

John Kipling: That is correct. I'm trying to do a comparison.

Commissioner Mourdock: Okay.

John Kipling: I believe what you're seeing there—

Commissioner Mourdock: Right, which is the one Mr. Rueger said was the early Spring rain. The photo you looked at a moment ago.

John Kipling: This is the general area.

Commissioner Mourdock: Where this photo was taken?

John Kipling: Where this photo was taken. It's not the exact same area, but it's in that range.

Commissioner Mourdock: Okay.

President Mosby: Are there any other comments or questions?

Dave Rueger: Dave Rueger. My only contention is we really haven't had a sufficient rainfall since this occurrence. Yes, we've had some storms, but, as you know, the ground has been extremely dry, and almost every bit of that rain has been absorbed by the ground. What we're talking about is when the ground is saturated, and that's when the water comes. As long as that ground is dry, it will take care of itself. That's what's happened in these last few thunderstorms. It hasn't come over on us. It's been absorbed. It's been good rain. We all needed it, but what we're worried about is if we have another situation like we had this Spring. Are the things that they've done, are they adequate? That's it. Thank you.

Commissioner Mourdock: I think the answer to that question, and, I think, that's the right question, but, if, and I forget, I think it was Mr. Railey that said it a moment ago, and correct me if I say this wrong, but, in essence, the cross section that's there now, is the final elevation, it is the final cross section, although in final form it may be more cosmetically dressed up. Is that not what you said?

Scott Railey: I'm Scott Railey. Well, I don't know that it is the final elevation. Final plans have not been drawn for that section. What we did was what Morley—

Commissioner Mourdock: You said a moment ago that if we put it in permanent now, the only difference will be cosmetic.

Scott Railey: Permanently. Okay, but we don't have a permanent, a final plan. What we did was what Morley, Jim Morley, and John recommended, which was the depth of the, but we don't have a final drainage plan for that section. So, I didn't use the

word final is all I'm saying.

Commissioner Mourdock: Okay. I think you used the word permanent, which to me means final.

Scott Railey: Well, semantics.

Commissioner Mourdock: Words have meaning.

John Kipling: What we've designed was the swail with the berm combination during the preliminary drainage plan to show something that could be put in, temporarily, to handle the site undeveloped. By no means were we saying that this would be developed condition swail. This is undeveloped conditions only. When we do the final drainage plans, then we will take into consideration how much water is being collected due to all the concrete and roof surfaces—

Commissioner Mourdock: So, the elevation of what you see as acceptable today could change in the final plan?

John Kipling: Oh, sure. Sure, I mean, and it depends on his development too. I mean, if he changes his mind, and puts in and replats the whole area and puts in a more dense subdivision, or a less dense subdivision. We just don't know. We took a plan, a preliminary plan and said this is what we need to install to get the water diverted from crossing our neighbors to the south, and to discharge it where it, where we want it to be discharged. Of course, it was all future. If you look at the preliminary drainage plan, we also show a future retention lake. Of course, that retention lake has not been installed. It's not planned to be installed until you start in that section. Is that correct? So, I mean, that's why we put in the silt basin, after the fact, was we had an issue brought up. We were looking at, instead of installing a lake, we would put in a silt basin to trap the sedimentation and release clean water. At this time, we've only had two rain events, but everything appears to be operating the way it's supposed to.

President Mosby: Any other questions?

Commissioner Mourdock: Yeah, Bill, I understand this is in compliance for all aspects of the erosion, which is different than the drainage plan. But, I want your opinion here, as our technical expert, is the plan that's in place now, does it meet the ordinance as it's established?

Bill Jeffers: The Drainage Ordinance doesn't apply to this undeveloped section of ground that's not a platted subdivision.

Commissioner Mourdock: Because it's not a platted subdivision, it doesn't apply?

Bill Jeffers: Right. In other words, we're referring to it as a subdivision, in fact, it's not a platted subdivision. It has not been recorded, and there is no final drainage plan, as you've heard for this section of ground, which is still, essentially, under agricultural use. It has a wheat crop planted on it now. It could have a corn crop planted on it next Summer. Until there is a final drainage plan, I would hesitate to put in final drainage facilities. Again, as Mr. Kipling pointed out, we did suggest, our office did take it upon ourselves to suggest placing a temporary silt containment area where he had shown on his preliminary drainage plan a permanent lake, if he went forward with that preliminary plan and developed it all the way through a final plan.



There are many places on that...how many acres are we talking about? 60?

Scott Railey: In back there? 25, 30.

Bill Jeffers: There's quite a bit up towards the top there, but, anyway, whatever acreage is there, there's a long valley coming down off that mound, and if he were, as Mr. Kipling pointed out, predisposed, or later disposed to a different arrangement of streets and houses, apartments or condos, or, I mean, he may sell it to someone else who might come back in here with a totally different plan. That lake may end up in the middle of the subdivision, rather than along the south line.

Commissioner Mourdock: Okay, let me—

Bill Jeffers: If we were to require him to dig out a 10' deep lake, you can imagine the engineered fill that would have to go back in to fill it up and relocate the lake. Where all we've suggested is a shallow silt detainment area where he might have to take out a foot or two of unstable soil at the end of all this, and engineer a foot or two of stable soil. I would hate to saddle a developer with the possibility of having to engineer 10' of fill in a lake where, maybe, he decided in the final plan it wasn't going to be there.

Commissioner Mourdock: In your opinion, are the structures that are there now sufficient to prevent what happened this Spring, a la these photos that we're looking at, from happening again?

Bill Jeffers: Not totally. I have to be honest.

Commissioner Mourdock: Yeah, I understand.

Bill Jeffers: Just like Mr. Rueger was honest. Mr. Rueger pointed out very adroitly that almost every bit of rainfall was absorbed now that the ground is dry, warm, mellow. He also very clearly pointed out, just now, that when the ground is saturated that is when the water comes over on them. So, if the ground becomes as saturated as it was last Winter, and then we proceed into a wet Spring and it stays saturated, it's just like putting a sponge on the ground and running a hose on it, once that sponge has all the water it can hold, the rest of it just runs down the sidewalk. It's no different on a piece of ground. There are places in that structure that Mr. Railey has put up that could become silted to the point that it might get overtopped during a tremendously heavy rainfall. That's why we continue to point out, he's going to have to have an ongoing commitment to monitor that, over a period of time, and when he sees that silt might be building up from these frequent, or infrequent, substantial rainfalls, that he prepare that for next Spring.

Commissioner Mourdock: Okay. Let me ask—

President Mosby: I was going to say, to follow up on what he just said though, let me ask you a question. Would a final drainage plan have carried that water this Spring?

Bill Jeffers: Yes.

President Mosby: A final drainage plan would have?

Bill Jeffers: Yes, sir. The final drainage plan was committed by the developer and his engineer to intercept 60% of the runoff from that ground and convey it to the lake.

40% of the runoff would have continued to go on to Mr. Rueger's ground. Now, since he's put this temporary plan in, 100% of it's been captured. There may be a final plan where he could capture 100%, but, you just can't guarantee those things. Nature is not that predictable. Engineering is fairly reliable, and they have said that they would capture 60%. You've got to understand that, I mean, Mr. Rueger said so, just now said so himself, when the ground is saturated, he gets all the water. That ground is still under agricultural use. When that ground was a cornfield and it got saturated, Mr. Rueger got all that water.

Dave Rueger: Not, excuse me, sir, not near like we are now.

Bill Jeffers: 100% is 100%, you can't get anymore.

Commissioner Mourdock: Okay. But, just to make the point that I think is right, David, your question is if it were the final plan, Bill is saying, yes, it would capture it, but, in answer to my question a moment ago, under the ordinance we can't require the final plan on that part that you are saying where the final plan would work.

Bill Jeffers: Yes, sir, and I think we have to be consistent. We have to have to a policy—

Commissioner Mourdock: Wait a minute. Let me be sure I understand your answer. You're saying that my assumption is correct? We can't order it in what's, effectively, the Ag area? You're agreeing with what I just said? I want to be sure.

Bill Jeffers: You can order it, but you would be inconsistent with the policy established by the board.

Commissioner Mourdock: Yeah. So, Kevin, what are our options?

Bill Jeffers: Are you willing to do this on every subdivision that comes up with this same thing?

Commissioner Mourdock: Yeah.

Bill Jeffers: Are you willing to do it every time it comes up?

Commissioner Mourdock: Yeah, it seems to me this has gone beyond the realm of authority that we have. We can't order developers to do something on land that hasn't been submitted as part of the platting process. Yet, you know, we're hearing our technical expert say that what's there is working, under present conditions, but present conditions aren't always what they are. I mean, what are our options, Kevin?

Kevin Winternheimer: I don't have any good answers for you tonight. I mean, I would have to research this quite thoroughly. You're getting into a fine area here. I don't know if Bill's got any comments or not.

Commissioner Mourdock: Bill's made them.

Bill Jeffers: I'm not, you know, the comment I made was not a comment as an attorney. I'm assuming that you will want me to be consistent with our policy. If you order him to put a final drainage plan in the ground, on an unplatted subdivision, I'll assume that's what you will want me to do every time we've got a little problem out

there, that's just like this one.

Commissioner Mourdock: Yeah, and I don't, personally, I don't--

Bill Jeffers: To impact development to that degree, in other words, this would say to anybody that comes down after this, if you want to do something different than what that man was told to do by the Drainage Board, then go engineer all that fill, fill that lake up, and bring us a final plan. Am I being unclear about this? Or, I hope everybody is following me here.

Commissioner Mourdock: I think I understand it. We know what the answer is, but we don't have the authority to impose the answer.

Les Shively: I don't have a copy of the Drainage Ordinance in front of me this evening, but it's my understanding, and I would, and Mr. Jeffers can certainly correct me here, because he was very involved with the drafting of the Drainage Ordinance. The reason the Drainage Ordinance came about in the first place was, number one, we didn't have any objective standards to utilize when reviewing proposed subdivisions. The other reason it came to pass, was we always had this drainage review process when we were doing a subdivision. What fell through the cracks was, and that which is on your agenda this evening for example, is what if someone is going out here and taking a large tract of land, but they are not technically platting it, but they are developing it? How do we address those drainage problems? That was one of the biggest reasons why this county enacted a free standing, separate Drainage Ordinance. I disagree with Mr. Jeffers, respectfully, because I do have immense respect for his detail and how he follows up on these things, but your authority is not triggered by the platting process. Your authority is triggered, as I understand the ordinance, by the amount of acreage that is affected, that is disturbed. Now, if I'm wrong on that, Mr. Jeffers can correct me. I think that is where your jurisdiction lies, not in whether it is being platted, but what has been disturbed, and what has been changed, and, therefore, warranting some type of drainage plan response. That's what was one of the main driving forces in adopting this drainage plan back, I guess it was like in '95, '96 when we adopted it.

Commissioner Mourdock: '95. Do you agree, though, that with Bill's assessment of a moment ago, that if we act in this way, we are being inconsistent?

Les Shively: I'm not here for all your meetings, but, I mean, we have a unique situation here. I mean, I don't think anyone, I don't think these folks here, or if the Haas' were here, are saying that he has to put his pond in, do all this formal stuff. The point we are saying is, and I wish Bill could be a little bit more specific, is what, I think the question was asked, maybe it was by you, Mr. Mourdock, you said, what's out there now, will it handle a Spring type rain? He said, no, not really. If we could only be told right now, and get some direction, is what the additional work that needs to be done to take care of that eventuality, maybe we have found a happy compromise here to be consistent, at least in terms of policy, but by the same token, not turn our backs to a situation that's going to require continuous monitoring for an indefinite period of time.

John Kipling: John Kipling again. I just want to make sure we understand, too, that when we are talking about these rain events, talking about a rain event that is larger than the 25 year storm also. I guess, if we're going to start to lay down rules of what we're going to design by, and we're going to change rules, maybe we need to consider, I mean, when the ground is saturated, and you have a 25 year event, you

have 100% runoff. If the ground is saturated and you have a 50 year event, you've got 100% runoff. The storm, the difference between the two storms could be significant, to where, possibly, you would have a passing storm, or a failure of erosion. It just, I don't know what limits we want to set on undeveloped ground.

Commissioner Mourdock: And was the Spring event, John, are you arguing the Spring event was a plus 25 year event?

John Kipling: It was 5" of rain in a period, I can look it up on a table, and could tell you. At this time I don't have that number. But, it's uncharacteristic for being 25 years or less, which is what we normally design with.

Jerry Atkinson: If I might, Mr. Rueger had a lot of water in his woods before Mr. Railey came along. Mr. Railey was aware of the mud escaping from the property, and going downstream and causing, last Spring, the problem that's been brought before you. He listened to his engineer, and he's constructed what his engineer has told him is an appropriate solution to the problem. He's listened to Mr. Jeffers, and he's done everything that Mr. Jeffers has indicated that would be appropriate to do, even though it goes beyond his legal obligations. He has listened to the Soil Conservation folks, and he's in compliance with that. He wants to be known to you as being a good developer. Wants to be known to his neighbors as being a good neighbor, and he suggested to me, with some enthusiasm, if all it takes is a bigger, deeper ditch out there, I will take a backhoe, we'll go out there, we'll create a larger barrier so that the water that Mr. Rueger used to have doesn't get to Mr. Rueger anymore, because with failure of what the engineer said that we should do. That way you guys don't have to struggle with this issue anymore. He can cut a ditch wide enough and deep enough to channel water that gets near the Rueger boundary on the north side, so that it runs down to the lake. He can cut a channel, or a ditch wide enough and deep enough that the other water goes over toward the sediment basins. He's willing to do this to help. He's willing to do this to be a good neighbor. He's been doing what he was told to do, and you don't have to tell him to do anything. He's going to go out with the engineer and figure out how to make this deeper and wider to give everybody a sense of comfort.

Commissioner Mourdock: Okay, so, those, and I presume that was a conversation that just took place a moment ago?

Jerry Atkinson: Yes.

Commissioner Mourdock: Okay, well, thank you very much, Scott, for making that, I won't say concession, but for that willingness to work. I presume from that, and this is not a criticism, what Bill said before would be a final drainage plan, with all that, with the detention pond, you're going to do something less than that pond?

Scott Railey: It may end up being more.

Commissioner Mourdock: Okay.

Scott Railey: I don't know what it will be.

Commissioner Mourdock: Okay, come to the mike. Yeah.

Scott Railey: I don't know what the final drainage will be. We could alter the grade of that ground, and the drainage may actually run away from that, when we get to

that point. It may not require much of a ditch at all by the time the ground is developed. We will dig a much more significant ditch—

Commissioner Mourdock: Okay.

Scott Railey: Now, that's a vague term, but it will be bigger than what it is.

Commissioner Mourdock: Well, please keep Mr. Jeffers informed.

Scott Railey: We'll just go do it, and hopefully, everybody can go, and get on with something else.

Commissioner Mourdock: Okay. We appreciate your willingness to do that, Scott. Thank you.

Commissioner Mosby: Thank you very much. Appreciate it.

Bill Jeffers: Of course, I appreciate it, because then, you know, it will make things go away, but I want everybody to understand, you know, when he said he was going to divert 60%, that meant that 40% was still going to go on the Rueger's property. I mean, we can talk about degrees of storm, and all that, and everything else. When he goes out and digs this big, deep ditch, and captures 100% of the runoff, I certainly don't want to hear back from the neighbor that now his pond doesn't fill up any longer. Because the water that went down across there naturally, since the dawn of time, is what, is the water that fills his pond. It's also the water that has nurtured his wet woodland, and I don't want to hear that his wet woodland type cover is dying. Okay? So, everything's cool, but just a word of caution.

Les Shively: We want to thank Mr. Railey, and what his attorney has expressed that he is willing to do, that's what we would like to see done. He expressed it a lot better than I did awhile ago in terms of our request. We want to see that happen, and we certainly appreciate his putting that effort out there, and we look forward to seeing it work.

Commissioner Mourdock: Well, I'll say, probably on behalf of all three of us, we appreciate both parties working together on this. Thank you.

Commissioner Fanello: Yes, thank you.

Commissioner Mourdock: I'm going to mark today on the calendar. Agreement at a Drainage Board meeting.

Commissioner Fanello: Agreement.

<b>Richard E. Smith Petition Hearing to Remove Obstruction</b>
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Commissioner Mosby: We have a hearing to...can you all hear me okay? Hearing to remove obstruction, Richard E. Smith petition.

Bill Jeffers: In your packet is the notice that went out to the names that are on the service list with the notice. The last name on the list, Kenneth Wells, address unknown, has moved, and is not an interested party. So, the fact that a notice did not go to him is not applicable. The following page is the report of an investigation

regarding the petition of Richard E. Smith to remove an obstruction from the watercourse located at, behind 2330 Sheridan Road. That's the Surveyor's report, which indeed says that the surface watercourse is obstructed by earth fill, as alleged, by the petitioner, and gives a location of the earth fill on the land of the respondent, Kenneth R. and Ruth Jones. It does, the County Surveyor is saying that the petitioner has some comments, and pictures to show you, and that, of the poor drainage of his land caused by the obstruction. The County Surveyor does say in order for the water to drain more fully into St. Joe Avenue side ditch, the material should be removed, and the land regraded to it's natural grade. The report is accompanied by certified mail receipts that went out showing that the service list was served. It's accompanied by the signatures of those green cards that have returned as of this morning, including the petitioner Richard Smith, the respondent, Kenneth Jones. I believe that's Mark Richardson, or Nicholson, best I can determine. Langston, and anyway they are there. The report's also accompanied by the petition itself, plus a photocopy of the \$100 check that is required to file the petition. Along with two letters that was sent by the petitioner to the respondent, requesting over a period of time, two separate letters requesting that the obstruction be removed. A copy of a green card from the respondent showing he received one of Mr. Smith's requests. The second one was mailed, but was not acknowledged by the respondent, however, the law only requires that one be sent. In addition to that, the petitioner, Mr. Smith, is here to give his statements, along with some of this neighbors. I would like to ask the neighbors to keep the statements, at this time, in front of the Drainage Board, specifically to the watercourse that's behind Mr. Smith's property. The respondent, Mr. Jones, property, and, I think, there is one other property between that's affected. I think that would be 2324, Mark Johnson. They do have some drainage problems out in their road, and the rest of their subdivision. I instructed them, if they are here tonight, and want to make any comment about that, it should be simply after this hearing to the board, asking the board to put them on the County Commissioners agenda for a street related items. I have one more comment. Ms. Sheila Corchran from Berger and Berger called me this afternoon at 3:55, informed me that Mr. Smith has, excuse me, that Mrs. Jones, Ruth Jones, took Mr. Kenneth Smith to the hospital. He is suffering and being treated for cancer, and he currently has pneumonia. Wants to know if there can be a continuance granted on the petition. I told Ms. Corchran that I thought the most appropriate thing to do under the situation would be to let those that had been notified, and are here tonight, to go ahead and speak, go on the record. We do have verbatim minutes, and tape recordings that the respondent can listen to, or read. If she chooses to retain Ms. Corchran, as her attorney, Ms. Corchran could have access to those minutes of the meeting. After we hear the comments from those here present tonight, the County Surveyor will recommend that for a more full notification of the interested parties, and in the spirit of fairness that we just extend the hearing long enough in next month's meeting to hear Mrs. Jones reply. Or Mr. Kenneth Jones reply. With that I will let Mr. Smith address you.

Richard Smith: My name is Richard Smith. I live at 2320 Sheridan Road. Like he said, I have sent letters back, I think, in '98, after he had, the Jones' had put their back yard, built it up approximately a foot across the easement, which is the drainage outlet towards St. Joe, going west. He has never really responded to us. Then I sent a registered, or certified mail to him. He did come by and look. He said what do you want done? I said, I want the drainage opened. He said, aw, all we can do, he said, I'll help you fill your yard in, and then you won't have that problem. I won't have the problem, but the people next to me will have it. There is farm ground across our easement, and they claim, or the Jones' claim that the farmer should make a row, a drainage row on his ground so that ours would not flood. I disagreed

with him on that, but, anyhow that's the last I heard from him. Wells had moved, sold their house, shortly after he signed the petition. The next day he had it up for sale. We have new tenants in there now, and Mr. Johnson he will explain why his garage is filled up with water all the time. I don't know if any of you have seen my pictures on the petition or not. If not, I do have some here. The second letter, certified letter, I sent out, I got that back, and they said it was unclaimed at the Post Office. Since then I've heard that the Jones' do have medical problems, but why they wouldn't go get a certified letter, I don't know. That's about all I can tell, other than I have read the laws on, the State Senate laws on drainage, and, personally, I think I've played by all the rules, and I would just like to see him play by it. Thank you.

Kevin Winternheimer: Can I ask you a question?

President Mosby: Yeah, go ahead.

Kevin Winternheimer: Sir, did you say that you thought this was a drainage easement?

Richard Smith: Pardon me?

Kevin Winternheimer: Did you say that you thought this was a drainage easement?

Richard Smith: It is a public, it's a utility easement.

Kevin Winternheimer: Okay, it's not a drainage easement, then?

Richard Smith: No.

Kevin Winternheimer: Okay.

Richard Smith: I don't know. I just figured that drainage is part of utility.

Kevin Winternheimer: No, it's not. Utilities are electrical, water and sewer, cable t.v.

Richard Smith: I do have, I do have a subdivision plat showing this. I don't know.

Commissioner Mourdock: Can we take a look at that please?

Richard Smith: Would you like to see this?

Commissioner Mourdock: Yes. Can you both see it?

Richard Smith: There's St. Joe Avenue.

Commissioner Mourdock: Which way is north here?

Richard Smith: North.

Commissioner Mourdock: Here's St. Joe, okay, here we go.

Richard Smith: The Jones' live on the first lot, the Johnson's are there, and then Smith's, Carr's, Langton, I don't know these people—

Unidentified: Hendricksons.

Commissioner Mourdock: This is the easement back here?

Richard Smith: This is the easement right there. The utility easement.

Kevin Winternheimer: It's labeled (Inaudible. Talking over each other.)

Richard Smith: Water has always drained approximately here, going to St. Joe. (Inaudible) down to 12<sup>th</sup> Avenue into the drainage, storm sewers there.

President Mosby: Is there any other comments?

Richard Smith: I have no other comments right now.

President Mosby: Is there anybody else who would like to speak pertaining to this subject here?

Mark Johnson: I'm actually a new resident. My name is Mark Johnson, in the subdivision. I've only been there about two years. I actually spoke with Mr. Jones about doing something, whether it be putting a culvert in by hand ourselves, doing something to get the flow out from our, you know, when we get just a decent rain for five or six hours, I almost always have water seeping under my two by fours. I have a slab garage, built on a concrete slab with two by fours. Almost every time, four to five hours of rain, water is standing in my garage. You know, yes, maybe I should have a drain in my garage floor, but my garage is built easily a foot off the ground from behind me, but he has dammed, and I want you guys to see this, I don't know what all pictures he had, but he's dammed up around the corner of my garage right here. So, when it rains, all the water...and you can see how my garage is higher than this level. The water gets high enough where it comes into my garage, and in my driveway, comes underneath my garage door. I mean, I've asked him...I've offered to help him do it, and he refused it. He told me the same thing he told Richard, why don't we just bring dirt in and fill your backyard in. But, then I've spoken with Richard, I agree, that was just going to continuously, you know, make the problem go a little further down the street, and, you know, nothing is ever going to get done. But, other than that, that's pretty much my complaint on it.

President Mosby: Anybody else in the audience that wants to speak?

Commissioner Mourdock: There is no one here for the respondent, correct? Mr. Jones is not here?

President Mosby: From what I understand from the County Surveyor with the call, I guess, from Charlie Berger's office today, I would hold this in the light of seeing if Mr. Jones wants to appear at the next meeting, or if Sheila, who he retained to appear for him. At that point, then ask this board to make a decision.

Commissioner Mourdock: Just for the record, Bill, as I've skimmed your report here, it sounds like your assessment of the facts pretty well agrees with all of those who presented for the petitioner. Is that accurate?

Bill Jeffers: That's correct. We took some shots on the ground, and it showed that the water flowed through the easement, towards St. Joe Avenue, and when it came to the material that was placed in the easement, which 100% of it is dirt, that that



blocked the flow, and prevented the full drainage to St. Joe as previously.

Commissioner Mourdock: Just wanted that in the minutes. Since we only have the one side here this evening, I would move that we defer this until next month's Drainage Board meeting. Obviously, we would have liked to have dealt with it, but we need to let the respondent have a chance (Inaudible. Microphone interference.)

Commissioner Fanello: Second.

President Mosby: I have a motion and a second to hold until next meeting. So ordered.

Kevin Winternheimer: If I might add, I would encourage you all to come back at the next meeting. We don't know what they are going to say. So, that gives you an opportunity to respond to whatever they might bring up.

President Mosby: We will hear it at the next meeting. Yes.

Richard Smith: If I may, at this time, I would like to make a comment on the...if I may, at this time, I would like to make a comment that our Surveyor has suggested that I make to you. I wrote a few notes, I'm not too much of a public speaker. Anyhow, back in about the 1980's the county paved our road, Sheridan Road, 21,22 and 2300 block. They stopped short of going into St. Joe, in between lot 4, and, the third and fourth lot from St. Joe, and have left a berm about that much. In doing so, it's created a water puddle every time it rains. In doing that, I went to the County Garage. I asked them who takes care of it? They said, well, the County Garage takes care of it. I said, who do I talk to? They said the Superintendent. I said, may I talk to him? Well, he's only here at 7:00 in the morning. Well, I said, I'll come back. They said, well, you better make an appointment, but, he'll take care of it. Well, anyhow, they sent a foreman out, he looked at it, he said, I'll take care of it. Well, that was a big laugh. Well, another decade goes by, they repaved it. I talked to the foreman, he said, I'll take care of it. He did. He paved it all the way to St. Joe. We wound up with a berm, the same place. Still getting the water. It gets under the concrete. The streets dry, or cars drive across it, pumps the mud up from under the concrete, out from under the sidewalks, and I have replaced my sidewalks. The sidewalks out there are in terrible shape. It's because of the water. I showed it to the Surveyor, and he said, yeah, I can see where the mud puddles. So, as far as I know, it's just another decade difference. It's all the same story. It's still there. I think after 20 years they ought to have done something. Thank you.

President Mosby: This is at the corner of Sheridan and St. Joe?

Bill Jeffers: It's a few lots in. It's right in front of Mr. Smith's house. Basically, you can look at the curbing, if you drive past there. You can see that the curbing...you know how layers after layers of asphalt fill the curbing up. Well, it needs to be milled down in front of his house, so that the water flows evenly into the subdivisions drainage system. I think that's why there was some interest by some of the neighbors when they thought, when they heard Drainage Board they thought that we could address all these subjects, but, in this case, it's strictly a County Highway, and, I said, go ahead and make your comments, and I'm sure that the Commissioners, or that the Drainage Board will direct you to go to the proper office to address street drainage.

Commissioner Fanello: I'm going to forward this on to the Superintendent in the

morning.

Bill Jeffers: And you have Mr. Smith's address as 2320. Is that correct? 2320 Sheridan. It's about three or four lots in from St. Joe Avenue.

Commissioner Fanello: I promise it won't take a decade.

Bill Jeffers: It might take a little while to find a milling machine.

Commissioner Fanello: Yeah, but not, hopefully, not a decade.

Bill Jeffers: We don't own one, do we? We're going to have to find a contractor, I think.

Commissioner Fanello: But, we can at least—

President Mosby: We're only milling one house. You can get a milling machine. You can lease it. That's a small enough (Inaudible. Mike not on.)

Bill Jeffers: It's a...it might be 100' of milling or so. Something like that. Across the front of one lot—

President Mosby: Well, then it's starting to change. 100'.

Commissioner Mourdock: Yeah.

Bill Jeffers: Well, there's one area that's the worst. I mean, but, you know, you would have to make a nice, long taper.

President Mosby: I mean, no, we don't own one, but if we were just—

Bill Jeffers: Right.

President Mosby: —milling 40' or something, we could (Inaudible. Talking over each other.)

Bill Jeffers: Might get by with just milling 40', really. We would be happy to shoot grades for you, if the County Engineer is tied up on another project, and they need a survey crew to shoot the grades for the milling machine, we will be happy to do that.

President Mosby: Appreciate that. As far as the other situation, we'll be back here next month. Thank you.

Bill Jeffers: Which I believe is August 24<sup>th</sup> or 5<sup>th</sup>.

Commissioner Fanello: 25<sup>th</sup>, I think. It's right there.

Commissioner Mourdock: I can't read it.

Commissioner Fanello: It's that small font.

Commissioner Mourdock: 25<sup>th</sup>, yeah.

Bill Jeffers: 25<sup>th</sup>. So, what they did was continue the obstruction hearing on Mr. Smith's petition to at or about 7:00p.m. August 25<sup>th</sup>, Monday, same place.

President Mosby: Thank you very much.

Richard Smith: Thank you.

<b>Ditch Maintenance Claims</b>
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President Mosby: Other business.

Bill Jeffers: No ditch maintenance claims, at this time.

<b>Encroachment Agreements</b>
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President Mosby: Encroachments?

Bill Jeffers: No encroachment agreement requests filed in our office, as of Friday.

<b>Petitions</b>
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Bill Jeffers: No petitions received, as of Friday, unless by the Auditor.

<b>Reports/Correspondence</b>
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Bill Jeffers: The only report I have is to draw your attention to the letter I sent to Mr. Andy Patel last month. The reason I sent the letter was in reply to a petition you received from members of Big Creek Drainage Association about Mr. Patel's hotel on, I believe, it's Lot 2, Elpers Industrial Subdivision, where his incomplete drainage plan is discharging silt and excess storm water from an industrial subdivision into Rusher Creek. I indicated to Mr. Elpers that I would be recommending to the board a \$100 per day fine, as allowed by the Drainage Ordinance, if his storm water control facilities are not finished, and in operating condition by August 19, 2002. I also had asked Mr. Patel for a schedule of construction activities to show how he was going to complete that between tonight and August 19<sup>th</sup>. Here is the card where Mr. Patel acknowledged receipt of my letter. I have not had any response whatsoever from Mr. Patel, to my knowledge. Our office has not received correspondence. So, I will, with your permission, send him another letter notifying him that I intend to come back to you on August 25<sup>th</sup> with a recommendation that they begin, that you begin fining him \$100 a day to finish this long standing problem that all parties concerned have been aware of for more than a year.

Commissioner Mourdock: I'll move that you send him another letter, and include the minutes of this section of the meeting with it.

Commissioner Fanello: Second.

President Mosby: So ordered, and you might tell him that the fines are going to be imposed the next day.

Madelyn Grayson: Bill, may I make a copy of that letter?

Bill Jeffers: Yes, ma'am. I'll give...will you keep the green card for me and everything?

Madelyn Grayson: Sure.

Bill Jeffers: Okay. Here's a copy, with the service card on it.

<b>Other Persons Wishing to Address the Board</b>
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Bill Jeffers: We're down to other persons wishing to address the board.

President Mosby: Seeing none.

Unidentified: I...we came down here—

Commissioner Mourdock: You need to come to the mike.

Unidentified: Okay. I think it's already over. We didn't...I came down with my neighbor, and we were—

Commissioner Mourdock: State your name please.

Larry Mays: My name is Larry Mays. I came down with my neighbor, and we were interested in the, we both own lots in the Keystone Subdivision. They're putting this new area in, and we thought there was going to be a discussion on that. We received notices in the mail just the other day that, you know, so, we came down, and when they were talking, they said the plans were on the table. Well, there was no plans on the table. We were going to look at the plans and find out.

Bill Jeffers: I'm sorry.

Larry Mays: Okay. It was over before we knew what was going on. The only thing—

Bill Jeffers: Would you like a copy of the plans to take with you?

Larry Mays: If you have a spare.

Bill Jeffers: This isn't a spare, but I can get another copy from Mr. Morley.

Larry Mays: What we were concerned about, from the little paper that they sent us that was about this size, that the way that they are building that, the new part, on the hillside it backs up to our lots. All the drainage is going to come to the ditch in our backyard, is what it's going to do. The ditch in our backyard now is already washing out. That's what we were concerned about. We wanted to see what was happening. Because the hillside runs down to our property. The ditch is on our property, and the utilities are on our property, and what we were wanting is if that's the way that it is, we would like to have them put a ditch to catch part of their water and run it down to the lake at the bottom of the hill. That's all it would be to it. We've got a ditch on our side, and there is quite a bit of water. The guy that was with me that just left, he thought it was all over too, and he's been having troubles with his yard washing out, and that's why we were here, you know, but, we didn't understand all the talk that you all had, and we thought that there was going to be a discussion.

Bill Jeffers: Are you on Quakerbridge Drive?

Larry Mays: Yes, I'm on lot 437, right here. The ditch is on our property down through here.

Bill Jeffers: The ditch is in the back.

Larry Mays: Yeah, here.

Madelyn Grayson: Can you move closer to the microphone, sir?

Larry Mays: Okay.

Bill Jeffers: What you will receive is the backyard drainage from the houses that are built up here. All the front yard drainage will go to the street.

Larry Mays: Right. So, we'll get all of their backyard drainage.

Bill Jeffers: Which you do now.

Larry Mays: Yeah, but now they don't have buildings, and concrete, and all that stuff that does not absorb water.

Bill Jeffers: Right.

Larry Mays: Nothing absorbs water that they are going to put in.

Bill Jeffers: But, this ditch here was...when this portion that you live in was designed, that ditch was sized to receive what they knew would be coming from the next phase of the development, and carry it down to this lake.

Larry Mays: At that point, they didn't know what they were going to...according to the people that own this property, they didn't know what they were going to put in there.

Bill Jeffers: Well, they did, they thought they were going to put apartments. They ended up doing single family houses, so it will be less water than there would have been from apartments. This area was considered for apartments, at one time.

Commissioner Mourdock: Less water than they designed for.

Bill Jeffers: I believe, if I'm not mistaken, they had told me that they had considered this for either two unit condos or apartments.

Commissioner Mourdock: So, if it's going single family, that ought to produce less.

Bill Jeffers: Now, the one thing....there's two possibilities. If the facilities for your section have not been inspected and released by the County Engineer, and a letter of credit released, then there is still some guarantee of this ditch back here, because we don't release it until it's stable.

Larry Mays: Uh-huh.

Bill Jeffers: If it was stable at the time the County Engineer inspected it, and he did release it, then it's the property owners responsibility to maintain it.

Larry Mays: Well, they have put rock in it, just, I would say, two months ago. They came out and threw rock in there, because it was (Inaudible) out. My neighbor was complaining that his yard is washing out, you know. I actually will not move into the house for about two more weeks, my house, but he is living in his house, and he was talking about the water that came down the hill.

Bill Jeffers: I tell you what, if you can leave your name and phone number with me—

Larry Mays: Okay.

Bill Jeffers: —I'll get in touch with you.

Larry Mays: Okay.

Bill Jeffers: You can take these plans, and show them to your neighbor.

Larry Mays: Okay.

Bill Jeffers: I'll get another set from Mr. Morley. I'll go over the calculations, and call you and your neighbor—

Larry Mays: Okay.

Bill Jeffers: —during the following month.

Larry Mays: Okay. I would appreciate it very much.

President Mosby: Thank you.

Commissioner Fanello: Thank you.

Larry Mays: Thank you.

President Mosby: Okay.

Bill Jeffers: Here, do you want to leave your—

Larry Mays: Oh, okay.

President Mosby: Seeing none.

Commissioner Fanello: Motion to adjourn.

Commissioner Mourdock: Second.

President Mosby: I have a motion and a second to adjourn. So ordered.

The meeting was adjourned at 8:27 p.m.

**Those in Attendance:**

David W. Mosby

Kevin Winternheimer

Les Shively

Scott Railey

Catherine Fanello

Bill Jeffers

Dave Rueger

John Kipling

Richard E. Mourdock

Madelyn Grayson

Jerry Atkinson

Richard Smith

Mark Johnson	Larry Mays	Others Unidentified
Members of Media		

VANDERBURGH COUNTY  
DRAINAGE BOARD

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David W. Mosby, President

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Catherine Fanello, Vice President

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Richard E. Mourdock, Member

Recorded and Transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
AUGUST 26, 2002**

The Vanderburgh County Drainage Board met in session this 26<sup>th</sup> day of August, 2002 at 6:34 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

<b>Approval of Minutes</b>
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President Mosby: I would like to call to order Vanderburgh County Drainage Board meeting, August 26, 2002. Do I have a motion to approve the minutes of the previous meeting?

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second, so ordered.

<b>Continued Public Hearing: Richard Smith Petition</b>
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President Mosby: Public hearings. The Surveyor, Mr. Jeffers.

Bill Jeffers: First public hearing is a continued hearing of the Richard Smith petition. This item is continued from last month's meeting due to the illness of the respondent. Subsequently Mr. Jones, the respondent, contacted the County Surveyor and indicated that Mr. Jones would be willing to do what is necessary to wrap up the situation. The County Surveyor told Mr. Jones that the board must finish the hearing that was initiated last month. The County Surveyor recommends the board determine, at this time, that an earthen berm placed along the easement, along the south line of the respondent's property comprises an obstruction, and further order that the obstruction be removed by the respondent, or at the respondent's cost. If the board determines that an obstruction does indeed exist, and orders it's removal, the County Surveyor is willing to provide the respondent with sufficient grade stakes to enable an excavating contractor to restore the flow line of the drain from the southeast corner of the respondent's lot, thence west to the roadside ditch along St. Joe Avenue. The petitioner and other property owners east of the respondents land may have to make minor improvements or repairs to the portion of the drain along the south line of their respective properties to achieve full drainage of their lots. Which is to say there's some irregularities in the drain that's not associated with the fact that an obstruction consisting of earth exists. I believe Mr. Smith may be here if the board wishes any comments from the petitioner. Mr. Jones and his wife indicated they would be here, if the board requires any comment from the respondent.

President Mosby: Are there any questions by any member of the board? Anybody in the audience that would like to speak? If not, the chair would entertain a motion.

Bill Jeffers: There's a lady—

Mrs. Jones: I'm Mrs. Jones.

President Mosby: Okay.

Mrs. Jones: I have no idea (Inaudible. Not at mike.) talking about (Inaudible).



Bill Jeffers: Right. Okay, basically, Mrs. Jones, if you have any comments, you can make them at the microphone, after identifying yourself, if you wish for me to be more informative. There's a statute that allows a petitioner to petition this board to remove an obstruction to a common drain, a mutual drain in this case, which consists of a very shallow swail that ran along the south line of that entire subdivision, and carried the water out to St. Joe Avenue. That swail was alleged to be obstructed. Mr. Smith made the allegation, and brought pictures in last month, and showed the board a continuous mound of dirt, known as a berm, that was placed at the rear of your property, along the south line of your property, supposedly by you and your husband in an attempt to keep water from a corn field flowing through your land, but it also had the effect of keeping the water that drained from Mr. Smith and other neighbors, it prevented that water from entering the roadside ditch along St. Joe Avenue. So, he's able to file a petition and ask this board to order the removal of that obstruction under state statute. In order for them to order that removal, the County Surveyor makes a report, which I did last month. I did report that, indeed, as Mr. Smith alleged there was a quantity of dirt that substantially impeded the flow of water through a mutual drain, as it previously flowed. I'm recommending, at this time, that they make a finding, at this hearing, at this point, that they make a finding that an obstruction exists. That's the first part of their motion, if they so choose. Then I'm asking them to order the removal of that obstruction, which apparently was, according to the evidence, and according to the petitioner, that obstruction was intentionally placed there by the owners of the property. Therefore, since it was intentionally placed, the removal would be at the cost of the person who placed it, or the owner of the property at this time.

Mrs. Jones: (Inaudible. Not at the mike.)

Bill Jeffers: I'm talking about the quantity of dirt that's placed in a long ridge along your south lane, in the utility easement, needs to be removed, and the flow line of that drain needs to be restored to carry that water from all the neighbors property out to St. Joe Avenue. I would be willing, at the county's cost, basically, to go out there with my crew, and set some grade stakes to show where that flow line should be dug back out to. That dirt belongs to you, and you can take it and do what you want to with it, so long as you don't block drainage. You could use it in your yard somewhere else to keep the water from coming up against your house, but I would recommend that you consult a landscaper who's familiar with grading residential property of new houses, so that the grade that he ends up establishing will benefit you, and not obstruct your neighbors drainage. Like I said, if you need to make any comments, the microphone is open.

Mrs. Jones: We'll do whatever we have to do.

Commissioner Mourdock: Ma'am, if you're going to speak, you do need to come to the microphone, because we record all of our minutes on tape here, and then all the, everything gets transcribed. So, if you would, please come up to the mike.

Mrs. Jones: I don't want to.

Bill Jeffers: I think she reiterated the comment up here that the...Mr. and Mrs. Jones indicated in the telephone conversation with the County Surveyor that they would be willing to do what is required to bring this to a conclusion.

Commissioner Mourdock: Okay. With that, especially the last thing that Bill just said there, it's bullet number two in his report, I would move that the board do determine,

as recommended by the County Surveyor, that an obstruction does exist in the drainage way.

Commissioner Fanello: Second.

President Mosby: So ordered.

Commissioner Mourdock: I would also move that we request of the County Surveyor that he go out and do the surveying to set the grade stakes so that the respondent can remove the materials.

Commissioner Fanello: Second.

President Mosby: So ordered. Next, Steve and Gloria–

Commissioner Mourdock: Excuse me, David, did we need to do anything else, Bill? Do we actually need to give a letter saying that that obstruction needs to be removed?

Bill Jeffers: I think you've done what the intent is. If you would like to cement it, you might want to say that you actually order the removal of the obstruction.

Commissioner Mourdock: Okay, well, then I would move that this board draft a letter, and send it to the respondent, and the Surveyor stating our actions regarding the determination, and also the necessity that the obstruction be removed.

Commissioner Fanello: Second.

President Mosby: So ordered.

<p><b>Steve and Gloria Millay Comments Regarding Previous Hearing (June 25, 2001)</b></p>
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Bill Jeffers: Second item, the legal representative of Mr. and Mrs. Millay asked to be on the agenda for this meeting. Les Shively is their representative. The County Surveyor assumes the subject of the comments from Mr. Shively, and others, will relate to the previous hearing of the Steve and Gloria Millay petition to resolve a drainage issue regarding a lake constructed by the Faucett's, their neighbors, which discharges onto the Millay property. The County Surveyor reported at the April 2002 board meeting that the reconstruction of the primary spillway from the Faucett lake is complete, in accordance with the plans prepared by Morley and Associates, which was the result of the hearing of the Millay petition. The board, basically, came to an understanding that Mr. Shively's comments indicated that if this lake spillway was reconstructed to discharge the flow from the lake to the previous natural surface watercourse, that that would satisfy the petitioners.

Les Shively: Mr. President, members of the Vanderburgh County Drainage Board, my name is Les Shively, representing Mr. and Mrs. Millay. This matter was heard on June 25<sup>th</sup> of last year. All the findings regarding obstruction were made at that time. Briefly, Mr. Jeffers has pretty well explained what occurred. In 1996 the Faucett's constructed a lake, dam, and spillway. The discharge pipe, that spillway, basically, I hope my directions are correct here, pointed directly east?

Unidentified: Correct.

Les Shively: East, okay. By the way, Steve and Gloria Millay are here this evening with me. Basically, that water just shot out across the Millay's property, and over their driveway, and into a county street, county road. We had worked out, tried to talk about various ways to resolve the problem, and we really couldn't come up with a solution that was agreeable to all three parties, that being the Faucett's, the Millay's, and the county, because the county didn't want water being discharged onto the road. So, to make a long story short, we came before you, you all found it to be an obstruction, and there was a remedial plan that was proposed by engineer Jim Morley. The theory being to basically take that pipe, rather than going to the east, and turn it to run somewhat parallel with the dam, and create a spreader effect with rock, and sort of send it north, so it would then follow the natural watercourse that had existed prior. Am I right so far, Mr. Jeffers?

Bill Jeffers: Yes, sir. You're very correct in your description.

Les Shively: Okay. What is, and the Faucett's brought out there, they had the engineer do it. They paid for the plans. The work was done, but it doesn't work. We're not the experts. We think that what it needs is another, and this is what Mr. and Mrs. Millay believe, and I'm a lay person, I'm looking at, it looks like if that pipe just went 15' further to the north, it would get it's desired result. Let me show you these photographs of how it's not working. This is the new spillway, and rocks are being used for spreader, a spreading effect, the fusion of (Inaudible. Microphone interference.) These are in sequence. This is just, as I'm stepping back now, further to the east, and further more to the east. What we would like, what we're asking here this evening, and I don't believe the Faucett's are here this evening, so, what we're asking to be done is for Mr. Jeffers and his crew, I know they're busy people, we would like for them to go out there and take a look at this situation, and see what modifications, if any, are called for, so that we do get the desired result that everyone came here to secure back in June of last year. Again, it was not the desire of Mr. and Mrs. Millay just to (Inaudible) and have the Faucett's spend money for a plan that doesn't work. I think everybody wanted the plan to work, and it isn't working, but, again, it would appear, and, again, that's why I want Mr. Jeffers to go out there, his expertise, and say what needs to be done, and maybe suggest how it gets done. It seems to me that it just stopped a little too short. If it would have gone a little further, it would work. That's it in a nutshell. We're not asking for you to do anything else other than, if you could, direct Mr. Jeffers to make that inquiry, that investigation, and then report back, and report back not only to us, but the Faucett's, and then whenever he gets that complete, then put it back on the most appropriate agenda for the Drainage Board to determine what further action, if necessary, should be ordered by this board.

Commissioner Mourdock: Just so I understand the photos you gave us.

Les Shively: Yes.

Commissioner Mourdock: The one shows the pipe. The other two that shows the water being discharged, those were post the installation—

Les Shively: Yes, I'm sorry. Yes, these are post installation of the remedial plan.

Commissioner Mourdock: Okay.

Les Shively: I want to make it very clear, everything was done as it was laid out, it just doesn't work.

Commissioner Mourdock: I would move that we request the County Surveyor to go out and take a look at the situation one more time.

Commissioner Fanello: Second.

President Mosby: So ordered.

Les Shively: Thank you.

Madelyn Grayson: Mr. Shively? May we have the photographs for the permanent record?

Les Shively: Those are part of your record. Yes, ma'am. Thank you.

<p><b>Drainage Plans: Camden Farms Subdivison: Lot 14 Greenhill Subdivision</b></p>
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President Mosby: Moving on to drainage plans.

Bill Jeffers: Since we have a couple of remonstrators here on the second one, on the first one, why don't we take the simple, second one, first.

President Mosby: Okay.

Bill Jeffers: Item 3B on the agenda is Lot 14, Camden Farms, modified final plan. Basically, Jagoe Homes requests the approval to modify a grass channel along the north side of Lot 14, Camden Farms, owned by Jesse Storey, who indicates his concurrence with the plan. The modification consists of adding a concrete liner to repair some erosion, and prevent further damage from erosion. I have a set of the plans here. A representative from Jagoe is in the audience if you have any questions. Jagoe will be paying for this. They built the home for Mr. Storey, so, apparently they've agreed with him. The County Surveyor recommends approval of this plan.

Commissioner Fanello: So moved.

Commissioner Mourdock: Second.

President Mosby: A motion and a second, so ordered.

Bill Jeffers: Okay, the other drainage plan before you tonight is for a subdivision to be known as Greenhill Sub. It's proposed on property south of Kansas Road, west of and fronting directly on Greenriver Road, and east of Windham Hills Subdivision, the subject of much discussion over the past year. The neighboring property owners were notified of this hearing by Morley and Associates, according to Ron London, the engineer who's here in the audience to represent Morley. The County Surveyor has reviewed the plan. It is a preliminary plan. We've asked the design engineer for additional information, particularly regarding erosion control practices. The plan substantially complies with the requirements of the county's drainage ordinance for

a preliminary plan. We will be asking for detailed additions of specific erosion control practices, both on the erosion control plan, and on the final drainage plan, and the County Surveyor recommends approval for the preliminary drainage plan for Greenhill Subdivision, noting that there are at least two property owners present in the audience that may wish to make comment before you take an action.

President Mosby: Is there somebody here representing Greenhill?

Unidentified: Yes.

President Mosby: Okay. Is there some...did you want to make any presentation? Or is, I can go on to the people...okay. Is there anybody wishing to speak against it? Any remonstrators? If you want to come to the mike.

Allen Roth: I defer to Greenhill for a moment, if they want to make a brief explanation. All we received is a small, (Inaudible) map. Maybe my questions concerning this will be answered by a short description that wasn't included with the 8 ½" X 11" map.

President Mosby: Okay. Did you want to give us a brief overview of what you're doing? I mean, I realize that the Surveyor has looked at your plans, but, I think what this gentleman is saying is he would like to know what's going on, so.

Ron London: My name is Ron London with Morley and Associates. I can meet with them outside, if you want me to, and go over a detailed plan that I've got.

Commissioner Mourdock: Yeah. One of the reasons this is called a preliminary plan tonight, is we do go through a two stage process. Normally, when we have a preliminary plan, if, as recommended by the County Surveyor, this one substantially meets the rules that we have in place, when there are questions of nearby landowners, or whatever, it gives them a chance to meet with the developer, to meet with the developer's technical representative. So, what you're asking for, Ron just said he has, and would be more than glad to meet with you beyond the realm of this meeting, so we can deal with any of your questions specifically.

President Mosby: And that's fine with me.

Commissioner Mourdock: Yeah, and you—

Allen Roth: Well, then I'll take the opportunity.

President Mosby: Okay.

Allen Roth: May I address the board?

Commissioner Mourdock: Sure.

President Mosby: Sure.

Allen Roth: My name is Allen Roth. My address in Vanderburgh County is 9400 North Greenriver Road. My, the property that my wife and I own is immediately north of the proposed subdivision. We share a property line that runs east and west. It's the north property line of the proposed subdivision. It's our south property line, for the sake of reference. That property line for about half of the, for about half of that

distance, the east half of that distance, there is a drainage ditch there that runs slightly on the proposed subdivision, but it's almost recognized as the property line to some, as far as mowing grass, and taking care of it, and that sort of thing. The ditch is subject to erosion. The ditch has a grade of, if I had to guess, I would say maybe 4%, or something like that. Erosion is a constant consideration, trying to keep the water velocity down. My concern is that when the property is subdivided, and there are a number of residences there, rather than farming operations, that those residents will take advantage of the drainage ditch being there, and filling it with debris, lawn debris, material, and that sort of thing, and the ditch will continue to erode and move northward as a result of fill material being placed in the ditch. I think the Planning Commission should have, or the Drainage Board should look forward and see, anticipate that that's going to happen, and that there's a number of individuals there. At this stage, we can address it by putting that drainage ditch in concrete, rather than letting it stay in the soil and erode, and then dealing with a half dozen, or maybe ten different landowners along that ditch trying to maintain it in their backyards. So, what I'm trying to do is prevent a problem in the future by having that ditch be identified, or that drainage being identified as concrete rather than soil and grassy, basically, a landfill area is what it's going to come to, where people are putting material in it. It's steep enough that it will erode. It will wash grass and material, light material down, and it requires rock, and a little bit of rip rap now and then, and that sort of thing to try to hold it in place to break the velocity of the water. Those are my concerns.

President Mosby: Okay. Any questions by any member of the board?

Commissioner Mourdock: Yeah, just a question, Ron, is there anything, and perhaps, and probably you're not this far along yet, but with the plans and the plat that you've put together, is there anything on there that would note on the plat who is responsible on those individual properties that Mr. Roth is describing, once they are sold, who has responsibility to do what with that drainage way that abuts on their property?

Ron London: Normally on a plat, I mean, we'll show the easement, and on our plan here, the ditch is totally encapsulated on, I believe, six lots in the subdivision. It will be inside a drainage easement, which will have to be, you know, maintained by the property owner. Or, you know, eventually it may be taken over, you know, by the county, but.

Commissioner Mourdock: Yeah. Is there going to be a neighborhood association? I mean—

Ron London: I don't believe so. What we normally do is we come back, and we pay the, you know, the \$2 fee for the pipe outside of the right-of-way, and ask for the county to accept the, at least accept the pipe, the ditch will be in an easement, but. I mean, that's all.

Commissioner Mourdock: So, the entire, now I'm a little confused. So, the entire ditch is ultimately going to be piped as part of what you're doing?

Ron London: No, no. What we do is we come back whenever the drainage system is all completed, and we ask for the county to accept the storm pipe that's outside of the right-of-way. You know, pay the \$2 fee, but that will not be included in this ditch, but the ditch will be in an easement, and, you know, it will have to be accepted by the Drainage Board for it's release from it's letter of credit. So, I mean, it will have

to be a workable ditch that's, basically, not showing any erosion. I know that construction out there will be, you know, taking place over a year's period of time. So, I mean, you're going to know from rainfall if it's going to work as, you know, as we'll have it outlined as the typical swail.

Commissioner Mourdock: How deep a ditch are we talking about? And how wide?

Ron London: Well, it's 1' wide. It will be a three to one, four to one slope, side slope.

Commissioner Mourdock: Total depth?

Ron London: Depth is a foot. I mean, inside of the easement. As far as getting up to the homes, I mean, the homes may be, you know, 3' to 4' higher than that.

Commissioner Mourdock: Okay.

Bill Jeffers: That may not necessarily be an accurate description of the ditch. That would be the description of the ditch if the proposed berm, which Mr. and Mrs. Rose requested for Windham Hill Subdivision is built at the time this new, proposed subdivision is finally implemented, because that proposed berm requested by the Rose's at the previous hearing of Windham Hill, would cut off a substantial flow of water from that watershed. If that berm is not built, this ditch may have to be substantially larger than 1' wide and 1' deep, because currently it carries a lot more water than a ditch that size would carry. Secondly, to Mr. Mourdock's question, the property owners of lots one, two, three, four, five and six will be responsible for the care and maintenance of that ditch as a grassy waterway. In response to Mr. Rose's, or Roth, excuse me, the Rose should be Roth. In response to Mr. Roth's request for a concrete paved channel, if the developer and his engineer choose to do that, that is one option that would be approved by the County Surveyor, if the concrete lined channel were properly designed. However, we allow for any design that complies with the erosion control handbook for developing areas in Indiana. So, that could be an earthen channel that's grass, or it could be a rip rap channel, could be a series of rip rap check dams, it could be a variety of things as long as it's an approved practice by the Indiana Handbook for Erosion Control. We cannot dictate to him that it be a concrete channel. It might not be appropriate to be a concrete channel, because that would increase the velocity of the water, rather than check the velocity. As to people throwing yard clippings, and garden clippings into a ditch, that may be legal today, but in 2004 it will be against the Clean Water Standards of the State of Indiana to throw grass clippings and yard clippings into a ditch. The enforcement of that will come from the MS4 operator for this county and urbanized areas. We will be notifying homeowners in urbanized areas that throwing grass clippings and yard clippings and other debris into a water channel is, will be against the law beginning 2004.

Commissioner Mourdock: Who is MS4?

Bill Jeffers: It's all a year away.

Commissioner Mourdock: Who is MS4?

Bill Jeffers: MS4 is the abbreviated way of saying operators of multiple storm sewer systems. Which is the County Commissioners for streets and roads. The County Surveyor for regulated drains. City Board of Works for any streets and gutters. It's

the new storm, phase two storm water control regulations that are coming down the pipe beginning March 10, 2003–

Commissioner Mourdock: Okay.

Bill Jeffers: –and taking force, by ordinance, 2004. So, those are legitimate concerns, throwing grass clippings into waters of the state, but at this time it's not illegal. In 2004 it will be.

President Mosby: Is there any other–

Commissioner Mourdock: So, in 2004 this board will be required to enforce it?

Bill Jeffers: Yeah, this board will be a policing organization along with, and it's an unfunded federal mandate. So, you'll have to go to the County Council and get funded to do this.

Commissioner Mourdock: I'll think of you often.

President Mosby: You won't have to worry then.

Bill Jeffers: Happy, happy.

President Mosby: Is there any other questions or comments? Anybody else in the audience that would like to speak?

Bill Jeffers: I would like to note that Mr. Schlensker, the other neighbor, is here. He was notified. He and his wife are here tonight.

Commissioner Mourdock: Again, with the idea of being the preliminary approval can lead to some good interchange between the developers and adjacent landowners, and I hope you do take the opportunity to do that, but on preliminary approval, I would go ahead and so move.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second, so ordered.

<b>Kolb Ditch: Change Order</b>
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Bill Jeffers: Next item, due to additional and substantial erosion damage caused by heavy rainstorms this spring, that occurred after we specified and let a contract to repair Kolb Ditch where it enters Audubon Lake, we find the need for a substantial amount of additional rip rap to finish the repairs. This is a very sandy soil. The lake has fallen 5' below it's seasonal high water level, and when it rained real hard this spring, it washed out a huge amount of sand along the shoreline, and damaged some rip rap that had been placed there by property owners. When we got in there finally this fall to accomplish this project, we found we're going to need up to another 150 tons of rip rap at the bid price of \$19.50 a ton, for a total requested amount change order \$2,925 maximum. If we don't end up using the 150 total tons, we are asking to be able to pay the contractor for whatever additional tonnage he does use at \$19.50 a ton. The total request of the change order is \$2,925. The original bid



was a modest \$6,207. The total price will remain under \$10,000. It's an important project. The next highest bid was substantially above that, and was above \$10,000.

Commissioner Mourdock: Is this my favorite lake, Bill?

Bill Jeffers: Yes, this is the one we have quite a bit of dialogue with the neighbors, because the lake level has fallen 5' in the last four or five years due to the water table receding. Our ditch now tumbles into the lake, and washes it out, and I hope this does the job.

Commissioner Mourdock: Motion to approve the change order.

Commissioner Fanello: Second.

President Mosby: So ordered.

Bill Jeffers: Here's the change order for your signature.

#### **Ditch Maintenance Claims**

President Mosby: Ditch maintenance claims.

Bill Jeffers: Okay, ditch maintenance claims are in the hand of our Recording Secretary. While you're looking at those, oh, the County Surveyor recommends the payment of all the ditch maintenance claims that are in front of you tonight. The necessary paperwork is there.<sup>1</sup>

#### **Encroachment Agreements**

Bill Jeffers: I do not know of any encroachment agreements.

#### **Petitions**

Bill Jeffers: I do not, have not received any petitions.

#### **Correspondence**

Bill Jeffers: I do have some correspondence from Scott Railey who sends you a dozen or so photographs showing what we've been referring to as the orange area, where he raised a berm, which appears to be about waist high on this approximately 5' 11" human being. Some other photographs that show that he has made an attempt to keep all water from flowing on to the Hass and Rueger properties. He wanted you to have those tonight. He couldn't be here for a prior commitment. That's all the correspondence I have.

#### **Other Persons Wishing to Address the Board**

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<sup>1</sup>Motion to approve claims appears on page 11.

Bill Jeffers: I don't see any others wishing to address the board.

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

Commissioner Fanello: Second.

President Mosby: I was just getting ready to ask that question. I have a motion and a second, so ordered on the claims. I did have one request. I had talked to Bill before the meeting. I had a call from a gentleman out on Graff Road today. Bill is aware of what I'm talking about. This gentleman has said that the neighbor has lowered the overflow pipe in the lake to put more water over on to him, and I would like for Bill to go out and look at it, and see if there anything we could do.

Commissioner Mourdock: I will so move.

Commissioner Fanello: Second.

President Mosby: So ordered.

Bill Jeffers: So, before you adjourn, I may or may not be able to resolve through my office the two issues that you've assigned me tonight. That being the Millay request and the fella on Graff Road with whom I've spoken today. There may be private property issues, or other jurisdictional whatevers, but I will go out, and I will file a report with you, the board, at your next meeting, on both issues.

Commissioner Mourdock: On the Millay, Bill, you're comment tonight in the report says that in April you told us that it was substantially, or it was built the way Morley designed it. Am I correct, nothing has changed with the design or with the structure since then, to your knowledge, right?

Bill Jeffers: That's correct. In the interest of brevity, I didn't read from the minutes several of the comments where Mr. Shively indicated that this was an acceptable solution, and that he and the Faucett's approved of Mr. Morley's plan, etcetera, and also where Mr. Mourdock instructed, and made a motion to instruct the County Surveyor to make a final report on April of this year. Which I did, and my report did say that...thank you, my report did say that the repairs were complete in conformance with the Morley plan.

Commissioner Mourdock: My point being, if, in fact, it was built the way it was designed, and even though you look at it, and come back and tell us next month that it was built as designed, and now it isn't working, as you said, I think you've got more of a civil issue between the parties than you have a drainage obstruction ordinance issue. Is that your feeling?

Bill Jeffers: This could be a never ending saga.

Commissioner Mourdock: Yeah. I'll take that as a yes.

Bill Jeffers: Which we've had our share of.

Commissioner Mourdock: Yes, indeed.

Bill Jeffers: But, I will make a report, and the report will be truthful, and it will truthfully reflect the existing conditions.

Commissioner Fanello: Motion to adjourn.

Commissioner Mourdock: Second.

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

The meeting was adjourned at 7:10 p.m.

**Those in Attendance:**

David W. Mosby	Catherine Fanello	Richard E. Mourdock
Jay Ziemer	Bill Jeffers	Madelyn Grayson
Les Shively	Mrs. Jones	Allen Roth
Ron London	Others Unidentified	Members of Media

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Richard E. Mourdock, Member**

**Recorded and transcribed by Madelyn Grayson.**

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
SEPTEMBER 23, 2002**

The Vanderburgh County Drainage Board met in session this 23<sup>rd</sup> day of September, 2002 at 6:14 p.m. in Room 307 of the Civic Center Complex with Vice President Catherine Fanello presiding.

**Approval of Minutes**

Vice President Fanello: Call to order Vanderburgh County Drainage Board, September 23, 2002.

Commissioner Mourdock: I'll move approval of the minutes from August 26<sup>th</sup>.

Vice President Fanello: Second, and so ordered.

**Drainage Plans:  
Greenhill Sub-Final Plan, Oaklynn Park-Modification,  
Browning Road Estates West-Modification,  
USI Soccer Field Parking**

Bill Jeffers: We might want to move to drainage plans first, because there is no one here for Old Business, at this time, although I see a lawyer in the hallway that may be here for the Millay report.

Vice President Fanello: Well, we'll go ahead and take the drainage plans then.

Bill Jeffers: Okay. Greenhill Subdivision, final drainage plan. This subdivision is located on the west side of Greenriver Road, south of Kansas Road, east of Windham Hills. It was here last month with one remonstrator who only asked that the ditch be paved in concrete, and that most likely is not an advisable practice. There are other practices that will address erosion control in a much more appropriate manner. The County Surveyor has reviewed the Greenhill Subdivision final drainage plan, and recommends approval, with the note that if any remonstrators wish, they could ask a member of the Area Plan Commission to add a condition of drainage approval to the approval of the plat in front of Area Commission, Area Plan Commission next month.

Commissioner Mourdock: For the record, any remonstrators on Greenhill Subdivision? Seeing none. Pursuant to the Surveyor's recommendation, I move approval for the final plan.

Vice President Fanello: Second, and so ordered.

Bill Jeffers: Second one is Oaklynn Park. It's a modification of an existing subdivisions drainage plan. Oaklynn is located north of Lynch Road, west of Oak Hill, and north of Butterfield properties. The modification is to enable the construction of an adjacent commercial property to be known as Tri-State, or excuse me, Tri-County Equipment. Tri-County proposed to remove and plug two pipes, and a junction box located on lot nine of Oaklynn Subdivision, and to fill a ditch, and regrade it to a grassy swail on lot ten of Oaklynn Subdivision. The County Surveyor has reviewed the plans, and recommends approval of the modifications with the following provisions; the rip rap to be placed at the outlet end of a new pipe discharging at the southwest corner of lot ten must be in full

compliance with practice 3.41, rock chute, in the Indiana Handbook for Erosion Control in Developing Areas, available from Morley and Associates, or available from our office should the excavation contractor need a copy. Two, the grass swail replacing the ditch along the south line of lot ten be in full compliance with practice 3.31, grass line swail, in the Indiana Handbook for Erosion Control in Developing Areas. The detail is also available from either the County Surveyor's office or from Morley and Associates, who has designed this drainage plan. Three, the developer of Tri-County Equipment obtain all necessary written permissions, and permits, and other documents required from property owners, government agencies, including, but not necessarily limited to owner of lot nine, Oaklynn; owner of lot ten, Oaklynn; the Oaklynn lot owners association, the County Engineer; the City Department of Transportation; BPW; City Engineer; Water and Sewer Utility; and all others pertaining. Before initiating the work to remove, alter, modify or connect to surface channels, junction boxes, pipes or other drainage facilities. The County Surveyor and the County Drainage Board accept no responsibility for granting permission to the developer or his representatives to enter on to private land, specifically lot nine or lot ten, Oaklynn Subdivision, for the purpose of modifying existing drainage facilities, and will not be liable for any damages caused by entities representing Tri-State, excuse me, Tri-County Equipment. The reason I say this, this is already in place, and what they are wanting to do is to connect up to a storm sewer. In order to connect, I mean, excuse me, connect up to a sanitary sewer. In order to do that, they've got to modify some drainage facilities. Everything looks kosher on the plan, but we're not in the business of telling people they can go on to private property and make these modifications. We're only reviewing and approving the modifications. They represent that the owners of lot nine and lot ten agree with these modifications, and will benefit by them, actually, by more full use of their property. However, it's up to them to get the written permission to go on to their property. We're only, at this time, recommending the plan as sufficient, and asking the drainage board to approve it as sufficient, and that the contractor and other representatives of Tri-County Equipment obtain all the necessary permissions and permits.

Commissioner Mourdock: Okay. Seeing no remonstrators on this one in the room, I would move approval of the modification with the certain conditions that the Surveyor read into the record.

Vice President Fanello: Second, and so ordered.

Bill Jeffers: The next one is lot 42, Browning Road Estates West. The modification to lot 42 is to enable construction of a home on lot 42. We're coming back to you're item.

Commissioner Mourdock: That's what I was going to tell you. We're going to come back to it.

Bill Jeffers: Lot 42 is a 1.42 acre parcel in Browning Road Estates West, impacted by the location of a detention basin and a drainage easement housed in a natural creek. The owner of lot 42 submits these plans to reroute a creek, and alter the detention basin in a way that will enable him to build a home on the lot, make greater use of the lot. The County Surveyor approves the preliminary plan, excuse me, the County Surveyor recommends approval of the preliminary plan to modify the channel, and the detention basin on lot 42, Browning Road Estates West. That's the preliminary plan. Now, before you make your motion, the owner of lot 42

is also asking for final approval of his plan to be granted in the following manner. After your approval, should it occur, of the preliminary plan, he will submit to the Building Commissioner a site grading plan showing how he is going to grade this site in the flood plain to protect the home. Then he is going to go to the County Surveyor's office and ask for approval of the grading plan, which at that time will include all final details of the channel construction and the basin modifications. Then he would like to....after getting desk top approval in our office, he would like to go back to the County Building Commissioner and get a building permit issued, after all other appropriate submittals have been made to that department. Final approval by this schedule will allow the owner to proceed with construction of the home in the month of October. The County Surveyor will tell the board, at this time, that he will only approve a final plan, on your behalf, when sufficient details are shown on the plan that conform with all the requirements of the drainage ordinance, and I will document that compliance with this board at the October drainage board meeting.

Commissioner Mourdock: So—

Bill Jeffers: Do you want to know what I'm asking there?

Commissioner Mourdock: Yeah. Tonight is for preliminary. He would like to have kind of a preliminary, conditional, with a final, but you're saying that you don't want to do that until you see what he turns in to the Building Commissioner?

Bill Jeffers: That's correct, because his site has not been sufficiently studied, and a site grading plan has not been given to the Building Commissioner. Because it's in the flood plain, he will have to do that. I'm asking for him to add all the details to that site grading plan to show total conformance with the drainage ordinance. Then I would give him desk top approval, and come back to you in October and confirm that to you. This is just for one home.

Commissioner Mourdock: Right. Anyone here to speak on this one?

Matt Wallace: My name is Matt Wallace. I work for Morley and Associates. I'm here on behalf of Ben Kunkel. I can address any questions, if you have them.

Bill Jeffers: I was just explaining that he wants this approval to be final, I mean, preliminary, and tentatively final when you guys supply all the grading details that would clearly show that the channel could be routed around the house.

Matt Wallace: Yes.

Bill Jeffers: And the house could be protected from flooding, all in accordance with the drainage ordinance, and the Building Commissioner's requirements.

Matt Wallace: Okay.

Commissioner Mourdock: But, final approval will not be granted until we actually get that back from Bill next October.

Bill Jeffers: Right, but he wants to get a foundation release—

Commissioner Mourdock: Right.

Bill Jeffers: –and start–

Commissioner Mourdock: Yeah.

Bill Jeffers: –digging his footers, and that type of thing–

Commissioner Mourdock: Yeah.

Bill Jeffers: –as soon as the Building Commissioner releases them.

Commissioner Mourdock: Well, I'll move approval of the preliminary plan with the hopeful scenario, as described by Bill, that that comes about so that we can act on final next month.

Vice President Fanello: Second, and so ordered.

Bill Jeffers: The last drainage plan I have, at this time, is USI Soccer Field on Broadway Avenue, west of Schutte, and east of Streuh Hendricks. It's basically an extension of their existing parking lot to accommodate more parking. They do have a future plan for more soccer fields, but at this time, they're just wanting to pave some additional parking for the one's they are using now. The County Surveyor has reviewed their plan. It's here on the desk, and recommends approval.

Commissioner Mourdock: So moved.

Vice President Fanello: Second, and so ordered.

<p><b>Old Business:</b> <b>Millay Report &amp; Riger Report</b></p>
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Bill Jeffers: Okay, back to Old Business, on the Millay report....Mr. Dalucio, here's a copy of the report, with some additional stuff that I've added to it today. I believe everyone on the board, as well as Mr. Dalucio, who represents the Faucett's, has read this report. It basically confirms that there is a way that water can leave the lake and enter on to the Millay's driveway as they alleged last month. I would like the entire report to be entered into the record, rather than read it into the record.

Commissioner Mourdock: So moved.

Vice President Fanello: Second, and so ordered.

Bill Jeffers: I have attached some aerial photographs. They are not very good quality. I apologize for that, but we are getting a new printer that will plot out the aerial photographs rather than run them toner copy. They will be much more clear, but, basically, it shows the location of the Millay's house. It shows the watercourse that was discussed during the lengthy hearing last year. It shows the Faucett's lake. It shows that watercourse going behind the Millay's house. It shows the small pecan tree, an aerial view of it, that I mention in the report as possibly being a natural cause for the ground to be rising up as the pecan tree's roots grow. It shows a close up of that. It shows a natural watercourse traveling right beneath the pecan tree, and because I think the pecan tree may be sending, or growing up a root crown as it grows older, that water can be diverted at that point, and if you had

some very clear aerial photographs in front of you, you could see the wet area moving towards the driveway. Those dark splotches on the driveway are actually standing water that was standing there March of last year, when these aerial photographs were taken. I would like to conclude my comments by saying the Millay's agreed, at the hearing last year, that Morley and Associates plan to pipe the discharge from this lake into the natural surface watercourse that has existed there for many years would satisfy the issue. That's in your record. Again, I do confirm that water does travel to their driveway. I think, in my report I say that some yard grading on the Faucett's property would improve the situation, and allow more water to travel through the natural surface watercourse that previously existed, and has existed for dozens of years. I think the rest of it's covered in any other comments that you might find in my report.

Commissioner Mourdock: Just, just to clarify, Bill, the villainous pine, or pecan tree, is that on the Millay's property? I presume it is.

Bill Jeffers: Yes, sir. It's a young pecan tree, that I don't know if it was planted by the Millay's, but since they've lived there for quite a period of time, it appears they may have planted it. Or it naturally occurred smack dab in the middle of the watercourse. In the Millay's property, correct.

Commissioner Mourdock: Okay.

Marco Dalucio: Marco Dalucio, on behalf of the Faucett's. I just happened to be walking by, and looked at the agenda, and saw they were on. I just wanted to correct, I think Mr. Jeffers may have misspoke, the grading that occurs has to be on the Millay property, not the Faucett property.

Bill Jeffers: Oh—

Marco Dalucio: I think you said the Millay's, and I think you probably meant—

Bill Jeffers: If I said Faucett, you are indeed correct that I misspoke.

Marco Dalucio: Okay.

Bill Jeffers: The grading that must occur for this water to continue in it's natural surface watercourse, and historic watercourse, must all occur on the Millay's property.

Commissioner Mourdock: And everyone agrees to the facts that the plan that Morley presented here last year, which I recall everyone said, yeah, that would work. It was designed, and built, it was built as designed?

Marco Dalucio: Correct.

Commissioner Mourdock: And it still hasn't solved everything to the Millay's satisfaction?

Marco Dalucio: Apparently not. I think, as I understand Mr. Jeffers to say that if there is some grading done in the backyard to restore the natural surface watercourse, that the problem will still be solved. So, that's just something on their property.



Commissioner Mourdock: So, where do we go from here, Bill? Since the Millay's, again, brought this request to us, is that right?

Bill Jeffers: At one time, Mr. Morley was willing to, he recognized that this condition existed, and was willing to offer assistance to the Millay's with a grading plan. I don't know where that particular offer went or rests. Do you recall that Mr. Dalucio? You called attention to the fact that even after his plan was implemented, there may have to be some grading in the backyard of the Millay's to achieve full drainage through their backyard without some of it going towards the driveway.

Marco Dalucio: I recall Mr. Morley saying that at the hearing, and I'm not sure that the Millay's have ever availed themselves to ask him to do that, but I'm assuming he would if they would ask him to do it.

Bill Jeffers: As could any other qualified engineer, landscaper, or landscape architect.

Marco Dalucio: Correct.

Commissioner Mourdock: But the Millay's have brought this back to us, basically, said what we all agreed to hasn't worked?

Bill Jeffers: Basically, their representative stood at the microphone last month, and the focus of his comment was, yes, it's there, but it's not working.

Commissioner Mourdock: So, is—

Bill Jeffers: It's not working to their satisfaction.

Commissioner Mourdock: So, is it your view that the board ought to send them a letter saying we've reviewed these facts, and suggest that they move to try to deal with the drainage around their, or the grading around their own tree?

Bill Jeffers: Or you can pass that responsibility to the County Surveyor.

Commissioner Mourdock: So moved.

Vice President Fanello: Second, and so ordered.

Commissioner Mourdock: Thank you, Bill.

Marco Dalucio: Thank you.

Bill Jeffers: Because I believe your staff has quite enough to write. Thank you. Let's see, where are we on the agenda? The Riger, or Riger report was one that Commissioner Mosby asked me to report on. Again, I believe I sent copies of the report to all the board members, but I'll pass those down again, and ask that it be entered into the permanent record. I again apologize for the quality of the copies of the aerial photographs, our copy machine is about burnt out. Rather than read the report into the record, I would ask that it be entered verbatim.

Commissioner Mourdock: So moved.

Vice President Fanello: Second, and so ordered.

Bill Jeffers: On page number C, I have a service list; James Riger, Judy, who's the complaintant. He's complaining that a lake owned by Judy Grebes, Debbie Wells and Bonnie Frost, et al, is causing the problem. They got a copy of the report. John Stoll got a copy of the report, as did Mike Wathen. I say here that since the distribution of the report, which speaks for itself, the County Surveyor has had the following responses, Mike Wathen, the technician with SWCD, called and confirmed that he visited the site, at the request of Commissioner Mosby, and concurs with the analysis by the County Surveyor, that a 30" diameter pipe is required to sufficiently drain the lake during an average spring rainfall. Also had a response from Debbie K. Wells, a landowner of the lake, whom stated on the telephone that to the best of her recollection, the new pipe draining the lake was connected by her excavation contractor, to the county road culvert with the permission of the County Highway Department about 1994 or '95. And that the old county road, stone culvert box into which is stuffed an undersized corrugated pipe as a cross culvert, originally was constructed to the best of her recollection by WPA as a part of the lake drainage system many years ago. I also got a call from Mr. Mark Miller, attorney for James Riger, who asked several questions regarding storm water drainage, in general, into and from the lake, and specifically regarding jurisdictional issues about the lake, the lake dam construction, and drainage specifically subject to this report. Basically, what he wanted to know was does this board have jurisdiction? Does the Highway Department? Does the Department of Natural Resources have any jurisdiction? Because the lake may be 20' high, the lake dam may be 20' high, etcetera. Also included the aerial photograph showing the Riger location, across the street from the lake there. Shows where the county pipe discharges into a deep gulley on the west side of the Graff Road, that's on page F. Page G shows how the water runs down the east side of Graff Road. Whenever we have really heavy rainfalls, that the little pipe can't take, and then it crosses a road, at various points, one of which goes down Mr. Riger's driveway. You'll notice that, at this time, Mr. Riger does not have a....these aerial photographs were taken March 2000. There is no house there. Then I have a real close up on page H, that shows that what Mr. Riger did was drain a pond on his property, and I have an "x" at the approximate location of the house he built on the fill at the end of the driveway, after he dredged the lake. I did go to the Building Commissioner, and Mr. Riger applied, apparently, and was granted all applicable building permits to locate this home. It's not in a flood plain, so, there was finished floor elevation designated. The existing rock drive had been there as agricultural use. You can see the barn back there, so that the rock drive remains as is, in it's location, if any of that is pertinent. I would think we should just hold both those reports until we hear from....like you said, I'll write the Millay's. On the Riger report, I would say just hold it until a representative of one of the interested parties shows up for a comment.

Commissioner Mourdock: Okay. On page C where you have Debbie Wells saying that the new pipe draining the lake was connected. What size is that pipe?

Bill Jeffers: That was well on her property, and I didn't have a warrant, so, I estimate it to be 15" to 18". So does Mike Wathen estimates it to be 15" to 18".

Commissioner Mourdock: The pipe that goes under the county road where it's stuffed in?

Bill Jeffers: Appears to be an 18" corrugated aluminum pipe, stuffed inside an old WPA stone box structure. The reason I didn't go on to her property is this particular group of individuals have several issues, not only drainage. There is lawyers working...there are surveyors working on land issues, there is lawyers working on other issues, and this drainage issue is only one of many. Rather than get all wrapped up in that, I think, some of the more important issues need to be resolved, before we're dragged into it.

Commissioner Mourdock: Okay. Well, I'll move that we defer the Riger report, then, until a representative shows up.

Vice President Fanello: Second, and so ordered.

**Approval of Finished Reconstruction of Crawford Brandeis &  
Bonnie View Ditch Associated with Premier Development Project**

Bill Jeffers: Let's see, reconstruction of Crawford Brandeis Ditch is complete. That's where Premier Properties constructed a paved channel of Bonnie View, and a piped channel of Crawford Brandeis. Your board appointed James E. Morley as your contract deputy to design and supervise inspection to completion of that ditch reconstruction. That has occurred. The County Surveyor has inspected it as well. Your special deputy, contract deputy, Mr. James E. Morley, has recommended acceptance by the County Drainage Board of the ditch in it's finished condition. The County Surveyor recommends the same. The only thing we are holding back on is because of the extremely dry growing season, they have not accomplished 70% grass germination and cover of the 25' maintenance strip we retain. They have agreed to, Premier Properties has a letter of agreement that they will continue to maintain that grass until they achieve 70% grass cover, but all other components of the finished reconstruction are recommended for acceptance at this time.

Commissioner Mourdock: So moved.

Vice President Fanello: Second, and so ordered.

**Ditch Maintenance Claims**

Bill Jeffers: Ditch maintenance claims, you can sign at your leisure. They are all in order, with the required paperwork, and recommended for payment by the County Surveyor.

Commissioner Mourdock: So moved.

Vice President Fanello: Second, and so ordered.

**Woodward Request to Relax Right-of-Entry  
Crawford Brandeis and Kelly Ditch  
Burkhardt Crossing**

Bill Jeffers: Woodward Development, owners and developers of Burkhardt Crossing at the corner of Burkhardt and Morgan Avenue, have a client by the name of Hudson Hyundai at 1900 Old National Drive in Burkhardt Crossing, for the

development of an automobile dealership. The plan went to site review this morning, but their proposal requires the relaxation of a legal drain right-of-entry for both Kelly Ditch and Crawford Brandeis Ditch. Woodward Realty, I'm reading from their letter, Woodward Realty requests that the regulated drain right-of-entry for Kelly Ditch along Morgan Avenue be reduced to allow for the paving of a parking lot to within 10' of the current top of bank, and for the placement of an advertisement sign.

Commissioner Mourdock: What's the difference between a relaxation—

Bill Jeffers: And an encroachment?

Commissioner Mourdock: —an encroachment, or just a vacation?

Bill Jeffers: Well, we can't vacate a right-of-entry. The statute only provides that you can relax the right-of-entry along an open drain from 75' to a minimum, no less than 25' from the top of the bank. On the plat, on the plat we relaxed it to 50'. On the plat of this subdivision it was officially relaxed from 75' to 50' for this particular lot. It has been relaxed to 35' for other lots.

Commissioner Mourdock: Does that imply that it's permanent? Or that it's temporary?

Bill Jeffers: That's a permanent relaxation. That takes you...okay, the law, the statute contemplates that you need 75' when you dredge an open drain, to take the dredge spoil and spread it thinly across an agricultural field, thinly enough that you maintain sheet drainage from an agricultural field. It's not an easement, and it's not a right-of-way. It's a right for the County Drainage Board to hire a contractor, and for that contractor to enter upon private property, only for the purpose of maintaining the drain. It contemplates that the maintenance of that drain will include dredging, that the normal disposal of spoil is by spreading thinly across a cornfield. Now, we're talking about an urban drain, the statute states that the County Drainage Board may relax the right-of-entry along the top of a bank of an urban drain to no less than 25', contemplating that the dredging of spoil, that the dredging will not result in the spreading of spoil across commercial ground. That spoil would be hauled away, and that probably the minimum distance for machinery to operate, dredging and hauling operation, is 25'. What we have done is we've obtained drainage...okay, back up, we have granted relaxations to the top of an open bank to no less than 25'. We generally ask for 30', but we have gone 25'. We have gone 25' for another car dealership.

Commissioner Mourdock: In this case your recommending—

Bill Jeffers: Ford.

Commissioner Mourdock: —we can go ahead and do the request?

Bill Jeffers: I'm recommending that we can do the 25', but that's not his whole request.

Commissioner Mourdock: Which is why the encroachment comes next.

Bill Jeffers: Right, then you come up with the encroachment.

Commissioner Mourdock: Okay, let's—

Bill Jeffers: So, maybe we're operating backwards. Maybe we should first the County Surveyor will recommend that the right-of-entry for Kelly Ditch be relaxed to no less than 25' from the top of the bank, as measured from the current top of the bank of Kelly Ditch.

Commissioner Mourdock: Okay, so moved.

Vice President Fanello: Second, and so ordered.

Bill Jeffers: Okay, the next request, in it's appropriate order, they're requesting that the regulated drain right-of-entry for Crawford Brandeis Ditch, that's the one along Burkhardt Road, be reduced to no less than 15', measured from the center line of the eastern most pipe, remember we piped the ditch, and the County Surveyor would recommend that that distance be relaxed...I mean, what I'm saying is you can, as a board, relax it to no less than 15' from the centerline of that pipe, according to statute. However, the County Surveyor is recommending that you relax it to no less than 20' from the centerline of that pipe, because that is one humongous pipe. It's like 10' X 9' box culvert.

Commissioner Mourdock: Is that a twin box?

Bill Jeffers: It's a twin box.

Commissioner Mourdock: Yeah.

Bill Jeffers: And I'm asking that the relaxation occur from the centerline of the eastern most pipe.

Commissioner Mourdock: Right. Okay.

Bill Jeffers: The closest one to their parking lot, and that the relaxation not be greater than a total distance of 20' from the centerline of that eastern most pipe.

Commissioner Mourdock: Okay. With that recommendation, I'll so move.

Vice President Fanello: Second, and so ordered.

Bill Jeffers: Okay, now we get to the hard part. Let's go with Crawford Brandeis first. They would like, they are asking to pave the parking lot for Hyundai, Hudson Hyundai, and the placement of a sign within the relaxed right-of-entry, but no closer than 20' from the center of the eastern most box. So, that would not require an agreement, because they are agreeing to stay 20' back from that. Is that correct, Matt? Do you understand it that way?

Matt Wallace: Matt Wallace with Morley and Associates again. Yes, that's what I understand. I did not do the layout on this.

Bill Jeffers: Right.

Matt Wallace: Jim would have been here. Today's his daughter's first birthday, so—

Bill Jeffers: Good excuse.

Matt Wallace: –I'm his, I get to be his lieutenant today, I guess. That is what the plan shows currently, I believe, that the back of curb would be on that 20' line.

Bill Jeffers: So, they would not need anything within 20' of the centerline of the eastern most box on Crawford Brandeis? So, that doesn't require anymore action?

Matt Wallace: Correct.

Bill Jeffers: Okay. Now, on, back to Kelly Ditch, and the plan clearly shows they would like to get within 20', no 10' of the top of the bank of Kelly Ditch.

Commissioner Mourdock: And Kelly runs east-west?

Bill Jeffers: Kelly runs east-west. That's right at the intersection of Morgan–

Commissioner Mourdock: Okay.

Bill Jeffers: –and Burkhardt. That will require that they occupy 15' of the right-of-entry you just relaxed to 25'. They want to occupy it with parking spaces. It being a Hyundai dealership...and a sign. It being a Hyundai dealership, I would imagine that those 11 or 12 parking spaces shown within the right-of-entry would be occupied by specials of the week and other cars that would be parked there for sale. Would you assume that, Matt?

Matt Wallace: Yes.

Bill Jeffers: Now, I will tell you that we have relaxed for parking lot purposes other commercial properties in this subdivision, specifically Tumbleweed, which is now going to be a seafood place, and cars have parked within 10' of the top of the bank, with special safety curbing, etcetera. By signing this encroachment agreement, indemnifying the county against all losses, damages, or actions that might occur of the loss of life or damage to property.

Commissioner Mourdock: And those examples, did we also permit a sign?

Bill Jeffers: Yes. We have got developers who have agreed to maintain the ditch bank. Obviously, no one would want grass and weeds and stuff growing up in front of their brand new Hyundai's. So, you would assume he would keep it mowed. However, when we need to enter to do any work on that channel, those cars have to be moved. Now, that's easy at a restaurant–

Matt Wallace: Yes.

Bill Jeffers: –a dealership may be more resistant. However, we have this agreement with Country, Town and Country Ford, and whenever we've had to go in on Town and Country Ford to do any maintenance, they have kindly moved their cars. But, that ditch they're parking trucks that aren't on display. The only way that the County Surveyor can recommend something like this is if the owner of lot, what is this? The owner of the lot–

Matt Wallace: It's lot 25.

Bill Jeffers: –will fill this out, this drainage easement encroachment agreement, which was prepared by the previous attorney for this board, had a provision that he will move those cars anytime we have an emergency, or any other need to get in there. Because there will be times there actually will be an emergency, and we'll have to remove an obstruction from that pipe. And that he will not be resistant to moving it if we ever have to do any construction work there.

Commissioner Mourdock: When was that document developed, Bill?

Bill Jeffers: This was prepared, the foregoing instrument was prepared by Joe Harrison, Jr., attorney at law. Then another part of the document was prepared by Phil Hayes, Vanderburgh County Attorney. They're more or less modified by each subsequent, each time you have a subsequent attorney, he takes the opportunity to read through these, and modify them to protect the board, in accordance with his understanding of statutes and codes. That would be the other provision you might want to consider, is that you have a new attorney–

Commissioner Mourdock: Right.

Bill Jeffers: –who may wish to make minor adjustments, or wholesale adjustments, for that matter. What I'm trying to do, is I'm trying to facilitate this, Matt, but at the same time this was all brought to us in a day or two.

Matt Wallace: Yes.

Bill Jeffers: The plan conforms otherwise with the drainage plan for Burkhardt Crossing. It's simply this complication that arises when they, obviously, want to display cars in the most visible spot, 10' from the top of the bank. I have no problem with it, so long as they will never claim damages if we go in, ask them to move the cars, and go across their pavement with heavy equipment. We would only do that if we absolutely had to. Obviously, they are going to maintain that ditch–

Matt Wallace: Yes.

Bill Jeffers: –so that the cars are visible.

Commissioner Mourdock: Okay, with everything that's been said, Matt, and I realize you're kind of subbing tonight, but as far as you know, everything that's been said is agreeable. If we give, if we come back to this next month, so that Kevin has a chance to review that document, does that work for the timing of your folks, as far as you know?

Matt Wallace: I believe so.

Commissioner Mourdock: Okay.

Matt Wallace: As with most developers–

Commissioner Mourdock: Well, if it doesn't, remind them that Bill only had it for a day or so.

Matt Wallace: Yes.

Commissioner Mourdock: So—

Bill Jeffers: But the drainage plan does conform. I wouldn't hesitate myself to go sign off at site review, one stop permit, for anything except that final 15' of pavement. You know, what Matt's telling you....Matt's been through this with other developers before, very same type of request, on projects that he's worked on. They want to get out there and start building. Obviously, they are not going to be displaying cars there 30 days from today.

Matt Wallace: No.

Bill Jeffers: If worse came to worse, they would just have to have an elevated platform to display cars 15' further back.

Matt Wallace: Sure.

Bill Jeffers: I mean, hey. You know what they're after, and so they know what the liability is here. If I were to go sign off on this tomorrow morning, based upon them relaxing this to 25', I'm going to put a big red stripe across this end, and say everything but these parking spaces—

Matt Wallace: Yes.

Bill Jeffers: —is approved.

Commissioner Mourdock: Well, I'm hesitant to make a motion, or do anything until we have Kevin look at that document. Until we're sure that, and I presume...I presume, Bill, they have not seen this document?

Bill Jeffers: Kevin has never seen this document, to my knowledge.

Commissioner Mourdock: No, no, no.

Bill Jeffers: This is the first time it's come up.

Commissioner Mourdock: No, the developer.

Bill Jeffers: Woodward probably has—

Matt Wallace: Yes.

Bill Jeffers: —but I doubt that Hudson Hyundai has.

Commissioner Mourdock: Okay.

Matt Wallace: Yes. I don't know if this is a sale or a lease for this, if Woodward Commercial Realty retains the right to do all this per their, just saying, yeah, that's fine, but—

Commissioner Mourdock: Well, again—

Matt Wallace: —I would think that they would just want to have a certain number of parking places for display, and for customer parking. If they needed to pull that line



back, Hyundai would, you know, Hudson Hyundai would just want Woodward to replace that with, you know, property to the south.

Bill Jeffers: Well, now we could move forward more quickly if Kevin would say it would only take him a week or two to review this, have a special meeting just for this one item at the end of one of your Commissioner meetings, if you would rather do that.

Commissioner Mourdock: I'm willing to do that. When we have an indemnification agreement, I don't want to agree to anything until somebody who is going to sign it, has already signed it. Obviously, that means until Kevin has also looked at it and approved it.

Bill Jeffers: I would agree with that.

Matt Wallace: So, you would want for someone from Woodward Commercial Realty to execute their part of it?

Commissioner Mourdock: Either there or Hudson, whichever is the appropriate—

Bill Jeffers: Whoever is going to own the property.

Commissioner Mourdock: Right.

Matt Wallace: Okay.

Commissioner Mourdock: So, in the spirit of that, if we scheduled a special drainage board meeting two weeks from tonight just to do this, is that, Kevin, does that give you time?

Kevin Winterheimer: No problem on my end.

Commissioner Mourdock: Okay, that would be the 7<sup>th</sup>?

Vice President Fanello: Yeah, the 7<sup>th</sup>.

Commissioner Mourdock: I would move then that we have a special drainage board meeting, immediately following the County Commission meeting on October 7<sup>th</sup>—

Bill Jeffers: And nobody—

Commissioner Mourdock: —to deal with this one issue.

Bill Jeffers: —nobody working down at the Fall Festival is going to have a problem with that, correct?

Vice President Fanello: We're already going to be here anyway.

Commissioner Mourdock: We're going to be here.

Bill Jeffers: I'll be here.

Commissioner Mourdock: We're here.

Bill Jeffers: Okay.

Vice President Fanello: Second, and so ordered.

Madelyn Grayson: Kevin, that would still fall under the guidelines of just notification within 40, or—

Kevin Winternheimer: Right. You just notice it's a special meeting on that date, time, and place, and that's it. A drainage board meeting.

Madelyn Grayson: Matt, also to expedite that, you might want to have a check for the recording fee at that time also.

Bill Jeffers: (Inaudible. Mike not on.)

Kevin Winternheimer: (Inaudible. Mike not on.) another possibility, is to continue this meeting, with that being the only item on the agenda, because this matter (Inaudible. Mike not on.) notices (Inaudible) if you are interested.

Commissioner Mourdock: So, we don't have to advertise it?

Kevin Winternheimer: Right.

Bill Jeffers: It saves you money.

Commissioner Mourdock: Yeah, okay.

Bill Jeffers: It says in the statute, you can continue a drainage board to a day certain.

Commissioner Mourdock: Okay.

Bill Jeffers: You have to name the day.

Commissioner Mourdock: Alright, well, I'll withdraw my prior motion then, and say that we continue this meeting immediately following the County Commission meeting on Monday, October 7<sup>th</sup>.

Vice President Fanello: Second, and so ordered.

Bill Jeffers: Thank you, Matt.

### **Encroachment Agreements**

Bill Jeffers: Other encroachment agreements, I know of none that have been presented.

### **Petitions to Remove Obstructions**

Bill Jeffers: I did hear there was a petition to remove an obstruction of a mutual drain or natural watercourse that was delivered to the Commissioner's office with a \$100 check. Did you see that?

Vice President Fanello: I've seen a copy of it. I don't have it with me. It's in my office.

Bill Jeffers: I wish I could think of the fella's name, so that we can just say, set a hearing date 90 days from today, thereabouts.

Vice President Fanello: I can't remember the name on it.

Bill Jeffers: Oh, gosh. Can we have a motion that we have received a petition, because I know we have.

Commissioner Mourdock: Okay.

Bill Jeffers: It's in Plaza Meadows.

Commissioner Mourdock: Okay, there we go. As long as we can identify it with that. I would move that we move to give notice of receipt of the drainage obstruction in Plaza Meadows.

Vice President Fanello: Second, and so ordered.

Bill Jeffers: You know what, all you really have to do is instruct me to go make the investigation, and you can actually set the hearing date at your next monthly meeting, because as long as it's within 90 days of today we're all cool.

Commissioner Mourdock: Okay, so I'll also move then we direct the County Surveyor to go investigate.

Vice President Fanello: Second, and so ordered.

Madelyn Grayson: But that I will need to advertise, because it's a public hearing.

Bill Jeffers: Absolutely, but we'll set the date—

Commissioner Mourdock: Next time.

Bill Jeffers: —30 days from now we'll set a date.

Madelyn Grayson: Okay, so that will be done next month.

Bill Jeffers: Then we'll have plenty of time to advertise, and then we can mail the green cards to the interested parties. Because they have 90 to hold hearings.

<b>Correspondence</b>
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Bill Jeffers: I do have one piece of correspondence that came as an emergency. This letter concerns additional maintenance to Maidlow Ditch. A large tree has fallen in the ditch between the Hartman and the Steinkuhl property, and it needs to be removed. The cost estimate for the removal and disposal of the large tree is \$400. Thank you Quentin Hartman. Now what Quentin Hartman is, is a subcontractor to Big Creek Drainage Association, who is the primary contractor on Maidlow Ditch. This was delivered by the president of the Maidlow Ditch

Association, Eldon Maasberg, and they are asking for an emergency to be declared, and an extra \$400 be spent to remove this large sycamore tree before it floods farm ground during harvest. The County Surveyor does recommend that.

Commissioner Mourdock: So moved.

Vice President Fanello: Second, and so ordered.

<b>Other Persons Wishing to Address the Board</b>
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Bill Jeffers: We're down to one bullet above adjourn.

Vice President Fanello: Would you like to address the board?

Oscar Jordan: Yes. My name is Oscar A. Jordan. I live at 4239 Saybrook Drive in the Keystone area, just off of Heckel and Shoreman. We have a water problem, and I'm sure that they've talked about this before. People have the idea that all you have to do is just dig a ditch and the water will drain off into a drain, and drain away. That's a good theory, but a ditch that doesn't drain is no ditch at all. There were some other people who were supposed to come here with me tonight from this area, and I'm sorry that some of them are in Japan, and others have people who are sick. It seems like to me these illnesses come on all at once. I have a greater problem because I have a water problem in my home. It seems to me that the water comes up through the ground. Water that comes up through the ground and lays under your house is not an area that you want it in. Of course, this, you all can't address that, I'm sure, but the water that lays in the ditches out there doesn't drain off and then they...after it lays there for awhile, it gets kind of raunchy and smelly. It's a breeding ground for mosquitos. Now, I do know that Mr. Biggerstaff came along there this summer and dug this ditch out, and sloped it, but the problem with it is that when the water gets down to where it drains off into the drain and goes over to the holding pools that they have out there, it doesn't all drain in there. The water just lays on top of the ground. It's unfortunate. We have what I call a hard pan, clay ground out there. So much water will soak in to that, and then once it soaks into it, the rest of the water has no place to go, and so water just naturally lays there and doesn't drain away. We're not allowed to touch those ditches out there at all, because they have an ordinance where we can't touch these ditches. I'm not, we're not the only people there that has this problem. People in that area have the problem, but they won't talk about it. Somebody needs to take a look at that. Mr. Biggerstaff has the idea that if you, all you have to do is just dig a ditch down there, and that's the end of his obligation. He has one drain that fits all. You have one central drain. As a consequence of it, the water just plain don't drain, it just don't drain away.

Commissioner Mourdock: I have a question. Is, was Mr. Biggerstaff working for us on a drainage contract?

Bill Jeffers: He's referring to Bruce Biggerstaff one of the three or four developers of Keystone.

Commissioner Mourdock: Oh, okay.

Oscar Jordan: Yes.

Bill Jeffers: Who generally does the preservation work.

Oscar Jordan: There are three of them—

Commissioner Mourdock: Okay.

Oscar Jordan: —I think, I think these gentleman, I believe it's Mr. Elpers, Mr. Bussing, and Mr. Biggerstaff are the developers in that are out there.

Bill Jeffers: That's correct.

Oscar Jordan: Yes. You know, they have a, what I call an association, but when you look at this association, and you go before the association, it looks like a who's who. You have Mr. Biggerstaff, then you have Mr., a lot of real estate people, and once you talk to these people, I mean, they look at you and they say, well, we've done what we should do, but that doesn't solve the problem. There's a problem there.

Commissioner Mourdock: You said you have water under your house. Do you mean in the crawl space—

Oscar Jordan: Oh—

Commissioner Mourdock: —basement, or what?

Oscar Jordan: When I talked to the developer there, he comes along and he says to me, well, what we need to do is go under there and scrape the pea gravel back, and take the plastic off of there, and put a fan under there, and that will dry that water out. Well, I've lived in this house less than seven months. My tile floors, in the tile in the floor is just absolutely breaking into pieces. All the way across, and then perpendicular. About two days ago I walked in, looked out in the utility room there, and the floor in the utility room is now beginning to break up. Where they have put the concrete down in the garage out there, the area where they have a center seam running down through the center, this is beginning to push up like this and break up, break loose.

Bill Jeffers: Do you have a sump pump?

Oscar Jordan: I have a sump pump there, it pumps the water out, but you've got a stream of water that runs down through there. Nobody seems to know where the water is coming from. See my, my, I always say that my dexterity at 78 years old is not going to allow me to get down under that house and take a look at that, because I just can't do that.

Commissioner Mourdock: Your earlier comment is correct, is that it isn't really a drainage issue, in the sense of what you've described with your house—

Oscar Jordan: Yes, it isn't.

Commissioner Mourdock: The question of whether or not the drain, the drainage way is built as it was speced in the drainage plan, is an issue before this board. We can certainly have the County Surveyor take a look at that, if he's not already knowledgeable of it.

Bill Jeffers: Right, except that if, first of all, Oscar, what's your last name.

Oscar Jordan: Jordan.

Bill Jeffers: Jordan?

Oscar Jordan: Yes.

Bill Jeffers: The County Surveyor does keep records of all complaints that come to our office, and makes some sort of response, and I don't recognize your name as having called the County Surveyor's office.

Oscar Jordan: Well, I called, I called about, I believe it was two weeks ago, and somebody said that all I had to do was just, it was an open meeting, and—

Bill Jeffers: Okay, well, that's an inappropriate answer—

Oscar Jordan: I'm sorry, but that's—

Bill Jeffers: I mean, no, I mean, from my office, that's an inappropriate answer.

Oscar Jordan: Yes. Oh, I'm—

Bill Jeffers: They are supposed to hand me every citizen comment and complaint—

Oscar Jordan: I talked to some—

Bill Jeffers: —and I make a response, or I...okay, so, what I'm going to do is also ask for your telephone number.

Oscar Jordan: My number is unlisted, but it's—

Bill Jeffers: Well, I tell ya—

Oscar Jordan: 471—

Kevin Winternheimer: You can tell him after the meeting.

Bill Jeffers: You can tell me after the meeting.

Oscar Jordan: Oh, okay.

Bill Jeffers: This is actually going out on the internet.

Oscar Jordan: Oh, I'm sorry.

Bill Jeffers: I will inspect your property, at your invitation, and I will make a report to you and to the Drainage Board, but if this particular section of Keystone has already been inspected by the County Engineer, and recommended for acceptance of the streets, then the maintenance responsibility does fall with the property owners, and the lake owners association, but I can still make recommendations to you and the lake owners association by using publications from Purdue, Department of Natural

Resources, etcetera. There may be some french drains, or some other method of getting that last bit of moisture to either go to the lake, or go back in to the ground.

Oscar Jordan: Can I ask you a question? I understand that when they finish building the property out there, that this will be turned over to the association, and then the association is responsible for any drainage problems that they may have out there—

Bill Jeffers: Outside the right-of-way of the street.

Oscar Jordan: Yes, that hasn't happened yet. All the building is not done yet—

Bill Jeffers: Do you have a lake front lot?

Oscar Jordan: No. I live at...this is what I can't understand, we haven't had any rain out there for quite some time, and I'm having a man, who's been in the business now for about 45 years, Frank's, out on 5<sup>th</sup> Avenue is going to come and look at my house tomorrow, and give me some idea where this water is coming from.

Bill Jeffers: Do you have lawn watering system?

Oscar Jordan: I, the gentleman down on the corner, by the name of Bruce has a lawn watering system, but I'm not...like I say, I'm not sure where this water is coming from. That's the purpose of having this gentleman come to see if it's a spring, and the water's coming up from the ground. The problem that I have is simply this, we haven't had any water for quite some time, and to have underneath my house to be so wet under there...I can, where you crawl in the crawl space, you can pull this plastic back, and you can actually take your finger and stick it in the ground there. It's that, I mean, I could just stick my whole arm down in there, because it's that wet under there.

Bill Jeffers: Well, you need a qualified building inspector. We had one like this out at Eagle Crossing Golf development, and that, I've stood there, and I've watched that sump pump kick on every 20 minutes like Old Faithful, and you wouldn't believe the water coming out from underneath that house, and no one has been able to determine where that water is coming from, but there's a lawn watering system that looks pretty suspicious to me.

Oscar Jordan: Yeah.

Bill Jeffers: It's an unbelievable amount of water in that man's yard all the time, and it's coming from under his house.

Oscar Jordan: Do you know that my yard is so dry out there, I doubt very seriously that I could even drive a nail in that ground. It's that hard, and for that much water to be under that house, it's unreal. The outside of the house, due to the dryness, you can see where the dirt has, since it's this dry clay dirt, you can see where it's actually just pulled away from the house, but underneath the house it is sopping wet.

Bill Jeffers: Well, that's going to require a professional, qualified building inspector.

Oscar Jordan: That's why I'm having this—

Bill Jeffers: But I will come out. I have your address, and if you want to leave your phone number on this folder—

Oscar Jordan: I'll leave it there.

Bill Jeffers: —I will definitely come look at your surface water drainage problem.

Oscar Jordan: Yes, I appreciate that.

Unidentified: (Inaudible. Not at mike.)

Commissioner Mourdock: Excuse me for interrupting—

Oscar Jordan: Yes.

Commissioner Mourdock: —we can go ahead and continue talking. I know Catherine has got about a six hour drive ahead of her tonight, so—

Oscar Jordan: Okay.

Commissioner Mourdock: —let us go ahead and adjourn the meeting, but then we can continue to discuss it.

Bill Jeffers: Right. You're welcome to stay here and give me enough information to—

Oscar Jordan: I appreciate your time. Thank you.

Commissioner Mourdock: Sure. So, any other business, Bill? Okay. Motion to adjourn.

Vice President Fanello: Second, and so ordered. Thank you.

The meeting was adjourned at 7:16 p.m.

**Those in Attendance:**

Catherine Fanello  
Bill Jeffers  
Matt Wallace  
Members of Media

Richard E. Mourdock  
Madelyn Grayson  
Oscar Jordan

Kevin Winternheimer  
Marco Dalucio  
Others Unidentified



**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Catherine Fanello, Vice President**

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**Richard E. Mourdock, Member**

Recorded and transcribed by Madelyn Grayson.

**Vanderburgh County  
Drainage Board Special Meeting  
October 7, 2002**

The Vanderburgh County Drainage Board met in special session this 7<sup>th</sup> day of October, 2002 at 6:15 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

President Mosby: Somebody told me we were having a meeting of Drainage Board, so. I'll call this to order, and defer...I wasn't here the last time, so.

<b>Approval of Encroachment Agreement Hudson Hyundai: Burkhardt Crossing Subdivision</b>
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Bill Jeffers: Okay. Bill Jeffers, County Surveyor. The Drainage Board meeting of two weeks ago this Monday was continued to tonight, till tonight to take care of unfinished business consisting of an encroachment agreement between Hudson Hyundai at 1900 Old National Drive in Burkhardt Crossing Subdivision, or the current owner, or the owner of the property who will be the owner at the time that the improvement is placed upon that lot. At last, two weeks ago meeting time, I gave your attorney copies of previous encroachment agreements that were drafted by, and used by your board. They were drafted by your previous attorneys, Joe Harrison, Jr., and Philip Hayes, and Mr. Winternheimer was going to look over those, the wording of those, and see if it was appropriate to use at this time.

Kevin Winternheimer: Yeah, I did that. Here's, Bill, for your file, here's what I came up with. Basically, it's the same agreement, I just, I didn't change the content on anything from what had been used, except I added a number eight, in this particular case, to remove his automobiles or any other personal property that would be on the right-of-way if the county needs to get access. It's the same form. There were a couple of sentences that I thought were worded awkwardly, and I just changed the wording to make them read easier. I did not change the content.

Bill Jeffers: Okay. So, now this instrument is prepared by Kevin Winternheimer, County Attorney, at the bottom of the signature page.

Kevin Winternheimer: Right. I did change that.

Bill Jeffers: Okay. So, this would be the drainage easement encroachment agreement that Mr. Winternheimer would recommend for use from this time, until it's next changed. Okay. I'm reading the minutes of that day, and it appears that we have a plan in front of us, and, Matt, are you, at this time, requesting that that be approved by the Drainage Board? This is Matt Wallace from Morley and Associates.

Matt Wallace: Yes, I would ask that be approved, and I have the, I have a faxed copy of the agreement, which has been executed by Hudson Hyundai Realty LLC. I can give you the original copy, but for the sake of timeliness, I did bring the fax copy, and the exhibits that go along with that. I would ask that that plan be approved.

Kevin Winternheimer: (Inaudible. Mike not on.)

Bill Jeffers: I'm looking at the faxed copy that Matt has brought with him, and it included paragraph number eight. It reflects—

Kevin Winternheimer: If it looks a little—

Bill Jeffers: —that it's the foregoing instrument was prepared by Kevin Winternheimer. So, this is the appropriate drainage easement encroachment agreement.

Kevin Winternheimer: If it looks a little bit different, in my haste to prepare it, I forgot you need to leave 2" at the top.

Bill Jeffers: For recording.

Kevin Winternheimer: For recording. On the version I gave you, Bill, you show that correction. On what I sent to Matt it didn't have that on it, but the language was the same.

Bill Jeffers: Okay. Yes, the County Surveyor would recommend approval of this drainage easement encroachment agreement, not including the drainage plan, at this time, in that recommendation. As to the, I'm sorry, was that passed? I'm sorry.

President Mosby: Yeah.

<p><b>Discussion of Final Drainage Plan: Burkhardt Crossing Subdivision</b></p>
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Bill Jeffers: As to the drainage plan itself, I had asked that it be sent to our office for review, and it was inadvertently sent to the John Stoll's office, both copies, and John Stoll brought over a copy today, and we sat and looked at it for a time. We are still uncomfortable with a few aspects of the drainage plan, along it's periphery. One item affects the legal drain. The other item affects the county's right-of-way in Old National Drive. I would ask that, I would not recommend that particular version of the final drainage plan for approval, at this time, until the items that John Stoll and I are particularly apprehensive about are addressed by the design engineer.

Commissioner Mourdock: In approving the encroachment agreement that we just did then, did we meet your original request that we have this special meeting? We were mainly meeting for that, more than the actual drainage plan, is that correct?

Matt Wallace: Yes.

Bill Jeffers: If you don't want to address, I mean, in other words they've got what they want as far as encroachment, and the revisions that John Stoll and I are concerned about are minor. It has to do with water being discharged into the street 2" deep and crossing a travel lane. It has to do with some water being discharged into a legal drain without showing what, I feel, is appropriate erosion control at that point. These are minor items, and if you wish for John Stoll and I to sign off on the final plan at site review on one of the following Mondays, you can move that. Or, if you want it to come back on the 28<sup>th</sup> as a final drainage plan, you could move that. Either way, I assure you that John Stoll and I will not sign off until appropriate, what we feel is appropriate has been addressed on the plan.

Commissioner Mourdock: Okay, since the petitioner here is trying to work with this, and I think it's fair that we reciprocate, I would move that we direct the County Engineer and the County Surveyor to be ready to give, I guess, is it formally preliminary approval at site review? It wouldn't be preliminary.

Bill Jeffers: It's just basically final approval—

Commissioner Mourdock: Yeah.

Bill Jeffers: —we sign off, and they go get the permits to build the facility.

Commissioner Mourdock: Okay.

Bill Jeffers: Along with all the other utilities review.

Commissioner Mourdock: I would move that we grant them the ability to do that, and then report back to us at the next Drainage Board meeting.

Bill Jeffers: Okay.

Commissioner Fanello: Second.

President Mosby: So ordered.

<p><b>Official Receipt into the Record Petition for Obstruction Milt Ponder and Linda Eidson</b></p>
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Bill Jeffers: I know this may not, and I'll let Kevin tell me when to stop talking, but last week we were looking for a copy of the petition that had been delivered by Milt Ponder, and Linda Eidson to the Drainage Board, in your office here, along with the two checks for the filing fee. We made some kind of motion recognizing that we knew it was in your office.

Commissioner Mourdock: Right.

Bill Jeffers: I apologize, but what had happened was that your staff had appropriately deposited the checks, and obtained a quietus from the Auditor's office, sent me a copy of that. They had also sent me a copy of the original petition, and it got lost under some things on my desk, and I didn't bring it to the meeting. It wasn't your staff, it was I who did not bring it to the meeting. So, the money is in the Auditor's office. The petition is in my hand, and I just ask that it be entered into the record at this time.

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: So ordered.

Bill Jeffers: Thank you.

Commissioner Mourdock: Is that it? Motion to adjourn.

Commissioner Fanello: Second.

President Mosby: So ordered.

The meeting was adjourned at 6:22 p.m.

**Those in Attendance:**

David W. Mosby

Kevin Winternheimer

Matt Wallace

Catherine Fanello

Bill Jeffers

Others Unidentified

Richard E. Mourdock

Madelyn Grayson

Members of Media

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Richard E. Mourdock, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
OCTOBER 28, 2002**

The Vanderburgh County Drainage Board met in session this 28<sup>th</sup> day of October, 2002 at 6:15 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

**Call to Order**

Commissioner Fanello: Call to order Vanderburgh County Drainage Board meeting, October 28<sup>th</sup>.

**Approval of September 23, 2002 Drainage Board Minutes &  
Approval of October 7, 2002 Special Drainage Board Minutes**

Commissioner Fanello: First item on the agenda, approve minutes of September 23<sup>rd</sup> and October 7<sup>th</sup> meetings.

President Mosby: I'm not saying nothing. Motion to approve.

Commissioner Mourdock: Second. David's President of this meeting.

Commissioner Fanello: Oh, that's right.

President Mosby: You're doing fine. Keep going.

Commissioner Fanello: I was just continuing on. I'll now turn it over to our President, Commissioner Mosby.

Commissioner Mourdock: That's why David wasn't going to say anything.

President Mosby: I tell ya. Well, we can skip number one. We have a motion to approve the minutes. So ordered.

Commissioner Fanello: I'm just trying to get out of here.

**Report on Eidson/Ponder Petition  
658, 662 & 666 Audubon Drive, Plaza Meadows  
Set Hearing Date for November 25, 2002**

President Mosby: Old Business, report on petition 658, 662 & 666 Audubon Drive.

Bill Jeffers: Bill Jeffers, Vanderburgh County Surveyor. This is with regard to the Eidson/Ponder petition to remove an obstruction from a drain behind 662 Audubon Drive in Plaza Meadows, Evansville, Indiana. The County Surveyor visited the Eidson property at 666 Audubon Drive on October 17, 2002, and viewed an accumulation of floatable debris lodged against the south side of a wooden fence surrounding the backyard at 662 Audubon Drive, indicating a partial obstruction of the mutual drain serving the affected properties. The owner of 662 Audubon Drive apparently installed, or allowed to be installed, or has allowed to remain in place, a piece of wire fencing along the bottom of the wooden fence, resulting in a collection of floating debris, and the partial blocking of the storm runoff through that drain. In addition the owner of 662 Audubon Drive installed, or caused to be installed, or has allowed to remain in place rip rap lining the open drain. Some of which rip rap may

be partially impeding the flow of storm water through the drain. The petition was filed by Eidson and Ponder on September 23, 2002. The statute requires a hearing within 90 days of the filing to determine if the impediment of the drain is significant, and thereby constituting an obstruction. The County Surveyor recommends the board set a hearing on November 25, 2002 at or about 6:30 p.m. in this room. The County Surveyor has prepared a notice of hearing for the board to authorize and sign, and for the Auditor to send to the appropriate parties, named in the notice as petitioners and respondents. On the following page is a copy of the notice, with signature spaces, and the Recording Secretary has the original at the far end of the table, if you wish to sign it and declare a hearing to be held. That hearing would be within 90 days. I think it's actually 63 days from the filing date.

President Mosby: Do I have a motion to set a hearing?

Commissioner Mourdock: I have a question first, Bill. Did they file the necessary fee to get this process started?

Bill Jeffers: They did submit a check for \$100, which has been entered, the quietus.

Commissioner Mourdock: Right. Okay.

Bill Jeffers: The Recording Secretary sent a note to me asking for a copy of the petition, which she does not have in her file, and I have a copy of the petition, or I have the original here with me, that was delivered to your office, the Commissioner's office.

Commissioner Mourdock: I'll move the scheduling of the hearing as recommended by the Surveyor for November 25, 2002, at or about 6:30.

Commissioner Fanello: Second.

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

<p><b>Report on Oscar Jordan Complaint</b> <b>4239 Saybrooke Drive, Keystone Estates</b></p>
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President Mosby: Report on Oscar Jordan complaint.

Bill Jeffers: At this time I ask you to enter into the record of this meeting the letter our office sent in reply to Mr. Jordan's complaint. A copy of the letter was sent to each of the members of the board. There is a copy at the far end of the table for the Recording Secretary to enter into the record. There is also one attached on the following page.

President Mosby: Do I have a motion? To enter into the—

Commissioner Mourdock: Yeah, I'll move that we accept that into the record.

Commissioner Fanello: Second.

President Mosby: Motion and a second. So ordered.

**Order to Remove Obstruction at 2330 Sheridan Rd  
Kenneth R. and Ruth H. Jones' Property**

President Mosby: Order to remove obstruction at 2330 Sheridan.

Bill Jeffers: Okay, this is a follow up to your August 26, 2002 hearing, where a motion was made to send a notice to the Jones' to remove the obstruction, and indicating that this board was ordering the removal of the obstruction as a result of your hearing. The Surveyor's office has prepared, following the Oscar Jordan letter in this packet, is a copy of the order to remove an obstruction, including language to inform the respondents that the hearing was in accordance with Indiana Code, etcetera. We're asking you to sign that, and have the Auditor mail it to Kenneth R. and Ruth H. Jones, with a copy going to Richard E. Jones...that's a typo, Richard E. Smith, is the petitioner, at 2320 Sheridan Road. Kenneth R. and Ruth Jones are the respondents on who's property the obstruction exists.

President Mosby: Do I have a motion to send a letter?

Commissioner Fanello: So moved.

Commissioner Mourdock: Second.

President Mosby: Motion and a second. So ordered.

Bill Jeffers: That's with the understanding that we'll strike the word, the name Jones from the last line—

President Mosby: Right.

Bill Jeffers: —and substitute with Smith.

President Mosby: Okay.

**Carrington Meadows: Preliminary Drainage Plan**

President Mosby: Drainage plans, Carrington Meadows.

Bill Jeffers: Okay, Carrington Meadows is located west of Petersburg Road, between Schlensker Road and Bailey Lane. It will enter onto Petersburg Road. The owner is Gerald and Darlene Anslinger. The developer is JBJ, LLC. The development consultant engineer is Danny Leek, and he's represented here by Morley and Associates representative. It's a total of 107.34 acres, 249 lots, with a large common area along the creek. Existing zoning is agricultural, proposed use, of course, is residential. There is a flood zone, which is marked on the drawing. Additional information is given on the drawing that would represent the FEMA flood plain, if it should be enacted. The County Surveyor has reviewed the preliminary plan for Carrington Meadows, recommends approval of the preliminary plan. As I said, there's representatives of the owner and the developer here, and there may be persons in the audience wishing to make comment. This is a preliminary plan.

President Mosby: Is there anybody in the audience wanting to speak to Carrington Meadows?



Commissioner Mourdock: Going once.

President Mosby: Seeing none.

Commissioner Mourdock: Okay, on preliminary approval, I would, I would move preliminary approval for Carrington Meadows.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second preliminary plan approval. So ordered.

<b>Crowne Ridge Subdivision: Preliminary Drainage Plan</b>
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President Mosby: Crowne Ridge Sub.

Bill Jeffers: Crowne Ridge Sub also is a preliminary plan. It's located northwest of the intersection of Greenriver Road and Kansas Road. The owner is Baywood Development LLC. The representative from Morley and Associate, well, the design engineer is Danny Leek, but he has sent a representative from his company, Morley and Associates, here to represent it tonight. It's approximately 30 acres. It's proposed use is 131 residential lots, currently zoned agriculture, and used as a corn and soybean field. The northeast corner is in the 100 year flood zone, down near Greenriver Road. The Building Commissioner is asking that a flood way for the stream that passes through it be depicted on the final plan. Soil and Water Conservation District asks that an erosion control plan be filed and approved before construction activities begin. Preliminary approval of the drainage plan by the Drainage Board is required prior to it's hearing by the Area Plan Commission, which I assume it's on the agenda for this coming Wednesday, or the first Wednesday in November. The developer of Crowne Ridge is here in the audience to answer questions, along with his representative, and there are a number of people in the audience who are wishing to make comment, at this time.

President Mosby: Do we have a spokesman, or, for Crowne Ridge Sub is there a spokesman for, or do we have several people wanting to speak? Is there anybody wanting to speak? I have a gentleman in the back. We'll just go ahead and take you one at a time.

Bill Jeffers: Anyone wishing to speak would probably like to sign the sign-in sheet, so that we correctly spell your name in the minutes. All the minutes are taken verbatim. We are streaming on the Internet, and ask that you be concise and clear, so everyone can understand. The minutes will reflect exactly what you say, word for word when they are printed up and brought for adoption next month.

President Mosby: If you want to go ahead and come forward and state your name and address for the record.

Unidentified: Come forward where?

President Mosby: Right here, I'm sorry, come on up to the podium.

Commissioner Mourdock: And as you all get started, let me clarify again, this is for preliminary approval that you're bringing to us, Bill, is that right?

Bill Jeffers: Yes, sir, it's for preliminary approval, and that gives us an opportunity for the next 30 days to take into account all the comments that are made by the neighbors. The neighbors and the County Surveyor will be glad to work with the developer and his engineers to incorporate any workable ideas into the plan to come up with a plan that does conform to our existing codes, and address the situation.

President Mosby: Yes, sir.

David Georgesen: Okay, my name is David Georgesen, and my wife and her sister are co-owners of the 33 acres that are across Greenriver Road from this development. It would be the northeast 33 acres. As you can see from the elevations, and what has gone on for years is that all the farm ground is higher than that level that drains in towards Greenriver. All the people who drain into Henry Ditch, not all the people, but all the people that are on that side of the road. All that water crosses our property, from one corner to the other, the 33 acres. What we're adding here is, as close as these lots are together, I figure about 50% roofs and concrete, additional drainage, along with the tin cans, and the trash, and the other stuff that storm roads, road covers, and that sort of thing normally collect, would also be going across our property. What I would like...what I see from this swail, this retention area looks like about 3/4 of it's draining towards the ditch, and the other, there's a high point where it looks like, near as I can tell, drains south, and the rest drains north. I would like to see as much of this retention pond drain out south, and go down Kansas Road. That would alleviate the additional water that we're getting from the farm properties and the additional...the water we're getting from the farm property has been there forever, but it would relieve the additional water that's coming from all the houses and the concrete and the part of the water that doesn't permeate into the ground. Now, I don't know if this is possible or not. I know that the elevation where it crosses under Greenriver on the north end is much lower than the 390 elevation, which seems to be the level of the ditch, or the contour line that follows Greenriver. If you'll look on, there is a pipe across Greenriver at Kansas Road. I checked it today. It looks like about a 20" pipe. I didn't have a tape. I didn't measure it. It looks to me like that would be more than adequate to drain if this is to drain slowly. To drain as much of this swail as you can catch, move the high point north.

President Mosby: Okay, and that is something that we'll have the Surveyor talk with the neighbors—

David Georgesen: Yeah.

President Mosby: —and his engineer.

David Georgesen: Eventually, the people on downstream, they're going to catch all this water anyhow. Whether it goes down Greenriver or whether it goes across our property, at the corner of Quentin Stahl, who's here tonight. At that corner is where this, our property, drains into the road ditch that goes in front of his house, and on down to the lane. So, that situation is still going to be a problem on downstream, excess water. If we have any more subdivisions here, it's going to get worse. I think it needs to be addressed now.

President Mosby: Okay. Is there any questions by any member of the board?

Commissioner Mourdock: Your comment about having the detention pond drain into, basically, going along Kansas Road—

David Georgesen: Uh-huh.

Commissioner Mourdock: —does it, I'm trying to picture in my mind, does that ditch run on the north side of Kansas road?

David Georgesen: There's a ditch that runs on the north side.

Commissioner Mourdock: But it doesn't run clear past Quentin's house, does it?

David Georgesen: Oh, yeah. It gets much deeper. That's where Henry Ditch is. Henry Ditch is in front of Quentin's house.

Commissioner Mourdock: Okay, I was sitting here thinking, I thought it cut back underneath the road.

David Georgesen: It cuts back underneath further down, further towards the interstate.

Commissioner Mourdock: Past Quentin's place.

David Georgesen: No, I don't know who's property it goes across. They're probably here, but it does cut across country again.

Commissioner Mourdock: Okay.

David Georgesen: But it's more of a defined ditch down there. This property we're talking about, it's real deep where it crosses the road, because of the depth of the pipe, and then it pans out and goes all over the farm property down at the other end, and floods us out the way it is. If we get more water, it's going to be even worse.

President Mosby: Any other questions? Thank you very much. Anybody else that would like to speak?

Henry Schlensker: I'm Henry Schlensker of 4100 Kansas Road. We own the ground directly west of this property. We have WASCOB's, and we own a large hill too. We now are sending our water down, retained in WASCOB's, into a 12" pipe that enters the property going to be changed. All my friends live below me, the rest of these people in here. I don't want to flood them, but I don't want our drainage, I want our drainage to be addressed, that now is in a pipe. I do not have to maintain those WASCOBs. That was there on my doing to control the water. So, when this is developed, I hope they do it as though those retentions were not there, because some day they may not be. This could be concrete and rooftops too. Secondly, the intersection at Kansas and Greenriver, when you have entrance to this subdivision straight across from the other one, they are going to put a hundred and some cars on from the south side, and a hundred and some odd residents (Inaudible. Someone coughing.), and that's about 400' or 500' from the intersection. I would say between somewhere like 6:30 and 8:00 in the morning you cannot get all these cars in that short distance. So, widening of the intersection is definitely going to have to come. Widening of Kansas Road is going to have to come, which that is going to involve me, whichever side they go on, because we own both sides of the road. But, there's a Vectren easement on the north side, and a fiber optic on the south side.

So, there's two big guys there that this probably won't happen either. The intersection at 57 is going to be involved, if they go that way, and it still is not up to where the traffic that it has. Thank you.

President Mosby: Thank you. Any questions? Anybody else that would like to speak to Crowne Ridge Sub? Is there somebody—

Bob Wheeler: My name is Bob Wheeler. I represent my brother, Dr. Edward Wheeler, and we own the property that is directly north of this subdivision. There is a lot of drainage that comes off of his hill, comes down and if the water that is coming off of this area is not, basically, maintained, it's going to over flood. Flood the end of our property, and, I think, probably even get down to where it will go across Greenriver Road. Just looking at the drop and the things that are there, I don't actually live out there, some of the people who do live out there see how much wall of water comes down there now. If you get the rooftops, as he said, up on the hill, and all these, and the water is coming off my area, it's going to be more than that ditch that they are showing there is going to take, and that pipe, 60" pipe going across Greenriver Road is going to take, to go into there. As he said there is a high point, as you mentioned, swail there, that that, there's water going north, and there's water coming south. When I was talking to a Mr. Hatfield, he indicated to me that that is not a retention pond. There would be no water in there at all. After the rain is over, it will be dry. It was going to store, he said, 4" deep, I believe, at Kansas Road, and come down to about 8" deep, and that way any water that would be there would back up this dry, flat bottomed thing. I didn't say exactly the size of it. You can't have that with a high point in the middle. So, somewhere there is something wrong with those figures. So, I need to know what really kind of ditches they are going to have, and what really drainage is going to be there, so that this is not going to build up, and, naturally, Greenriver Road is going to be a dam. So, if it don't go through the pipe, it's going to go over the top. It's just that simple. Anybody on the other side that owns that land, it's going to get flooded too. So, we ought to think about that now—

President Mosby: Right.

Bob Wheeler: —before they get any further. Okay.

President Mosby: Thank you. Is there anybody else that wants to speak?

Lynne Wheeler: I'm sorry. I'm Lynne Wheeler, Bob's wife. What we noticed was, on that map there is no retaining pond, at all. Most of the people that are building subdivisions these days have some kind of a big retaining pond. There is nothing. There is 131 lots, five roads, a ditch between us and them, a ditch running across the top, and one apparently running down the side. Nowhere on there is any kind of retaining pond that that water can come down, sit in, until it can get out, and get underneath the road. So, you know, perhaps that might be a way to collect the water to stop it from running across the road.

President Mosby: Okay. Thank you. Anybody else?

Leland Fehd: I'm Leland Fehd, and I own the property to the east of Wynnfield Subdivision. We had been with Bill Jeffers before on this issue. Whenever you bring all this water off this high land, down to Greenriver Road and try to put it through that pipe, whatever size pipe you put in there, it's going to come down the north side of Wynnfield Subdivision. Then you have two entrance, exits or entrances, whatever

you want to call them, off of Kansas Road, according to the subdivision map. As hard as it rains, and as quickly as that floods, the people who own, or purchase those houses in Wynnfield are going to be very upset to have that road flooded, unless you raise it. You are going to have to get in a deeper ditch, with a bigger pipe along Wynnfield. Or you are going to have to raise the road. When you raise the road, your elevation is going to be higher than the elevation that is to the entrances to the subdivision. When this water comes down along Wynnfield, and turns and goes into the Henry Ditch, on the corner of Quentin's property, and the corner of Wynnfield and me, when that Henry Ditch is full, or that pipe can't take it, it cuts catty corner across my farm. We've tried to address this issue that that pipe would be bigger before, but nothing's been done about it. That goes from Wynnfield Subdivision, under Kansas Road, into the Henry Ditch. It's not big enough. This spring when it rained, we had some bales of straw that was there. That was supposed to be in the ditch to hold the silt back. When it rained hard enough, the bales of straw was against the pipe. No water could go through the pipe. At the corner of my property I lost about 6" of top soil, on a piece of it. I don't appreciate that, because that's productive. That's productive farm land. I'm sure the rest of these farmers behind me don't want this damned water coming down there any faster than it is. So, we think that you need a retention pond up there to hold it, and release it slowly down on us. Anything else?

President Mosby: Any questions?

Commissioner Mourdock: No. I'll just make a comment, the County Engineer, John Stoll, is here, and having heard those comments, John, if you would confer with Bill about this need, or necessity, maybe, to take another look at that pipe that Mr. Fehd is talking about.

President Mosby: Yes, sir.

David Georgesen: David Georgesen again. After I hear what I've heard now, my understanding was that this swail, or whatever we call it along Greenriver Road was going to be set up as a retention pond. Apparently that's not so. Apparently however fast it comes, that's how fast (Inaudible. Talking over each other)--

Bill Jeffers: No, the swail that's along--

David Georgesen: Is that true? Or is that wrong?

Bill Jeffers: The swail along Greenriver Road is, in fact, a detention facility. It just happens to be a dry detention basin, like a WASCOB, rather than a permanent standing body of water.

David Georgesen: It doesn't get, excuse me, it doesn't get dry as fast as it rains? It does--

Bill Jeffers: It detains water--

David Georgesen: --detain water and let it out slowly?

Bill Jeffers: Correct. It's designed to detain water and let it out at a regulated rate.

David Georgesen: Okay, then the idea of retaining the water and letting it out at a regulated rate down Greenriver Road would be an improvement to what we have

now. It would definitely be better than what we show on the print. By the way, I would like to have a print that I could read. I never, all I received was that little 8 ½" X 11".

Bill Jeffers: I had one extra one that I gave to Mr. Wheeler to share with any of his neighbors that he might. Actually, it's truly the property of the developer, and if you ask the developer, he may release it to you through Morley and Associates.

David Georgesen: Well, that's fine.

Bill Jeffers: I only have one copy left, at this time.

David Georgesen: I'm requesting, you know, that we have a copy. So, if we're going to have hearings like this, we need a copy, so we know what we're talking about ahead of time. One that we can read.

Commissioner Mourdock: That's the purpose—

David Georgesen: If it had been blown up to a legal size, we might have been able to read it.

Commissioner Mourdock: That's the purpose of having a preliminary versus any final, so everybody gets a chance to review the data. Is there anyone here from the developer side who wishes to address some of these questions? To be, at least, identified as a point of contact for these folks.

President Mosby: Was there anybody left on the remonstrator side that wanted to voice an opinion? I was going to call him up next, but....yes, ma'am. I'm just trying to get everybody's opinion on the remonstrating side.

Shirley Melton: I own the property at 5501 Kansas Road. My name is Shirley Melton. I have had my home up for sale almost a year, and we cannot get FEMA to okay that you don't have to carry flood insurance on that home. So, I need for you when you develop this project to do something with the cul-de-sac at the end of Kansas Road too next to I-64. Nothing has ever been done to the ditches, even though Wynnfield Estates are coming in. It would help if someone would come in with just a digger, and dig it out, and haul the dirt away. I don't know why the people below the Stahl's never do complain, because they are always blocked off whenever we have a spring flood. It gets up to my back summer kitchen door, and misses one inch of coming in the back door, and we still aren't doing anything, but we're building more homes. What quality homes are we going to have on 60 acre, 60' lots? What price range are they going to be in?

President Mosby: What was your address?

Shirley Melton: I live at 5130 Millersburg Road, but I own the property at 5501 Kansas.

President Mosby: 55, that's where the problem's at?

Shirley Melton: Yes.

President Mosby: We'll turn it over to the engineer, and let him look at it.

Shirley Melton: Okay, and there's a cul-de-sac at the end, next to I-64 that nothing's being done about.

President Mosby: Okay. We'll turn it over, and let him look at it.

Shirley Melton: I would appreciate it. Thank you.

President Mosby: Is there anybody else? If not, I'll have the developers.

Nathan Waggner: My name is Nathan Waggner. I'm the engineer of record for Morley and Associates. I guess, I'll just kind of clarify a few things. We will be providing a detention facility. I think Bill tried to address that. Some of these fellows thought that there was not going to be one. There will be one. It will detain it, and release it at our regulated rate, which is at a 10 year, undeveloped rate, and hold back what the drainage ordinance requires, which is the developed 25 year. I think you've got the capacity to hold back more.

Unidentified: We can't hear what you're saying back here.

Nathan Waggner: I'm sorry. I said we will be providing detention on site. I know some of you people—

Unidentified: Where will it be?

Nathan Waggner: Along Greenriver Road. It will parallel.

Unidentified: Is that on here?

Nathan Waggner: Yeah.

Unidentified: That's not going to hold it.

Nathan Waggner: The calculations we've done it shows the amount of detention to provide equal to and above what the ordinance calls for, which is the difference between the 10 and the 25 year storm events. Other than that, as far as the people that are concerned about what the 60" pipe underneath Greenriver Road can handle, I think what we are proposing to detain as a detention pipe, or discharge pipe, will be somewhere around the order of a 15" to 18". So, the 60" pipe, the 15" discharge, is what will be coming off of our site. Other than that, I'll just entertain any questions.

President Mosby: Does any member of the board have any questions?

Commissioner Mourdock: I don't have a question, Nathan, other than just a comment, which is you've heard all the comments here, and the requests that there be copies of maps made. I presume, working for your client, you'll be able to do that, to get those to these folks who are interested, and might give you their names before they leave tonight.

Nathan Waggner: As long as the developer doesn't have a problem. We could do that.

Commissioner Mourdock: Okay. Then also, as a point of contact, if you would, talk to them so some of these technical questions might also be reviewed prior to our hearing this again.

Nathan Waggoner: Okay. The last question that was brought up, I'll let Bill address that one. It's kind of...that's away from our subdivision.

Bill Jeffers: Which, I'm sorry, which question was that, Nathan?

President Mosby: That's the one—

Nathan Waggoner: Kansas Road—

President Mosby: Yeah, I'm going to have John Stoll...I'm going to have our engineer look at that.

Nathan Waggoner: Okay.

President Mosby: That's, I'll give that to John. John's still here somewhere. Is there any other comments by the—

Commissioner Mourdock: Just to clarify one thing, Bill, our ordinance requires that a detention pond like this, be it a dry basin or wet basin, ultimately release at 10 year rates? Is that right?

Bill Jeffers: Right. For those in the audience who've not been to a Drainage Board meeting, or who have not heard our drainage requirements explained thoroughly, they look at the existing farm field, and they determine how much water runs off that field during a 10 year storm. Which is, basically, a storm that has a 10% chance of happening in any calendar year. We have, probably, two or three 10 year storms every year. That's maybe what, Nathan, an 1 ½" , 2"--

Nathan Waggoner: Yeah.

Bill Jeffers: —in 24 hours. That storm is analyzed, and then a detention basin is built to collect a 25 year storm, which is much greater than a 10 year storm. It's based on the post-development runoff. With like Mr. Georgesen was talking, maybe 40% to 50% hard cover, generating all that additional water, they calculate how much additional water would come down to the detention basin. They are only allowed a pipe to release that 10 year storm as if it were still a cornfield. The rest of that excess water is held in the detention basin over a period of time. It may look like a long, narrow detention basin, but it's what, a quarter mile long?

Nathan Waggoner: Close to it.

Bill Jeffers: Nearly—

Nathan Waggoner: 1000'.

Bill Jeffers: —it's over 1,000' long. It's about 40' wide, I believe. What you're looking at is just storing enough acre feet of water so that the control release orifice slowly releases that excess water to that 60" pipe. It's designed so that it will not increase the flow in cubic feet per second from that ground. That's, basically, what they're



required to do. It's the same as any subdivision in Vanderburgh County is required to do.

Unidentified: Every subdivision I've seen lately has a big pond in it.

Bill Jeffers: The reason that the ponds are so large, the one in Wynnfield, across the street from you guys, the one at Kansas and Greenriver, in the flood plain there, it's very large. It's over sized. It will handle a huge storm. That was to acquire fill, because the ground was so flat, that they needed fill dirt to build their homes on. So, they dredged out a huge amount of fill dirt, and that's why you have such a large lake. In this case, they're moving dirt down a hillside. They don't need to excavate, they don't need to acquire additional fill. They're already sitting on a surplus of earth, because they are on a fill. So, they are only excavating the required detention basin. They prefer not to have a wet body of water that long and narrow. It's very hard to control water quality in a long, narrow facility, because you don't have any movement of the water, and the water gets stagnant. So, what they are doing there is they are just simply meeting the minimum requirement to store and release according to our regulations. Nathan has indicated that there may be the possibility they have some additional storage in there, and if they do, they'll apply that as well.

Unidentified: Well, maybe I'm misunderstanding what (Inaudible. Not at mike.) Is it an open ditch (Inaudible. Not at mike.)?

Bill Jeffers: It's going to sit there for as long as it takes to release it at the lower, allowable discharge rate.

Unidentified: (Inaudible. Not at mike.)

Nathan Waggnr: 52' not 52".

Unidentified: (Inaudible. Not at mike.)

Nathan Waggnr: Well, there's a lot of stuff on there.

Unidentified: (Inaudible. Not at mike.)

President Mosby: Okay.

Commissioner Mourdock: Again, that's why we have a preliminary plan meeting, and a final plan meeting, in hope's that all these questions will be dealt with. Between the representatives, and the builders, and (Inaudible. Mike not on.)

President Mosby: I would just echo what Commissioner Mourdock said, that you would get with the neighbors and talk with them about what they have expressed as their opinions here tonight.

Bill Jeffers: Yeah, I would strongly encourage the neighbors to ask the developer, who has the long standing reputation of development in this community, both here and in Warrick County. I would ask him to meet with you between now and the next Drainage Board meeting, and let his consulting engineer explain some of the tedious detail of the drainage plan to you in a more, in a way that a layman can understand.

President Mosby: Is there any other questions or comments? The chair would entertain a motion.

Nathan Waggoner: Can I request that we still ask for preliminary approval, and still entertain there ideas?

President Mosby: Yes.

Bill Jeffers: I'm sorry, Vanderburgh County Surveyor recommends approval of the preliminary plan for Crowne Ridge Subdivison.

Commissioner Mourdock: I'll formally move that we do give preliminary approval, but, at least, as one member of the board, I want to make sure all these questions get addressed. So, when we hear this again next month, or the following month, that everyone knows what's going on.

Commissioner Fanello: Second.

President Mosby: I have a motion and a second, and I would say that that is very important what Commissioner Mourdock said, and I will say so ordered.

#### **Burkhardt Lynch Business Park: Modification**

President Mosby: Next, is Burkhardt Lynch Business Park modifications.

Bill Jeffers: This is a simple modification, this is a simple modification of one open ditch, so that they may pipe it, and put two lots together to build a larger facility. They have supplied sufficient details to show how they are going to accomplish it. The Surveyor recommends approval.

President Mosby: Anybody willing, wanting to speak to Burkhardt Lynch? Seeing none.

Commissioner Fanello: I'll move approval of the modification.

Commissioner Mourdock: Second.

President Mosby: Motion and a second. So ordered.

#### **North 41 Storage: 11751 Old State Road: Final Drainage Plan**

President Mosby: North 41 Storage, Old State Road.

Bill Jeffers: This is a mini-storage facility being built behind the Boat Sales Complex at the west, excuse me, at the east entrance of the 4-H Center, at the end of Old State Road, with it's intersection with 41. It is a final plan. It is a commercial storage facility, and the County Surveyor recommends approval.

President Mosby: Anybody in the audience wanting to speak to North 41 Storage? Old State Road? Seeing none. Chair would entertain a motion.

Commissioner Fanello: I'll move approval.

Commissioner Mourdock: Second.

Bill Jeffers: Thank you for coming.

Commissioner Mourdock: Second.

President Mosby: Thank you.

Unidentified: If we would come to more of these, we would be more educated.

Bill Jeffers: We have another one next month.

President Mosby: Every month you're invited back. Thank you.

Bill Jeffers: Fourth Monday in November.

President Mosby: I have a motion and a second, so ordered.

<b>Easley/Broerman Request Regarding Ashley Place Drainage Facilities</b>
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President Mosby: New Business, Easley/Broerman request regarding Ashley Place.

Andy Easley: Let's see, I'm Andy Easley, here on behalf of Rick Broerman. Did you get copies of the letters we wrote to John Stoll, and to the County Surveyor? No. Okay. Ashley Place—

Commissioner Mourdock: Just for the record, Andy, I haven't seen the letter that you sent this way, but I did get some comments by e-mail from John on the summary of, I think, your letter, and also some of his comments.

Andy Easley: Okay.

Bill Jeffers: An original copy of the letter is in Mr. Mosby's hands, and it should be passed to your Recording Secretary for inclusion in the minutes.

Andy Easley: I think we have about, I'll try to be as brief as possible, but this is going to take a few minutes. Ashley Place was built, I suppose it's been probably three years ago, and it has a retention basin that involved relocating a ditch, and putting the retention basin in the bottom of the enlarged ditch. The, shortly after it was built, there was a huge, what January of the large storm that came, and a great deal of debris washed into the basin, clogged the outlet pipe. The overflow had been, put a piece, it was a 5' diameter round structure. I have some photographs that I'll hand out in a minute, but they put some welder wire, expanded wire metal on the, on top of the overflow that caught acorns, and did not, it did not allow it to function the way it was designed. We made an emergency, at the request of the County Surveyor, we put an emergency, another emergency overflow that would allow, you know, that not....because they almost got water in one house. I will pass out some pictures here. I need them back. I got two sets. These two, those two, those three pictures show the outlet of the retention basin. I'm going to give you another one that shows where the water went between two houses. The last picture is the, looking at the basin towards the east. The outlet structures, because of the debris, need some debris racks to catch the debris that clogged the pipes. I worked out west for five years, and the debris racks in this area are a little bit hard to understand, and,

perhaps, unknown. Here is a (Inaudible. Stepped away from mike.) to look at these, and then pass the yellow markers...if you have an important culvert or something that must discharge water, you need to have a debris rack. Now, we don't use them here very often, but when I was Chief Assistant City Engineer, we had to put some in, and I don't know that I installed any when I was County Highway engineer, but I'm a great believer in them. We have, we requested, many months ago, permission to add these. The question has been raised, who will remove the debris? All of the lots in this subdivision have been sold, and, in my opinion, there probably isn't anybody left to remove the debris than perhaps county forces. We're asking for permission to add these debris racks, and we're asking for permission that you might direct county forces to keep an eye on them, and, occasionally, I don't think, except during a real hard runoff, that they'll have to be attended to. So, that is item number one.

Commissioner Mourdock: Andy, can I interrupt? I have a question. What is the source of the debris? Is the debris coming from Ashley Place?

Andy Easley: It's coming out of wooded areas to the, to the east. Let me, I have more pictures, okay. This is the wooded area to the east. This is another part of the watershed of this particular little valley. It's impossible to police it, because, I guess, trees die, blow over, and fall down. There was a video that was taken by one of the homeowners, and they had, I declare, I saw, maybe Bill Jeffers can help me, but they were 8" diameter logs, 4' length, that....now, did I give you any pictures of debris in front of those, or am I....let me see. Alright, here's, I do have one photograph of something that, in this particular, and Rick Broerman who is here will tell you that they found, this particular culvert was pretty well choked, wasn't it?

Rick Broerman: 2/3 full.

Andy Easley: 2/3 full. It will not function. It is going to threaten houses if it isn't maintained, and we want permission to add these debris racks, and someone is going to have to be designated to...and I think the only person, the only people left is the county maintenance forces. So, that's, and okay now, the next item on Ashley Place—

Rick Broerman: Let me make a comment. My name is Rick Broerman. I'm the developer of this. We had an approved drainage plan, back when we originally started this subdivision. It didn't work. So, the County Surveyor asked us to put in this emergency overflow, and we did that. This, that doesn't seem to work. Without these debris racks, and this device over the top of the inlet structure, it's going to continually get clogged, it's never going to work right. I think the point is, we had an approved drainage plan. We could have put that drainage plan in, and walked away from it, actually, but we've done two steps since then, and we're trying to do a third step now to try and resolve the problem. This, we've just gone way over and above what's been required by the approved subdivision plans.

Andy Easley: Okay. The next item on Ashley Place is the ditch along the southerly side of the subdivision has had it's problems in getting it stabilized. This is the only picture I have. I think I gave one of these, you might, this was very badly eroded, and I was asked to try to address the erosion, since the planting didn't seem to be able to correct the problem. I had a meeting out there one day, and I said that perhaps we can get...this was in front of Jagoe that their representative that was building the houses...we had thought about check dams, I said perhaps we could put, get permission to put a pipe in here that would, would cut down on the erosion.

I said maybe we could get permission to get a pipe in here, and I said perhaps a, we could, uh, I said perhaps a 24" pipe might carry the flow. This is one of those times I shouldn't have said anything, but about three days later I heard that Jagoe had put in a 24" pipe. I know the chain of command about drainage, having been a Navy officer, and you get things approved before you act. This is just a sketch of what was put in. Low and behold, then I had, after it was put in, I think it sort of upset Mr. Jeffers and John Stoll that it was put in. I have proven that the smoothness of the pipe, and the little swail over the top of it, it will carry 100 year flow, this pipe that went in. We're asking that the plan be, be amended to, and the county allow this to remain in place. It has functioned quite well, and has not clogged. This too needs a debris rack on it. This, if you saw that erosion picture, this is now what this used to look like, this is now what that looks like. Here was the severe erosion. Very, very badly eroded. It looked like a miniature Bryce Canyon. Then this is now what it looks like. It is clear, and operating, and it doesn't have the greatest amount of cover on it, but all it ever gets is a lawnmower. I have got the blessing of the people that made the pipe that it, that it has adequate cover, and will function in this case. This is a drawing showing where the location of that pipe, and I know I'm throwing an awful lot at your intelligent heads. This is the pipe right here, and all the water...there's two lakes to this debris basin; one comes in here, and one comes down here.

Commissioner Mourdock: Where, where, when you were first talking about where you need the debris racks, where is that?

Andy Easley: It's right here. This is the outlet structure, and then there's an overflow, the emergency overflow needs this. The debris rack, we need a debris rack in front of the outlet. We need a debris rack here. Now there's one other pipe that got stuck in here, and I don't know who put that one in. It just overflows. It could, maybe, perhaps have a debris rack, and we would be willing to put one in there. It was put, I think, they said that SIGECO installed that pipe. I don't know how it got there, John.

Commissioner Mourdock: But, it's within Ashley Place?

Andy Easley: It's within Ashley Place. It just appeared, so, we've...and then we have one other (Inaudible. Stepped away from mike.) Here they are. The, and there are drainage swails that go in back of the houses at Ashley Place. You can glance at these, and pass them. Some of the swails, when they did the final grading, drifted a little bit over the center of the easement, but they are all, basically, within the easements, the drainage easements, and they have been planted, and improved, and I think it's a little bit of concern to your, to the County Engineer. It would be a major public relations nightmare to go in there and center, re-center the swails. If you could imagine, if you had a backyard that you have seeded, and having looked good, we're asking that, if you want to call that waving an informality, is that a legal term, Counselor? To accept the swails the way they are. Now, that's, I think I've completed my presentation, and I appreciate your patience. Mr. Broerman, have you got anything to say?

President Mosby: Bill, and do you have a comment?

Bill Jeffers: We've always had a concern about using natural watercourses that pre-existed development. Natural, well-defined ditches that carry a substantial amount of water. We've always resisted using them as detention basins, however, there is nothing in our ordinance that prevents this practice. The developer and his engineer

insisted on using this detention method, of basically damming a stream. It caused some problems. The problems were basically resolved by altering the outlet structure, and constructing a new emergency overflow, as Mr. Easley explained. That pretty much resolved the threat of flooding the last three homes on the street down there. There was a distinct possibility that those homes would flood during extreme conditions. So, that's why that stuff was taken. The debris racks are a good idea. The debris racks will probably be a method of collecting floatable debris, one method, that will probably be implemented in the future, in our MS4's, when Rule 13 takes place, and we're required to collect floatable debris before it enters waters of the state. However, that particular legislation has not been enacted at this time, and so, we remain unable to service debris racks and other pollution control devices that we may have to in the future. We have not yet decided who's going to be responsible, in private subdivisions, who's going to be responsible inside county right-of-way, etcetera. So, the assignment of maintenance is a problem there, because, as Mr. Easley pointed out, the lots are already owned by a multitude of individuals. At this time, our ordinance requires everything outside of county street right-of-way to be maintained by the property owner. So, for this board to approve a modification of that sort, we would be also burdening the existing property owners, lot by lot, wherever those debris racks would be located. We're burdening them with an additional maintenance responsibility that was not reflected in the original plan. So, you may wish to consult your attorney with that question of whether we should notify those individuals who would, who are not at this time maintaining the debris rack, but, who in the future may have to, if we were to approve that. Although I'm not opposed to collecting floatable debris, it is something we will have to do in the future. I question right now, we haven't had any hearings of any sort to change the way we maintain storm water conveyances, at this time. With regard to the pipes that were added, without approval, yes, things happen, and, yes, someone apparently working for SIGECO, or representing SIGECO put one pipe in. Of course, that was put in because the ditch, and the detention basin also occupies 100' wide SIGECO easement. That was another concern we had, at the time of planning, are you guys going to be able to coordinate with SIGECO every time they want to do something. Or in this case, now Vectren. Each time they want to come in and service their facility, are you going to be able to coordinate what they do, and the damage they may...you know, SIGECO doesn't have a habit, or didn't have a habit of coming and asking the County Surveyor squat. You know, if they saw a ditch, they just put a pipe in it, and crossed it. So, yes, we always had concern about that, and continue to have concern about it. Now, the other pipe that was put in, was deliberately put in, as Mr. Easley said, by the sub-developer, Jagoe, and Mr. Easley acknowledges that it would require a 36" pipe to pass the required drainage, but only a 24" pipe would fit in there—

Andy Easley: Now, wait a minute, wait a minute. I said that it might, I didn't say absolutely. I went on to prove that the 24 functions. Don't hang me with a 36, Mr. Jeffers.

Bill Jeffers: I'm reading from a letter dated September 11, 2000.

Andy Easley: That was an early letter before it was analyzed. I have since proven, with the best hydraulic calculations that the 24 will do the job. So, let's don't even discuss the 36.

Bill Jeffers: It remains a fact it's a matter of record in our office. All the letters that have transpired between us. Be that as it may, whether a 36 or a 24 is required, the ordinance does require that all pipes be placed in conformance with written

manufacturers recommendations. John Stoll and I have both inspected the pipe, and it's our determination, at this time, that the pipe is not installed in accordance with manufacturers recommendations. It's my understanding from John Stoll that the developer wishes to submit \$2.00 a lineal foot, so that the county will be responsible for the maintenance and repair of that pipe, should it fail.

Commissioner Mourdock: Let me ask a question, because I want something clarified here. You're saying the manufacturer, you went out and looked at it, and it doesn't meet specs. Is this the same one, Andy, I heard you not five minutes ago—

Andy Easley: Yes.

Commissioner Mourdock: —they're saying it does meet specs?

Andy Easley: It does. What are the deficiencies that you've—

Bill Jeffers: They're not covered by one foot of earth or more.

Andy Easley: It doesn't really, absolutely have to have a foot of dirt. The manufacturer said it didn't have to have a foot of dirt.

Commissioner Mourdock: Is that the sole argument for that pipe? If it's placed properly, is what the amount of cover is? Is that the sole argument? Not that it's an invalid one, but is that the sole one?

John Stoll: That's the biggest issue, from what I've seen.

Commissioner Mourdock: Okay.

John Stoll: You can see in that picture from the storms earlier this spring, because of it's lack of cover, the dirt has peeled away from the top of it. My concern is that over the long haul, if that same pattern continues, the pipe will float away, and then we're on the hook for replacing it, when it was never put in properly.

Andy Easley: Well, you want me to put a paved concrete over the top of it, which, I think, is a little bit unnecessary.

John Stoll: I wouldn't want the county to have to maintain that either. Because I could see that getting scoured out, just like the spillway that you saw in the pictures that are in that pack of information I gave you.

Bill Jeffers: The concern that our office has, and I think it's shared by John Stoll and his staff, is that we are, basically, bound to enforce regulations equally, among all developers, and all developments. We have a minimum set of standards that our ordinances, and our codes ask us to enforce. We feel that we should enforce them equally among all developers, and developments. In this particular case, I believe we're being asked to assume maintenance of a pipe, which we believe, is not installed according to minimum standards.

President Mosby: Thank you. John, did you have anything you wanted to add? Or anything different that Bill didn't cover?

John Stoll: I guess, one of my on-going concerns about this subdivision is for years we've been trying to get the developer to get the ditch on the south side of the

subdivision stabilized, and that has never taken place. In those pictures you'll see where the banks of the ditch are severely eroded in some locations, and in the punch list you can see they date back to 1999. That's a recurring item on the punch list. That ditch has never been stabilized. So, I would hate to see us take final action on everything until the subdivision is truly in a final condition, ready for final action. We have received complaints from the property owners, who abut that ditch, that they are concerned, they see severely eroded banks, and they've never seen it stable, I've never seen it stable, and they just want to know what kind of time tables we're looking at on when it will finally get finished.

President Mosby: When should it have been finished?

John Stoll: The ordinances do not specifically give exact time frames on when it has to be done. We're still holding letters of credit on this, because it's not been resolved. There's not really a specific time frame that's enforceable.

Commissioner Mourdock: Arguably, the developer could never turn it over to us, as long as he was doing the maintenance. I mean, the whole, the only reason there is a date out there, at all, is just at some date it would pass from being the developer's burden to being our burden.

John Stoll: Another issue that Andy brought up in regard to the drainage swails in the back lots of the subdivision, the north-south ditches between the cul-de-sacs, those, in the past, like Bill could probably attest to, he's brought them in here before when things were not built exactly as planned, the final drainage plan has been amended to address the locations of the swails, and their as-built conditions. Typically, don't you notify each of the property owners to let them know that that is the case? That even though the swails don't lie entirely within the easements, that is the final condition, and their, basically, accepting that, unless they remonstrate it, against it.

Bill Jeffers: We have done that in at least one situation, because the subdivision code and the drainage code both require that all channels be located within suitable easement. In some cases, because of natural terrain considerations, large trees that people did not want to remove, I mean, you know, really nice, large oak trees, etcetera. Or possibly in a case, such as Mr. Easley has pointed out where everything is built out, people already have their fences, and swimming pools, and landscaping in place. What we've done is notify each individual property owner where the swail did drift out of the easement, and tell them that we were having a final hearing, and that we were going to accept the location of those swails, understanding that they were slightly out of the easement here and there, and that the private property owner would have to maintain them in that way, and not ever obstruct or block them in any way. We reached a suitable agreement with the developer that that would be okay. He notified everyone of the homeowners that was affected in that way. It went forward, and it was approved. I mean, our concern is for everyone who shares an interest in this situation, as an owner.

Commissioner Mourdock: Do, and you said a few minutes ago, Bill, and I want to be sure everybody agrees, the changes that were made, I think I heard you say, eliminated the risk of flooding to those houses that were nearly flooded.

Bill Jeffers: Yeah, those, the changes that were made to eliminate the hazard of flooding was the alteration of the overflow, concrete box overflow at the bottom of the subdivision, and the construction of a new, larger, more efficient earth overflow.



Commissioner Mourdock: Okay, but we all agree that that was successful? And that risk has been—

Bill Jeffers: I believe that was successful.

Commissioner Mourdock: Okay.

Andy Easley: We probably would never have had that problem if there would have been debris racks to start with, and if they hadn't of put that expanded wire—

Commissioner Mourdock: Who's they? Who's they? Who put the expanded wire across?

Andy Easley: Well, the expanded wire cover was put on there by Jagoe's people, I believe. I never designed it. They just came up with it, and put it on there. Like I said, it caught grass and acorns. You might have well have put a solid concrete cover on it.

Commissioner Mourdock: Is there a neighborhood association with this subdivision?

Andy Easley: No, there isn't.

Commissioner Mourdock: So much for the easy answer.

Bill Jeffers: The expanded wire was put on because it was about a 54" drop, open top drop basin, and there was concern for kids that might be playing. I mean, this was a substantial stream that drains a lot of acres, before it ever arrives at Ashley Place, and there's a lot of water that comes down through there, as the film will show. We were afraid that children might be, might foolishly be playing, as children sometimes do, around that structure and fall into it. There's about a 200' run of pipe before it daylight again, and there have been cases where children have drowned in situation like that.

Andy Easley: Well, we had, we had a grid of pipes on there 12" X 12" that might have passed a basketball, and I think that maybe people from your office were concerned about it, and the word came down to put something other than the 12" grid. Which, I think, if, but that alone, we would of still had stuff that got into the culvert. So, I can't—

Bill Jeffers: But, if a debris rack of the type your showing us today, which is a fairly standard, and substantially designed debris rack, if one of those had been put on top of that basin, would we be here talking about this tonight?

Andy Easley: Probably not.

Bill Jeffers: With the original plan. I agree. If that had been on the original plan, we probably wouldn't be talking about debris racks tonight.

Andy Easley: No, we wouldn't.

Commissioner Mourdock: But, we would still be talking.

Bill Jeffers: About pipes.

Commissioner Mourdock: Yeah. That's what your saying? I want to be sure I understand.

Bill Jeffers: We wouldn't be talking about debris racks if one of these had been placed on the outlet structure of the basin.

Andy Easley: That's true. That's true.

John Stoll: In regard to the debris racks too, I don't want to speak for the County Highway Department, but I can't imagine they want to maintain such a structure, because in the event it got plugged up, and we didn't maintain it on a regular schedule, I would suspect we would have the liability if any flooding occurred because of that. So, I don't think—

President Mosby: That was my question exactly.

John Stoll: —that there would be any, any way of assuring that we would have that on a constant schedule where it would always be inspected to make sure it was clean, and didn't obstruct the flow.

Rick Broerman: Sounds like you're not wanting the debris racks. If you don't have those, then this outlet pipe is going to get clogged. Are you going to maintain that? We're trying, I think we're trying to keep that pipe from getting clogged with the debris racks. If we don't put them in, then we've met the approved drainage plan.

Commissioner Mourdock: That begs the question, looking at this one drawing, it's effectively this one and this one, this is a real dumb question at this late date, okay, why is that piped at all? Why is it not just an open flow? An open swail?

Rick Broerman: It was to slow the water.

Commissioner Mourdock: The pipe was?

Andy Easley: It was—

Commissioner Mourdock: I mean, it looks—

Andy Easley: —this is, this is what it looked like—

Commissioner Mourdock: Okay, so it was a stablization.

Andy Easley: Right.

Commissioner Mourdock: Okay. That answered it, Andy.

Andy Easley: Tom Hanson with Jagoe, that's when I had the discussion, I said maybe we can get permission to put in a pipe. I said that, hopefully, we could make, perhaps, show that a 24" would carry it. I shouldn't have never said anything. I regret that I did. I spent many, many hours now wrestling with this thing. If we take that out, or if we lower it to increase the cover, it's going to mess up the backyard, and it's going to go back to something that is going to be, have erosion problems. I think that, I don't think that the little bit of erosion on top of the pipe is that serious, that it should be, you know, that it should come up. I know John Stoll, I respect him, and I just don't think it's that serious.

John Stoll: I would just like to add that, like Andy said, that pipe, it was my understanding, was put in to address erosion. The problem is upstream of this pipe, we still have massive erosion that's never been addressed.

Andy Easley: I agree.

Commissioner Mourdock: Is that within the subdivision as well?

John Stoll: Yes. That's part of the punch list that's been going on for three years now.

President Mosby: That's all this?

John Stoll: That was taken last week, upstream of the 24" pipe.

Rick Broerman: Now all that, we, John and I, and the contractor met out there last fall, and we agreed on what we were going to do. I think we had a good plan. We were going to do that this past spring, but we couldn't get the 2' pipe resolved. I didn't want to do some of this, and then have to go back in there and dig that 2' pipe out, and then try to fix it again. So, we haven't done anything until we could get the 2' pipe resolved. That's why we're here tonight, because we couldn't seem to get something to be decided and something to happen.

John Stoll: I guess, the only problem with that is, all this is upstream of that 2' diameter pipe. That could have been addressed separate from this pipe issue regardless. I mean, there's nothing to stop that relative to this pipe.

Rick Broerman: It could have, but what I was waiting to do, try to do all of it at one time. That was maybe a bad decision on my part, but that's what I was trying to do.

President Mosby: Any other questions or comments?

Commissioner Mourdock: Well, I'll make the comment here. I always, on this board and on the Commission, try to look at being consistent. Having heard Bill's comment, well, having heard everybody's comments here, the debris rack, I look at the debris rack that is right here, and it looks exactly like the one that is on the stand pipe at the end of the lake I live on. Twice a year we go down there and pull everything out that the beaver stuffs in there, because it starts backing the water up too high in the lake. That's not to say that's a bad design, it's just to say the bad beaver. I wouldn't expect that out on this creek you would necessarily have it, but the point is the water does back up, and I think the flooding liability that John talked about is an honest one. We don't have the forces to do it. I'm sure based on what's changed in the law, we're going to end up seeing debris racks somehow.

Bill Jeffers: I think the emergency overflow would address the risk of flooding, most likely. Especially, if the debris rack caught the debris, and kept it from going into the emergency overflow. My concern is, basically, notifying the owner of the lot on which this debris rack will be erected, and having their written consent, in the form of a recordable document that would go with the title of the ground forever, that the owner of that lot would be responsible for the maintenance of that debris rack, and the removal and disposal of the debris, until such time as another agency was able to assume that responsibility.

Rick Broerman: If I owned that lot, I wouldn't sign that paper. I can't go to them and ask them to sign that.

Bill Jeffers: I don't blame you. That's why it's my concern.

Andy Easley: Would you give us permission to put the debris racks in, and then walk away from them?

Commissioner Mourdock: Walk away from them meaning, basically, take over this whole thing, accept the \$2—

Andy Easley: No, I'm just saying put them in so the pipes, the culverts won't clog. The outlet structures won't clog. You know, if they want to have a weeny roast with the debris in the middle of the summer, so let it be.

Commissioner Fanello: Nobody would be cleaning out the debris.

President Mosby: I guess, Kevin, correct me if I'm wrong—

Commissioner Mourdock: (Inaudible. Mike not on.) that question.

President Mosby: —but, if we vote to do that, we've probably just accepted responsibility.

Kevin Winterheimer: Well, I would say that I agree with Bill in that if you're considering doing that, notify the property owner first, let them come down and give their opinion as to, you know, how they feel about this. This is directly going to affect them.

Commissioner Mourdock: Have you ever had any discussions with the owner of that particular property?

Andy Easley: Not with the debris racks, because the debris racks never got that far through the approval process, you know.

Commissioner Mourdock: Is the house on that particular property one of them that was more susceptible to having any kind of flooding or damage?

Andy Easley: One nearby, I suppose.

Rick Broerman: We're talking about two different, two or maybe—

Commissioner Mourdock: I understand—

Rick Broerman: —three debris racks.

Commissioner Mourdock: Okay.

Rick Broerman: Put one of them closest to the outlet structure.

Bill Jeffers: The debris rack on top of the outlet structure would be maintained by one house. I don't see how we can give anybody permission to go onto somebody's property and put something on there that he didn't buy. In other words, it would go back to saying, if this had been in the original plan, we would have been approving

a plan, and buyer is visually, is, I mean, the buyer looks at it, says here's what I'm buying.

Commissioner Mourdock: I understand we can't make him do it.

Bill Jeffers: Now, I don't know about these other debris racks. I don't know why anybody would want to put a debris rack in front of a pipe that isn't installed in accordance with manufacturers recommendations, and hasn't been approved. The pipe itself hasn't been approved. I mean, I say this is a good idea for the outlet structure. The concrete outlet structure from the basin. With regard to the other pipes up through there, I believe that channel could have been stabilized by using erosion control practices that are clearly outlined in the Erosion Control Handbook. Had the correct material been used to address the condition out there, it may have been a mute issue at this time.

Andy Easley: The, uh, if the culvert entrances don't have a debris rack, there's an extreme danger of them becoming clogged again. I think we are just not being realistic if you don't allow the debris racks—

Commissioner Mourdock: But if they do have a debris rack, and the debris is not removed, you still have that risk.

Andy Easley: The, uh, there's an overflow spillway. Sooner or later someone is going to realize that maybe they should remove the debris. The homeowners, I guess, will be, have to go out there and remove the debris. I think that it's very important that those racks go in. We, in hind sight, are very sorry we put the debris basin in this natural channel. Aren't we, Mr. Jeffers? You know, we don't think that we will ever do that again. It was, it seemed like a good idea at the time. Sometimes when you're doing things in life, you trip over stones that you wished you hadn't of tripped over. This one needs to be corrected with debris racks, and I think that, that pipe should remain in place.

Commissioner Mourdock: Well, I'm not at all comfortable in accepting maintenance of this thing, at this point, with all these questions. I think Kevin's comment regarding discussion with the owners of those points is something worth pursuing.

Andy Easley: You know, and as far as asking the owners of every lot where those little swails have drifted just a little bit—

Commissioner Mourdock: I wasn't suggesting that. I was just talking about the debris racks.

Andy Easley: No, no. I was going back to that. I think that is opening a...if you are going to air a two hour debate on people that have a bone to pick with Jagoe, or something, you are gonna, this is not the place to do it. I think that those little swails are fine. They're not very much, they're not very much out of the easement. What they are is not worth sending out all those notices. That is a big mistake. Okay, I guess, I've said about all I can say.

John Stoll: I'll agree with Andy, they're not significantly out of the easements, but what incentive does anybody have to follow the plans if we just disregard these kinds of things everywhere. That's why we're pointing them out. I'm not saying they need to go dig them all up, and ruin everybody's backyards, but they are out of the easements.

Commissioner Mourdock: At this point, the only time, or the only reason you would send out that type of letter, with that type of wording is if we were accepting this for maintenance. Is that right?

John Stoll: What was the situation, Bill, out in Eagle Crossing North? I know there's were significantly out of the easements, but, like you said, they miss, they've went around trees and things like that. Weren't notices sent out just to let people know, but nobody showed up to say anything.

Bill Jeffers: Right, the developer's engineer sketched on to a copy of the plat the exact locations of the swails that were outside of easements. Notified each of the affected property owners that they couldn't obstruct those swails, and, basically, that became a natural surface watercourse easement. If they had any comment to make about that, to appear at the drainage board, and make a comment, otherwise, the drainage board was going to approve the modified plan, and that's the way it turned out. No one objected, because the work was done to avoid features that they wanted to have in their backyard.

John Stoll: In this subdivision, I would suspect that you would have similar results, because there are plenty of yard barns, and fences, and things like that in those easements, and they're not supposed to be there, and I doubt they would want to come in and draw attention to those issues either.

Commissioner Mourdock: Did I miss the point there? As far as the timing, when that letter would be sent out, what would kick off the sending of such a letter? Acceptance of the county for that drainage way?

John Stoll: Wasn't that sent—

Bill Jeffers: Release a letter of credit.

John Stoll: Right. I was going to say, before we release the letter of credit to say everything was fine.

Commissioner Mourdock: Given these other questions, we're clearly not there yet anyway.

John Stoll: Right.

Andy Easley: And you want to adhere to that policy? I think it's kind of...if I shaded in yellow the portion that, like this between here and the dashed line, it's the back of the swail. The back of the swail, like this, is slightly over the line. Maybe it's just (Inaudible. Not at mike.)

Commissioner Mourdock: My point on that, Andy, and I don't—

John Stoll: (Inaudible. Not at mike.)

Commissioner Mourdock: —yeah, I agree with what Bill has said, and what John said, I don't think, in looking at those backyards, I don't think anybody is going to come in here and complain. I think, certainly, the way the letter is worded can even help keep the attendance at that meeting to minimum levels, if not zero levels. The bigger question that's before us tonight is do we accept this thing for county?

Andy Easley: Well, we made our presentation, and I, but I do think that the debris racks need to go in, and I think you're going to have, if they don't go in, there are going to be great problems out there. That pipe can be completely choked, and who's responsibility to clean that pipe is. I guess, we're paying, we're asking to pay, what, \$2 to maintain the pipe? I mean, \$2 a foot. I think you are going to have, you're going to, you're really going to have your hands full, if those debris racks don't go in.

Commissioner Mourdock: Again, I'm leaving the door wide open for debris racks. The comment of a minute ago remains standing, in my opinion, which is I would like to hear from conversations that you have, or Jagoe has, or Mr. Broerman has with the people who would be directly affected by those racks, and see what their responses are.

Andy Easley: Alright, but, I, you know, I have a feeling that if there is somebody occupying a couple of those houses there who's got a, maybe he hasn't got the greatest heart, or doesn't have too much energy, or has too much arthritis, he, and is living on a limited income, he's probably not going to sign off that he'll maintain the debris racks. So, you know, what's our next step?

Bill Jeffers: Well, you, again—

Andy Easley: Plan B?

Bill Jeffers: —you're making my argument for me. I mean, we can't go into someone's backyard and arbitrarily plop down, without any....I mean, it's like (Inaudible. Talking over each other.)

Andy Easley: No, you can, because it's—

Bill Jeffers: How? You have to go to court and get eminent domain.

Rick Broerman: There's a debris, I mean, there's a retention basin drainage—

Bill Jeffers: Well, this is the state of Indiana. This isn't Checheznia, you know.

Andy Easley: There's a retention basin and a drainage easement, and this is a necessary improvement that (Inaudible. Someone coughing.) After the thing, phase one was built, we decided that we needed this protection for these structures. I mean, sometimes you guys add guardrails to places that you hadn't really thought about guardrails.

Bill Jeffers: In right-of-way.

Andy Easley: And you may do things to bridges. Yes, I understand.

Bill Jeffers: In roadway right-of-way.

Andy Easley: But, it is a county drainage easement. It is a county drainage easement.

Bill Jeffers: It remains private property.

President Mosby: Is this easement accessible with vehicles and backhoes?

Rick Broerman: Yes.

Bill Jeffers: Yes.

Andy Easley: Yes.

Rick Broerman: But, Bill, you're suggesting no debris racks, right?

Bill Jeffers: I said at the very beginning I thought debris racks were a very good idea. But, I don't see how you can go on a person's private....if they had been in the original plan, I would have recommended approval. I believe they're a good idea. We can't go on to private property, after you've sold it to someone else, and plop one down. Just like...do you want one in your backyard? We'll be happy to come build one, Rick. Do you want one today?

Rick Broerman: No. What I'm saying is that you're saying no debris racks, so then the plan is, we're going to just leave it like it is. Because it does work.

Bill Jeffers: It does work.

Rick Broerman: Okay. Let's quit.

Bill Jeffers: Because there's an emergency overflow.

Rick Broerman: That's where we are. Let's quit.

Andy Easley: When the outlet pipe gets choked—

Rick Broerman: Why don't you be quiet.

Bill Jeffers: Andy, don't we design the emergency overflow to carry the entire 100 year flow, as if the pipe is plugged.

Andy Easley: That's right.

Bill Jeffers: Okay.

Andy Easley: And without the debris rack it will get plugged.

Bill Jeffers: And the 100 year overflow will be carried through the earthen overflow, correct? If your design calculations are correct.

Andy Easley: If you plug it up it will become a pond, and the beavers, and the frogs will—

Bill Jeffers: And I assume that you also followed the ordinance instructions to record covenants and restrictions that make the private property owner, who has the plug piped on his property, responsible for cleaning it out. You didn't record those?

Rick Broerman: I didn't do covenants and restrictions.

Bill Jeffers: You didn't do covenants and restrictions?



Rick Broerman: I sold the lots to Jagoe. Jagoe sold the lots to individuals. There are covenants and restrictions, but I don't know what they are.

Bill Jeffers: Okay, well, our ordinance requires covenants and restrictions that notifies the property owner that he has to maintain the pipe, free of debris. Okay? It goes on the plat. It goes in the covenants and restrictions that's recorded in the Recorder's office. If the pipe fails, that's what the \$2 per foot is, if the pipe fails and collapses, the county has an escrow account to go in and repair it.

Commissioner Mourdock: I want to be sure I understand it, Bill and Rick. If we don't do debris racks, if we stop right now, and if, and I understand it's an unknown, but if Jagoe did put in the sufficient covenants and restrictions that the property owner take care of those pipes, are we, meaning the county in that situation, not home free? If those covenants and restrictions are there? The question that Andy's raised, who's going to clean it out, is already resolved.

Bill Jeffers: Yes. That's correct.

Commissioner Mourdock: Okay.

Bill Jeffers: In my mind it's correct.

Commissioner Mourdock: Yeah, if the stuff exists, which I'm not convinced those covenants and restrictions are there, but if they are there.

John Stoll: (Inaudible. Away from mike.)

Commissioner Mourdock: I'm sorry.

John Stoll: It is on the plat.

Commissioner Mourdock: That the owners maintain those pipes?

John Stoll: Like Bill said, it says individual lot owners shall be responsible, including financially, for maintaining that part of the storm water drainage system, in it's easements which exists on his or her property, in proper working order, including, and then on item number five it says preventing all persons or parties from causing any unauthorized alterations, obstructions, or detrimental actions from occurring to any part of the storm water drainage system in easements within or attached to this subdivision. So, there is that statement, but I doubt the property owners ever see the plat, like we typically run into, but it is on there.

Commissioner Mourdock: That's there obligation.

Rick Broerman: But, when a person buys that lot, they bought what was on the plat.

Commissioner Mourdock: That's right. That's the (Inaudible), yeah.

Bill Jeffers: They actually sign a document at the bank that says by accepting this deed—

Commissioner Mourdock: Right.

Bill Jeffers: –in conveyance, I hereby accept all covenants and restrictions applicable thereto, etcetera.

Commissioner Mourdock: So, if, in fact, that issue has just been resolved, is the only outstanding issue whether or not the pipe is adequately done by manufacturing standards? Is that the only argument left? In other words, how much cover is on the pipe?

John Stoll: That and the completion of all the drainage facilities according to the original plans. Like the large ditch on the south side that's still a mess.

Commissioner Mourdock: Upstream of the pipe.

John Stoll: Yes, and also the spillway doesn't have stable grass cover throughout it's entire bank. So, there is other issues that are out there as far as finishing the original plan, in addition to that 24" pipe.

Rick Broerman: But, those are readily fixable. Right, John?

Commissioner Mourdock: If they are attended to, I guess.

John Stoll: Right.

Bill Jeffers: If they are attended to during grass growing season.

John Stoll: Right, we're too late again. So, it's going to continue to erode again, and get worse until next spring. Hopefully, something will be done next spring, but that remains to be seen. One other thing too, I know Andy talked about his calculations of the 24" pipe, if the 24" pipe is allowed to remain, I don't believe they ever cut that spillway in across the top of it. Because your calculations indicated that there needed to be a spillway in order to handle the 100 year flood.

Andy Easley: No, I measured that, and that's what, that is there. That's existing.

John Stoll: Okay. I stand corrected. I thought the thing, the spillway had to be cut in.

Andy Easley: No. No.

John Stoll: Okay.

President Mosby: So, let me see what I gather here. Do we take this under advisement until the punch list is completed completely?

Commissioner Mourdock: My suggestion would be we take it under advisement until next month to get a report back on whether or not the covenants and restrictions were properly documented when Jagoe sold those lots. Although, again, I guess, based on the argument that it's on the plat, that one's pretty well resolved. Then also have a full plan put together to deal with, as you call it, the punch list issues.

President Mosby: Okay. I have a motion by Councilman Mourdock.

Rick Broerman: Can I ask, what about the 24" pipe? Won't we need a decision somewhere?

President Mosby: I'm going to wait.

Rick Broerman: We've been waiting for that since last spring. We would have done that work.

President Mosby: My vote is going to be based on the recommendation that I get back from the Surveyor and the Engineer on the punch list.

Rick Broerman: I think they've already made their recommendations. Haven't you?

Commissioner Fanello: I don't see a recommendation on here on the pipe.

Commissioner Mourdock: Basically, not to take.

Commissioner Fanello: Okay.

Commissioner Mourdock: Or not to have it assigned to us.

John Stoll: Yeah, my recommendation is—

Commissioner Fanello: Okay.

John Stoll: —if the pipe is allowed to remain, that it be the homeowner's responsibility, not Vanderburgh County's.

Commissioner Fanello: Okay.

John Stoll: Because, like I said earlier, I would suspect that if we get excessive rains, like we had in the spring, we've seen quite a bit of the cover on one end of it already washed away. I think that will continue to happen. I don't think Vanderburgh County should be obligated to go out and replace that pipe.

Rick Broerman: I don't have the guts to go ask a homeowner to maintain that pipe. So, it's a dead issue. We have to take the pipe out, right?

John Stoll: Well, what provision was made when it was put in? Because, it obviously was put in after the erosion problem was started. So, somewhere, somebody should have said something. I mean—

Rick Broerman: Well—

John Stoll: —what was set up originally?

Andy Easley: Jagoe put it, Jagoe installed it. I can go contact the homeowner, and see...I'm sure he doesn't want it removed, because it would make a canyon again, and maybe he can agree to maintain the pipe and the debris rack. That would help solve one problem. I think that he would be very foolish if he said to remove the pipe.

John Stoll: (Inaudible. Not at mike.)

Andy Easley: Huh?

John Stoll: Tell him his other option is that we would move it.

Andy Easley: Okay, alright, I'll do that. So, the, and maybe we can, I can talk to a couple of people about what they feel about having debris racks in their backyards. See if, maybe, they would agree to give them some cursory maintenance.

President Mosby: Okay, I have a motion by, excuse me, a motion by Commissioner Mourdock to take under advisement.

Commissioner Fanello: And I'll second the motion.

President Mosby: And a second. So ordered.

Commissioner Mourdock: And about two hours ago you had asked me if I wanted to defer one of my motions, and I wish we could have deferred this one until January.

Bill Jeffers: That's easy enough.

Commissioner Mourdock: I would have traded you because we only have one more meeting.

President Mosby: I'm not sure if Stan wanted to deal with it.

Andy Easley: Thank you very much for listening to all this.

Commissioner Fanello: Thank you, Andy.

President Mosby: Thank you.

Bill Jeffers: You can make the new guy on the Council the President, or the new guy on the Commission the President of Drainage Board.

President Mosby: That would be mean.

#### **Report of McCutchanville Court**

Bill Jeffers: Okay. There have been some things that have happened in McCutchanville Court over the weekend that indicate they have altered the outlet structure, and I would like to move that report forward one month.

Commissioner Mourdock: So moved.

Commissioner Fanello: Okay. Second.

President Mosby: So ordered.

#### **Flood Plain Maps**

Bill Jeffers: We're making progress on the flood plain maps. I would like to move that forward one month, when I have something more concrete to tell you.

Commissioner Fanello: Can I, I have one question on that, because the Commissioners approved some funding. Is this what we're talking about—

Bill Jeffers: Right.

Commissioner Fanello: So, do we have all the funding from all the sources in place?

Bill Jeffers: I don't know, I don't know if there's adequate, but what we're trying to do is minimize the field work that is going to be done. We're trying to target certain areas—

Commissioner Fanello: Okay.

Bill Jeffers: —and minimize it until we find out whether we have sufficient funding.

Commissioner Fanello: Okay.

Bill Jeffers: Do we have any other news on that, John?

John Stoll: Yeah, I spoke to Roger Lehman this afternoon. He said that he was talking with the city either tomorrow or Wednesday to find out what funding they would put towards this. So, Roger is continuing to work on that.

Commissioner Fanello: Okay.

John Stoll: Once they get that resolved, and when there are some agreements I can bring it to a Commissioners meeting.

Commissioner Fanello: Alright. Thank you.

Bill Jeffers: Now, this is a cooperative, private sector, public sector—

Commissioner Fanello: Right.

Bill Jeffers: —project. Really a lot of credit goes to the private sector, who has extended their offer of expertise, and some part of the funding possibly from individual developers. It's being coordinated by the Building Commissioner in the public end of it.

Commissioner Fanello: Okay.

Bill Jeffers: The County Surveyor is providing personnel and facilities, but a great deal of the credit should go to the private sector for initiating, and helping to fund and man this project. It is moving forward very quickly, and we do expect good results, but as far as a concrete report, I think I would rather wait till next month when I have something definite to report.

Commissioner Fanello: Okay.

<b>Ditch Maintenance Claims</b>
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Bill Jeffers: Ditch maintenance claims all are in order, signed, with the appropriate paperwork attached, and the County Surveyor recommends approval of the ditch maintenance claims.

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: So ordered.

<b>Other Persons Wishing to Address the Board</b>
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Bill Jeffers: Unless there is other persons wishing to address the board, the County Surveyor is finished.

Commissioner Mourdock: Seeing none, I'll move, motion to adjourn.

Commissioner Fanello: Second.

President Mosby: So ordered.

The meeting was adjourned at 7:56 p.m.

**Those in Attendance:**

David W. Mosby	Catherine Fanello	Richard E. Mourdock
Kevin Winternheimer	Bill Jeffers	Madelyn Grayson
John Stoll	David Georgesen	Henry Schlensker
Bob Wheeler	Lynne Wheeler	Leland Fehd
Nathan Waggner	Rick Broerman	Andy Easley
Shirley Melton	Others Unidentified	Members of Media

**VANDEBURGH COUNTY  
DRAINAGE BOARD**

\_\_\_\_\_  
**David W. Mosby, President**

\_\_\_\_\_  
**Catherine Fanello, Vice President**

\_\_\_\_\_  
**Richard E. Mourdock, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
NOVEMBER 25, 2002**

The Vanderburgh County Drainage Board met in session this 25<sup>th</sup> day of November, 2002 at 6:46 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

**Call to Order**

President Mosby: I would like to call to order the Drainage Board meeting of November 25, 2002. Do I have a motion to approve the minutes?

Commissioner Fanello: So moved.

Commissioner Mourdock: Second.

President Mosby: So ordered

**Eidson/Ponder Petition**

President Mosby: Hearing on the Edison/Ponder petition. Is there anybody here that would like to speak to that?

(Inaudible)

Bill Jeffers: Okay, this is the Eidson petition hearing. The petition reads as follows;

“To the County Commissioners, I am writing to request that the obstructions of the flow of water at 662 Audubon Drive, which is the property adjacent and north of my property, be removed in order that the water following rains may drain off as designed. One of the obstructions is wire fencing that has been attached to the bottom of a wood fence over the ditch. Dirt, twigs, leaves, mulch, aluminum cans and other assorted other items lodge up against this fencing creating a dam effect. Because the water stands in the ditch for so long it can be weeks before I can even attempt to shovel it out and at times it has been so thick and damp that it is physically impossible for me to do this creating a snowball effect. Large rocks placed in the ditch and in front of the hole in the fence also obstruct the flow of water. The water can cover as much as half of my backyard this past fall and winter would stand for weeks at a time. The water stagnates and attracts mosquitoes and other insects creating a health hazard. I am unable to mow the grass in and next to the ditch at these wet times and weeds accumulate. I feel this problem has devalued my property a great deal. Sincerely, Linda Eidson, Homeowner, 666 Audubon Drive.”

That letter was received in September by the Board. Also, the second petitioner, to the County Commissioners;

“The Alice Stephans property has filled the ditch with large rocks, put a two by four at the bottom of the fence and put a half inch wire across both sides of the property, completely closing off the ditch. Before when we had a heavy rain, the water would run off in two to three hours, and now it takes days, sometimes a week. The last 15 inches or so doesn’t seep in, it stands and stagnates, creating a perfect

breeding ground for mosquitoes. It is not by our choice, but our backyard is useless, and the grandchildren have not been able to play out there all summer for the mosquitoes. When I mow, I get bit several times. When it is wet weather, I can't even mow, I have to weed-eat as I can't get a mower within 3' of the ditch. Kevin Smith has filled his ditch with rock also, but he is willing to lower his, or do whatever the engineers say. He has not closed it off, but the rocks do raise the level that the water has to run over. All we are asking for is to get the ditch so we all have the water run off. Thank you, Milt and Mary Jo Ponder.

I believe they live at 670 Audubon Drive. That is the two petitioners that did submit and are the owners of 666 and 670 Audubon Drive, respectfully. They are the petitioners. The respondent is Wayne C. and Alice M. Stephan at 662 Audubon Drive in Evansville, Indiana. The petitioner alleges an obstruction of a legal drain along the rear end of the properties due to a fence installed by the respondent. The fence is along the south line of 662 Audubon Drive. It does cross the drain. It does have a wire mesh installed below the fence that has caught leaves and debris, and there is rip rap found in the respondents portion of the drain, which to some extent can impede the flow of the water. Additionally viewed as a potential obstruction or a raised grate of the drain from where the rip rap is lying and a foot bridge crossing is partially blocking the drain. Also, at 658, there is a wood bored fence along the north line of the respondents line of property also crosses the drain and wire mesh fencing along the bottom of the fence. All of these items can potentially (Inaudible) somewhat. Pictures taken this morning, November 25, 2002, show that the mesh wire has been removed from under the wood board fence along the south line of the respondent's property and some of the stone lining channel has been cleaned up. However, years of severely impeded flow has resulted in substantial quantity of debris piled against the upstream side of the fence (Inaudible), along the fence itself, continue to impede the full capacity flow of this drain. The third picture is, I think, taken (Inaudible), and shows the water can get under the fence now, but not at it's full capacity. The bottom line is the drain is not operating at full, potential capacity. Debris remains collected against the south fence. Conditions also remain, and most likely (Inaudible) during heavy rains in the future. The next picture shows stone lining the ditch in the rear of the yard of 658, owned by the Stephans'. It does show that it was, has been recently cleaned up. It also shows the (Inaudible), and the fence along the north line. In the last picture that he submitted just shows some debris that Ms. Eidson refers to the debris she had to shovel out of the ditch over a period of time (Inaudible) to some degree. The board may wish to hear comments from the petitioners and the respondents at this time. All the petitioners are in the audience, and the respondent is also in the audience, and has a representative (Inaudible). Here's....I'll also pass an aerial photograph down the line to show you the relative locations of the addresses. 666 is the petitioner. 670 is the petitioner, and 658 is the respondent.

President Mosby: First, questions by any member of the board? Seeing none. Would the petitioners like to speak?

Unidentified: (Inaudible. Not at the mike.)

President Mosby: You'll have to come forward to the mike and state your name.

Milt Ponder: On September the 9<sup>th</sup>, she took the wire out from under—

Commissioner Mourdock: I'm sorry, sir, would you state your name?



Milt Ponder: Yeah, Milt Ponder.

Commissioner Mourdock: Okay. Thank you.

Milt Ponder: After she received the letter, they did take the string wire, half inch wire out from under our side, but she's still got a two by four on the bottom of the half inch on the other side. (Inaudible) stop it up over there on the back side.

President Mosby: Okay.

Milt Ponder: So, they just really moved the problem 60' down from me.

President Mosby: Okay. Is there any questions by any member of the board? Thank you. Did anybody else want to say anything?

Krista Lockyear: Members of the Commission, my name is Krista Lockyear. I'm here tonight on behalf of Alice Stephan. With me is her daughter Ruth Ann Adams. I guess just a little history to, excuse me, clarify where we're at. Mr. Stephan passed away in 1994, so, Alice is the only homeowner. She is elderly, and having quite a bit of difficulty functioning on her own. Her son has recently moved in with her to assist her with her circumstances. The fence that, the privacy fence that's on the property has been there for greater than 24 years. Since the Stephan's moved on to the property. It's my understanding that there's always been somewhat of a problem with drainage through this ditch. It's never, during heavy rains, it's never been adequate to handle all the water. The Stephan's have had the same back up of water problem that the petitioners submit to you; standing water, mosquito problems in their yard, mud, in fact, you see the wood fence that was built across the drainage ditch, which was in an effort to get them to the back portion of the property so they could mow back there, etcetera. The rip rap that is in the ditch has also been there since they've moved into the property. Only recently, with the addition of the mesh fencing underneath that privacy fence have the water problems up stream become exacerbated, due to, possibly, some things that my clients have done. They are perfectly willing to take down the mesh fencing. It was put there to keep animals out of their property. Trash also blows under that fence from their neighbors yard into their yard, and it was really not knowing that it would cause water problems, and effort to keep their yard more tidy, and keep animals out, and their animals in. They are willing to remove that wire mesh, and also willing to remove any of the boulders that might be obstructing underneath the fence there on the north, I guess, it's the southern, upstream property line, where it has narrowed the course of the waterway. I think there are two or three boulders there that need removed. The rest of the rip rap, I think, you can see from the pictures have really moved down, and are pretty much covered with dirt now. Any obstruction that is in there, they are willing to clean out.

President Mosby: Is there any questions?

Commissioner Mourdock: I guess I'll just ask the Surveyor, if the respondent deals with this, as Ms. Lockyear just said, does this issue go away, Bill, as far as any problems that you see out there?

Bill Jeffers: I viewed this property about a month ago. I viewed it again this morning, and there's a significant improvement between the two viewings. The removal of the wire mesh definitely allows the water to pass under the fence during regular rainfall. There definitely was evidence that some of the rip rap that previously blocked the

ditch has been taken out of the channel. There is one piece you see that's fallen back into the channel, and that's the one with all the rip rap. It tends to roll around from time to time, and then some of it may periodically roll back into the ditch and have to be pulled out. Right now, during normal rainfalls, I don't think there's a serious problem of significant impediment of the flow of water. But, during heavy spring storms there's still some debris piled up against the fence. There's the issue of the board bridge crossing down there that's actually down in the channel, it should be raised up so that the lowest board, the support board that goes across that ditch, is up higher than the top of the bank. So, that would allow more water to pass underneath that bridge (Inaudible). As Mr. Ponder pointed out, there is still the wire fencing underneath the north (Inaudible) fence that might collect debris, and cause water to back up on the Stephens property, as well to the petitioner. Other than that, the only thing I see is that this has been going on for so long that Mrs. Eidson, the elevation of Mrs. Eidson's yard, because of everything that's been backed up on her over this long period of time, is at least 6" higher on her side of the fence than it is on the Stephan side of the fence. That's evidence that during high rainfall in the past, debris has collected there and built up. Then when she goes out there and tries to shovel it out, that's adding to the debris pile. When you restore the full flow of that ditch, that board fence maybe the bottom 6" or 8" should be sawed off from it. I mean, it's down in the ditch. It's down in the cross section of the ditch. I would say at the time (Inaudible), you would have to monitor that flow line in that ditch to make sure there's a straight grade that carries the water all the way across the Stephan's property without it (Inaudible) up. Today, and I don't know when the last time it rained, what, a Saturday or two ago? It's all drained off or seeped into the ground, but I would say that during a heavy rainy season, you may still see the problem. This board one time had a problem very similar to this, and rather than make a rash decision that might cost a lot of ill spent money, or needlessly spent money of (Inaudible) out a huge ditch in a (Inaudible) backyard, what they did was they asked each homeowner to do their part to clean it all out now, as they best they thought the cause (Inaudible) impede the flow of water, and then have the Surveyor go back out in the spring, in the rainy season, and check to see if it was still working properly. (Inaudible) in the past did that, and we went back out in April, and said (Inaudible). They could sit here right now and still say there's a significant impediment of water. In the one case similar to that it cost about \$8,000 to bring a Bobcat into someone's backyard that has already been built up. (Inaudible) your backyard to do all this work. I'm not sure, most of that was re-landscaped. It wasn't actually drainage work, it was work to re-landscape after a couple hundred dollars worth of drainage work was done.

Krista Lockyear: We don't have much landscaping back there. It's cleaning out the ditch and removing the remaining boulders that might obstruct the flow—

Bill Jeffers: That's right.

Krista Lockyear: —would be pretty easy to do.

Bill Jeffers: Then you raise the bridge up a good 6" or 8", get it up out of the ditch, and take that wire out. Is there a problem with the next fella up? Does he have an animal that could come under your fence?

Krista Lockyear: He does, but there's rebar there.

Unidentified: (Inaudible. Not at mike.) There's rebar on his side of the (Inaudible).

Bill Jeffers: That (Inaudible) his dog out.

Krista Lockyear: Yeah, I've got a picture that may show the rebar there. Just to be clear that the rebar was put in by the neighbor on the other side to keep the dog within his fence. I guess, given the fact that Stephans have had a drainage problem there in that yard since the day they moved in, we really don't feel that the privacy fence has all of a sudden caused the back up (Inaudible). My understanding is that a lot of those neighbors down through there, that that drain just isn't adequate to handle the heavy rainfalls. It's an older subdivision, but we certainly understand that everybody should do their part, and are willing to clean out the portion that runs through our property.

Commissioner Mourdock: With that being the magic words, and I've seen several heads nodding in agreement, I just want to see if we have any points of contention left here. It sounds to me like you're saying, on behalf of your client, that you, the several things that the Surveyor has suggested, you are willing to do?

Krista Lockyear: With the exception, I would like to try to not to have to cut the privacy fence, at this point.

Commissioner Mourdock: Cut the bottom part of the fence—

Krista Lockyear: Right. Right.

Commissioner Mourdock: —as he has suggested.

Krista Lockyear: Since it's been there for 20 years, I don't really, we don't really think that that's a significant amount of the problem.

Commissioner Mourdock: Okay.

Krista Lockyear: But, we are willing to remove the other obstructions.

Commissioner Mourdock: Let me do this then by way of a motion. I'll move that we effectively defer ruling on this petition, given the statement of intent of the respondent to try to go ahead and make the necessary changes, and then schedule for next April or May, some time after we get some more rain, and have the County Surveyor revisit it and see if it needs further determination at that time.

Commissioner Fanello: I'll second.

Bill Jeffers: You might want to take comments (Inaudible). I see a hand up.

Commissioner Fanello: Go ahead.

Commissioner Mourdock: You need—

Mary Jo Ponder: My name is Mary Jo Ponder. I live at 670 Audubon Drive. On the south side of our property, the guy that lived there when we bought the house, built the fence, and he cut out about a probably a foot high spot over the ditch. It hasn't hurt our privacy any, and the water flows freely under there at all times. No matter how high the water get, it flows freely through there.

Bill Jeffers: I made that suggestion, there, I think there's two things we have to consider here before a vote is taken. The fence, obviously, was put in before the law took effect. The law took effect, this statute that we're operating under took effect July 1, 1996, and it says that if someone, if a property owner intentionally created an obstruction, this board could order the removal of it at that property owners expense. So, in other words, if the Stephan property, if what's there now was intentionally done, and it does significantly impede water, including the fence, it can be ordered to be removed, or altered at the property owners expense. Our board would probably ask of the attorney that anything that was done prior to the statute being enacted, could that be considered intentional? Because no definition of intentional, no definition (Inaudible) on existed prior to the enactment of that legislation. So, then it would fall back, and it would be a joint effort where everyone would have to pay for their share, if it couldn't be determined to be intentional. That word intentional is a key word. That's why we like to go slow on some of the issues where these intentions can't be legally determined to exist. So, all of you would have to chip in, and it would create a neighborhood situation. It might not (Inaudible) as friendly as we would like to see it. The other thing that we need to consider before they vote on this, is this build up of material on Ms. Eidson's side of the fence because the fence is there. Anytime you put an obstacle in the way of water, that water will drop it's load or the debris, because it's slowed down, and there it dropped. You can see from these pictures how that happens. Would, and I would ask Ms. Lockyear, does her clients good intentions include helping remove some of that debris? If some of that debris were moved, that ditch would be wider, and the fence wouldn't look like it's down in the ditch so much. You know, you've seen that (Inaudible).

Mary Jo Ponder: Well, I'm sure the fence wasn't built down in the ground.

Bill Jeffers: No, the fence was originally built above the ground.

Mary Jo Ponder: Right.

Bill Jeffers: But, the ground has grown up because of the debris that has collected there. On the Stephan side of the fence, the ground is much lower. If that was restored on the Eidson side of the fence, I believe the water would pass underneath there without cutting the fence. But, there's a good cubic yard of debris back there that has to be removed.

Mary Jo Ponder: Oh, absolutely.

Bill Jeffers: That's takes manual labor, and then you have to haul it to the dump and dispose of it. So, I mean, you know, we're talking dollars.

Unidentified: (Inaudible. Not at mike.)

Bill Jeffers: All...everything must be recorded on the microphone, and especially during a hearing like this.

Linda Eidson: My name is Linda Eidson. That's what I was wondering, even before you said that. I don't mind having, I mean, because something does need to be done with all that debris. At this point, to do that, it just seems like it would collect again. I mean, am I right on that?

Bill Jeffers: I really believe that screen wire is what slowed it down.

Linda Eidson: Well, no, and that has helped, I mean, even the first rain, it wasn't as heavy a rain, and that definitely did.

Bill Jeffers: Yes, ma'am.

Linda Eidson: But, I mean, I guess, I just don't know exactly, you know, because there is water that comes in from the back of the property too, from over on like the Plaza Boulevard side.

Bill Jeffers: As long as that ditch were restored to it's original cross section, and that load of debris were taken out of there, I believe that ditch is large enough to handle the water without it slowing down. As long as it doesn't slow down, as long as it doesn't bang up against that fence and slow down, it won't drop the debris like it did when the water was in there.

Linda Eidson: Okay. So, mainly on the side, like over towards the back fence.

Bill Jeffers: Especially on the back side. That's where there's quite a bit of debris.

Linda Eidson: Right.

Bill Jeffers: You know, the side slope to that fence is laid back, just like it does on the Stephan property. Laid back in your yard (Inaudible). It kind of comes to a little bit of a funnel right there before (Inaudible). That's what's slowing it down, and that's why it's dropping all the debris.

Linda Eidson: I mean, I just, I mean, because I agree with what they said. There's always been a problem. I've lived there 13 years, and I don't think this is going to solve it. I mean, that's a whole nother issue.

Bill Jeffers: It will not solve...I mean, that particular subdivision's drainage plan is nearly non-existent. That's not even a drainage easement. That's why it came to you. In other words, this is in the city, and it would have gone to the City Engineer, but that's only a utility easement. At the time that that particular subdivision was platted, they apparently did not include a drainage easement back there.

Linda Eidson: But, the removing the fence has helped. So, I mean, definitely, the fencing under that. So, the few more things may, but, you know, again, I would have the debris, or the dirt and all that hauled off. But, I would like to know what I'm doing is going to help.

Bill Jeffers: If that debris were removed it would help immensely.

Linda Eidson: I mean, and not accumulate right away again. Because that's the problem.

Bill Jeffers: Some leaves might come... you all have got a lot of older trees out there. Now, those leaves are going to go somewhere. You'll have to keep them picked up, but it won't drop all that dirt—

Linda Eidson: I mean, because that comes from way down the subdivision. That's not, I mean, you know, when you talk about trash, that must be coming, because you see cans and stuff that I know doesn't come from their yard. So, that's flowing all the way through, and it was, you know—

Bill Jeffers: It needs to be picked up on a regular basis.

Linda Eidson: Well, but, I mean, I don't think you should have to have trash flowing through your backyard, but, anyway...I mean, I think it's a problem. (Inaudible. Stepped away from mike.)

Commissioner Mourdock: With the comment that it has helped—

Linda Eidson: The removing the fence.

Commissioner Mourdock: Right.

Linda Eidson: That part, yeah, the fencing underneath.

Commissioner Mourdock: And with Ms. Lockyear stating on behalf of her client, the respondent, that these several other things would be taken care of, like cleaning up some of the debris in the actual ditch, that Bill was talking about, I still would put forward my motion, as of a moment ago, that sounds like people are working to try to get this one resolved. We appreciate that. It doesn't mean we're dropping the matter, by any means, the file will remain open, but if we go ahead, if you continue to work on your properties, as everyone has stated here tonight, it sounds like it might be on the way to resolution. If not, certainly, after this winter and spring rains, or even if anything happens in the meantime, the file can be reopened and this board can look at it, so. My motion remains on the floor.

Commissioner Fanello: I will second.

Commissioner Mourdock: She still has another comment.

Commissioner Fanello: Go on.

Mary Jo Ponder: Well, (Inaudible) if the Stephan's clear their lot out, I think it's Kevin Smith on the other, the north side of them...he's got rocks in his ditch. So, wouldn't that back it up then? He said he's willing to do whatever the engineers say needs to be done.

Bill Jeffers: Right. He did say that, and I almost took it for granted that he wasn't being targeted by the petition. I also would encourage all of Ms. Lockyear's clients, whoever they may be, the owner, or the owners sons and daughters, or whomever, whoever, to work with that man, because anything in his yard is going to back the water up on you, and what's going to happen is, if he doesn't participate in this, what's happening on Mrs. Eidson's property today, is going to happen on the Stephan property next year.

Unidentified: (Inaudible. Not at mike.)

Bill Jeffers: Right. Our office is willing to work with you on this. I had hoped that the City Engineer would have, but they don't work unless it's a drainage easement. The statute puts you here is operating under, covers all drainage (Inaudible). You guys are free to call our office at any time. I would encourage all four of the property owners to work together, recognizing the debris is out there is not optimum (Inaudible). Anything that you place down in a flat drainage area (Inaudible).

President Mosby: Did you second the motion? There being a motion on the floor, and a second, so ordered. I would encourage everyone to try to work together, and call Bill, if you have a problem.

Bill Jeffers: I think what they're saying is this hearing, basically, is continued until April or May. At that time, if things haven't been resolved, then we might have to take further action. Any time the government gets involved...it just works that way. You know, we have to take bids on contractors and everything. It just works out that way. It would be a lot better if you (Inaudible).

President Mosby: Thank you.

Bill Jeffers: I really don't like to go in (Inaudible), but (Inaudible) is too high.

Commissioner Mourdock: Thank you all.

Commissioner Fanello: Thank you.

President Mosby: Thank you.

<p><b>Report on Order to Remove Obstruction at 2330 Sheridan Road (Jones Property)</b></p>
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President Mosby: Report on order to remove obstruction at 2330 Sheridan Road.

Bill Jeffers: Okay, Richard, thank you.

President Mosby: Thank you.

Bill Jeffers: Thank you. On this was your previous obstruction petition that involves Smith and Jones. The County Surveyor has been unable to provide grade stakes for the respondent. At this time, the respondent remains ill, and unable to address the issue physically, or economically. The respondent did not accept delivery on the official notice that ordered the removal of the obstruction. That was a notice that was sent by the Auditor, and it came back unreceived. The respondent called the Mayor's office from the hospital, pleading their case via that route. There is a statutory provision for completing this work using Ditch General Funds, but then there will be pursuing rebate from the respondent. So, at this time, I would recommend that you direct the Surveyor to continue trying to resolve this issue without bringing in contractual forces (Inaudible).

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: So ordered.

<p><b>Lakeside Commons Subdivision: Preliminary Plan</b></p>
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Bill Jeffers: Lakeside Commons Subdivision, this plan represents the new five lot subdivision, comprising five out lots around the perimeter of the parking lot for the new Schnucks at Greenriver Road and Lynch. The preliminary plan on the table, actually is that part of the final drainage plan for the entire Spurling project, that

coincidentally covers these five lots. The board has already approved that final drainage plan, but now this is a new, technically, a new subdivision before APC. Approval of this plan by the board would satisfy APC's requirement for a drainage plan approval prior to APC subdivision hearing on December 4<sup>th</sup>. The County Surveyor recommends approval of the drainage plan for Lakeside Common Subdivision, and the Surveyor will review each of the lots modified, final plans as they come to the county, via the site review process, as they do for all commercial development.

Commissioner Mourdock: I'll move approval of the preliminary plan for Lakeside Commons.

Commissioner Fanello: Second.

President Mosby: So ordered.

Commissioner Mourdock: Oops, excuse me.

President Mosby: Oops.

Bill Jeffers: This is Matt Wallace, and he's the representative of the development for Morley's office.

Matt Wallace: Some of those lots have already been before site review. If anything needs to be done for those lots that are now under construction that are covered by, that will become lots within this sub, or are we fine with what has been done?

Bill Jeffers: Those lots Mr. Wallace is referring to at this time, got site review approval based on the final drainage plan that this board approved some months ago before being re-configured as an independent subdivision of the Spurling development. I would say, no, they don't have to go through re-approval.

Matt Wallace: Okay.

Bill Jeffers: Any subsequent plans will have to come in as site plans—

Matt Wallace: Okay.

Bill Jeffers: —known as Lakeside Commons Subdivison, Lot Five, or whatever.

Matt Wallace: Okay. Well, that was one of the questions that the developer wanted me to ask, are we fine with everything up to this point.

Bill Jeffers: Up to now, that is correct.

Matt Wallace: Thank you.

President Mosby: Thank you.

Bill Jeffers: Really, this is more or less a paperwork subdivision. Everything has actually been approved so far, except for the out lots that haven't had a site plan developed yet.



**Lot 4: Stanley Acres: 5945 Mesker Park Drive: Withdrawn**

Bill Jeffers: Okay, lot four, Stanley Acres has been withdrawn for this month. Is that correct, Matt?

**Clear Creek, Section Four: Modified Final Plan**

Bill Jeffers: Clear Creek, Section Four, this simply is an as-built drainage plan to show the enclosure of some existing drainage swales needed to dedicate a drainage easement, as required by subdivision code. The swales were located where they are today to preserve a line of trees and other buffer areas that happened to fall in the drainage easement. They kind of act as a sight and sound barrier between this subdivision and the railroad, the (Inaudible) rail lines. So, they simply moved the swales forward. The County Surveyor recommends approval of the modified, final plan as shown in the as-built plans, so long as the easement being recorded by the (Inaudible).

Commissioner Mourdock: So, does that mean contingent upon those easements being recorded, Bill? Is that what you're saying?

Bill Jeffers: I believe Matt has some documents where the subdivision developer, Mr. Sterchi, did dedicate those easements by title to himself, before he built the homes.

Matt Wallace: Yeah, I—

Bill Jeffers: How does that work?

Matt Wallace: —spoke with Brett Sermersheim, the engineer, or the surveyor in our office, and he is unclear how a person can dedicate an easement to himself, without, you know, legally stand as an easement. Like if you have two pieces of property, you have an easement across one, and you acquire them, the easement would go away by merger, but can you dedicate an easement on your property—

Commissioner Mourdock: Sure.

Matt Wallace: —to yourself for that reason. For a drainage easement.

Commissioner Mourdock: Sure.

Matt Wallace: We were, he was not clear on where those easements, about whether do we need to do any further action.

Bill Jeffers: What we have is a situation where everything they've done was done for a good cause, and reflects compliance with the drainage plan, but the subdivision code requires all drainage channels (Inaudible) in the drainage easement. I'm concerned that future owners of each individual lot should benefit by a document that's recorded in the proper place in the Recorder's office, where an abstractor picks it up and shows where (Inaudible).

Matt Wallace: Then, do we need to prepare a new instrument to grant an easement from the property owner to the county as a drainage easement?

Bill Jeffers: Oh, that's the issue. Okay.

Matt Wallace: That was—

Bill Jeffers: Kevin, what he's asking here, I think, is the discussion we had last week, including myself and Matt, the county doesn't maintain drainage easements. The property owner remains responsible for the maintenance of the drainage easement of the open channel. The county will only come in if there's a pipe involved. (Inaudible). To whom do they dedicate an easement? This would be the same as if it were on a plat. A drainage easement on a plat, does that automatically dedicate...I thought it was for common use of all the property owners just along (Inaudible), common usage.

Kevin Winternheimer: That's a good one.

Matt Wallace: We have a few of them that, I mean, that's granted to the public, some granted to the county—

Commissioner Mourdock: Or to the Vanderburgh County Drainage Board.

Matt Wallace: Yeah.

Bill Jeffers: But, does that, does that imply that the Vanderburgh County Drainage Board is going to be the one doing the, exercising the control, oversight control, or would they actually be doing the maintenance (Inaudible)?

Commissioner Mourdock: I don't, I mean, Kevin's the attorney, but, I don't think it necessarily implies that you're going to be doing the maintenance.

Kevin Winternheimer: That's right. I would have to give that some thought. Generally—

Commissioner Mourdock: It implies you have the right.

Kevin Winternheimer: —because, just thinking off the top of my head, I'm afraid that dedicating it to the county, the assumption is going to be the county is going to maintain it. He's saying that's not what we want to do here. Do you need an answer now? I would like to give this some thought, because there's some ramifications to this?

Commissioner Mourdock: Oh, absolutely.

Bill Jeffers: Yeah, do we have a meeting in December, do we?

Kevin Winternheimer: Yes.

Bill Jeffers: Okay. The reason I have a problem with that is because, at least on the plat, now an easement is dedicated on the plat, on the same document, it also says on the plat what the homeowner's responsibilities are, word for word, in a little notice over there on the side, exactly what the homeowner is responsible for, and exactly what the county is responsible for.

Matt Wallace: Okay.

Bill Jeffers: So, when they see these on their property, and they look over there on the plat, they know what they've got to do.

Matt Wallace: Yes.

Bill Jeffers: Now, we're asking for a dedication after the plat, and how are they going to know, for sure (Inaudible)--

Commissioner Mourdock: Let me just--

Bill Jeffers: Would this hurt if we deferred it for another month, Matt?

Matt Wallace: I don't believe so.

Commissioner Mourdock: I mean, basically, we're accepting as-builts here, right?

Matt Wallace: Yes.

Commissioner Mourdock: It weren't as if...nothing was pending.

Matt Wallace: We're just asking the question, does the easement that has been granted, is it adequate to serve your purpose?

Kevin Winterheimer: The easement that's been granted is to whom?

Commissioner Mourdock: Yeah.

Matt Wallace: The property owner granted it to himself.

Kevin Winterheimer: To himself. Somehow I don't like that.

Commissioner Mourdock: But, I mean--

Kevin Winterheimer: (Inaudible) stated.

Commissioner Mourdock: Yeah, but he raised the question earlier, could he do it? He can do--

Kevin Winterheimer: Yeah.

Commissioner Mourdock: --but--

Kevin Winterheimer: But, I don't know whether (Inaudible)

Matt Wallace: That was our, basically, we could grant, I could grant my property to the county as right-of-way, that doesn't you won't maintain my property, or build a road on it.

Commissioner Mourdock: Right-of-way is different than easement, though. Let's not go there.

Matt Wallace: The issue of easements to a particular person who owns the property, if he sells it, will the easement go away. Brett had some questions about this one.

Bill Jeffers: We're just looking for a document that will carry the chain of title (Inaudible) no questions in the person's mind when they buy that house (Inaudible) lending institutions, that they were thinking of who's responsibility was it?

Commissioner Mourdock: I'm amazed this one hasn't come up before. I don't recall this one coming up before.

Bill Jeffers: What we did the last time it came up was we notified everyone of the property owners that was involved. It was out there at the golf development—

Commissioner Mourdock: Off Old Petersburg...oh, okay.

Bill Jeffers: —and we set a hearing, and Sitecon came up with some kind of recordable document.

Commissioner Mourdock: Okay.

Bill Jeffers: So—

Commissioner Mourdock: So, there's a place to look to at least see who they dedicated that one to. Okay, well, just for the record, I'll move deferral of Clear Creek, Section Four.

Commissioner Fanello: Second.

President Mosby: So ordered.

#### **Ditch Maintenance Claims**

Bill Jeffers: Okay, I've got some ditch maintenance claims, a pile of them. They are all in order. They are all accompanied by the required paperwork, and they all have signatures. The County Surveyor recommends payments of these ditch, of these claims for ditch maintenance work performed by various vendors as documented in the year 2002.

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

Commissioner Fanello: Second.

President Mosby: So ordered.

#### **Documents for Recording Relaxed Drainage Rights-of-Way: Premiere Properties & Hudson Hyundai**

Bill Jeffers: Next item, we have two documents that they need to record, if you sign them. Both for relaxed ditch rights-of-way. One is for Premiere Properties, that the (Inaudible) before the board, has already relaxed Bonnie View Ditch, and Crawford Brandeis Ditch to the minimum relaxation width, as shown on the documents that Mr. Matt Wallace has with him. The other is for Hudson Hyundai, it is the original document, a copy of which the board already approved and signed a few months ago. But, this is the original copy that has to be recorded, because it's in better form. Sir, I believe you also have checks for the recording fees with those.

Matt Wallace: I have the recording fee for the Premiere Properties agreement, and the question that I have upon, I did not bring a check for Hudson Hyundai, because the agreement that we have does not have the 2" blank strip at the top, and there was a question of on how many cross references would be required for that agreement. Did we, since Hudson owns that lot, do we want to cross reference their deed and the plat? So, I was concerned to bring a check in the wrong amount, and if we can decide that, I will get a check tomorrow.

Bill Jeffers: Is this board involved in that decision?

Madelyn Grayson: Bill, I checked with the Recorder's office, and the minimal amount required would be \$20. Then it's up to you to decide, it's \$1.00 per reference to be noted, and that decision has to be made by—

Bill Jeffers: By them.

Madelyn Grayson: Right. So, we need at least \$20, and then if you want it referenced to the deed, it's another dollar. Referenced to the plat, it's another dollar.

Matt Wallace: Plus one dollar for every...okay.

Bill Jeffers: But, you have received the check for Premiere Properties?

Madelyn Grayson: Not yet.

Matt Wallace: I have it here.

Bill Jeffers: The County Surveyor recommends that the Premiere Properties document be accepted by this board.

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: So ordered.

Bill Jeffers: And the County Surveyor recommends that the Hudson Hyundai document, which has already been approved, be allowed, that this board allow it to be recorded in the appropriate, when the check for the appropriate amount is received by the Auditor.

Matt Wallace: So, we can bring a check, we would to do it for \$21, and add a cross reference to the deed, which conveyed the property to Hudson, as the owner.

Commissioner Mourdock: Okay, I'll move the approval of the Hudson Hyundai property request, as just stated, with the understanding that your client will be providing the check for 21 bucks.

Matt Wallace: Yes.

Commissioner Fanello: Second.

Matt Wallace: Shall I bring that to your office, or to the Recorder?

Madelyn Grayson: Bring it to room 208. I'll be here all day Tuesday and Wednesday.

Matt Wallace: Room 208.

President Mosby: So ordered.

### Petitions

Bill Jeffers: Are there any new petitions that anyone is aware of that's been filed with this board? Or request to relax rights-of-way, or request to encroach (Inaudible).

Commissioner Mourdock: None that I'm aware of.

### Report on Ashley Place Subdivision Drainage Issue

Bill Jeffers: Okay. With regard to certain requests made by the developer of Ashley Place, and his consulting engineer, which requests were heard by this board on October 28, 2002, the County Surveyor received two phone calls today. I understand the County Engineer received similar phone calls indicating certain dissatisfaction by homeowners to (Inaudible) the ditch (Inaudible), which was the subject of October's discussion. (Inaudible) to address either the County Commissioners or the Drainage Board in the very near future regarding their dissatisfaction with the progress (Inaudible). Just wanted you to know that that's still a hot topic.

### Report on Flood Plain Investigation

Bill Jeffers: Regarding the on-going flood plain investigation, Ms. Fanello asked me for an update. The engineer at Bernardin Lochmueller is still entering data that was collected in the field by Bernardin and an incoming surveyor, and ironing out some bugs in the Harper Ditch computer model. He said we should have a good idea where we are by December 6<sup>th</sup>, which is a week from Friday. Hopefully, we'll be in good shape there, and I have not received an update for the (Inaudible). As soon as I get that update, I'll forward (Inaudible) Fanello. You said we have a December Drainage Board meeting, can you tell us the date for that?

Commissioner Mourdock: That is December 23<sup>rd</sup>.

Madelyn Grayson: December 23<sup>rd</sup>.

Bill Jeffers: That is the fourth Monday. So, it will be the evening (Inaudible).

Commissioner Mourdock: And if you can defer the Ashley Place one to the following month, it would be appreciated.

Commissioner Fanello: (Inaudible) do that again.

Bill Jeffers: Do what?

Commissioner Mourdock: I tried.

Commissioner Fanello: (Inaudible).

Commissioner Mourdock: I tried to get Suzanne to stay tonight, but she wouldn't.

Bill Jeffers: Mr. Mourdock, will you be here in December? At the December meeting?

Commissioner Mourdock: Pardon?

Bill Jeffers: Will you be here at the December meeting?

Commissioner Mourdock: Yes.

President Mosby: Not if he's smart.

Bill Jeffers: I will make my comments (Inaudible). I enjoyed working with you. So, we don't take up any more time tonight. Are there any questions or comments from the board?

<b>Others Wishing to Address the Board</b>
--

Bill Jeffers: Others wishing to address the board? (Inaudible)

Madelyn Grayson: I just have one question. Where is the Premiere document?

Bill Jeffers: He didn't leave it with you?

Commissioner Mourdock: No, that's that right there, isn't it.

Madelyn Grayson: It's the Hudson Hyundai drainage easement encroachment agreement, but wasn't there a relaxation document?

Bill Jeffers: There should be one for whatever Premiere is called. I know they've changed the name, but I think it's still Premiere officially.

Madelyn Grayson: He gave me a check, but no document.

Commissioner Mourdock: It's better than getting it the other way.

Bill Jeffers: Well, you guys approved it, I guess, you can take care of it in the office.

President Mosby: Get the money.

Commissioner Mourdock: So, you're done, Bill?

Bill Jeffers: I'm finished.

Commissioner Mourdock: Motion to adjourn.

Commissioner Fanello: Second.

President Mosby: So ordered.

The meeting was adjourned at 7:35 p.m.

**Those in Attendance:**

David W. Mosby	Catherine Fanello	Richard E. Mourdock
Kevin Winterheimer	Bill Jeffers	Madelyn Grayson
Milt Ponder	Mary Jo Ponder	Linda Eidson
Krista Lockyear	Matt Wallace	Others Unidentified
Members of Media		

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

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**Richard E. Mourdock, Member**

Recorded by Madelyn Grayson. Transcribed by BJ Farrell and Madelyn Grayson.



**VANDEBURGH COUNTY  
DRAINAGE BOARD  
DECEMBER 23, 2002**

The Vanderburgh County Drainage Board met in session this 23<sup>rd</sup> day of December, 2002 at 6:44 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

**Call to Order**

President Mosby: I would like to call to order Vanderburgh County Drainage Board meeting, December 23, 2002.

**Approval of Minutes**

President Mosby: Motion to approve the minutes of the November meeting.

Commissioner Fanello: So moved.

Commissioner Mourdock: Second.

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

**Report on Order to Remove Obstruction: 2330 Sheridan Road (Jones)**

President Mosby: Old Business, report on order to remove obstruction at 2330 Sheridan Road.

Bill Jeffers: This is the same issue as we had last month, where the Jones' did not fully understand the process. I told you that I would get back with you. At that time the Jones' had called from the hospital. Mr. Jones passed away a week ago, and out of respect for the widow, I would say that what we'll probably have to do is take bids from two or three excavators, and perform the work with General Drainage Funds, and work out a payment arrangement with her. Out of respect, I think I'll wait several weeks before I contact her and get on that, if you don't mind. It doesn't seem to be a terrible drainage problem at this time.

Commissioner Mourdock: Since we need some official action for the record, I'll just move that we defer the report on that for one month.

Bill Jeffers: Thank you.

Commissioner Fanello: Second.

President Mosby: So ordered.

**Drainage Plans:  
Cambridge Wood: Modified Final  
Fenway Park: Final  
Windham Hill, Section One: Modified Final  
Crowne Ridge: Final  
Mill Ridge: Preliminary  
Browning Road Estates West, Lot 42: Deny Final Approval**

Bill Jeffers: Drainage plans, Cambridge Wood is a modified final drainage plan, basically, this is a Cambridge Golf Course development. The developer has reduced the size of the lot, so, thereby, increasing the lot numbers. Contemplating smaller homes. The street and drainage facilities are already installed, and there's an overabundance of available detention in the golf course lakes. This is simply a modification of the final drainage plan. The County Surveyor recommends approval.

Commissioner Fanello: So moved.

Commissioner Mourdock: Anyone here to discuss Cambridge Woods, final drainage plan? Seeing none, I'll second the motion.

President Mosby: Motion and a second. So ordered.

Bill Jeffers: Fenway Park is a final drainage plan. The preliminary was approved. The street and drainage facilities are substantially finished. The developer is in the audience if you have any questions of him, but he's working on the final stabilization, and working out a letter of credit to cover any remaining work that might require final stabilization this spring. What you're doing here is just approving his final drainage plan, which was, which is sufficient, in accordance with the ordinance. The County Surveyor recommends approval.

President Mosby: Anyone here to speak to Fenway Park final?

Commissioner Mourdock: Seeing none, I move approval on final for Fenway Park.

Commissioner Fanello: Second.

President Mosby: So ordered.

Bill Jeffers: Windham Hills, Section One has been a much discussed project, I'm sure you're familiar with. The owners to the south had expressed much concern about water coming over on to their property. That's the Haas and Rueger's. So, basically, what's going on there is the developer made adjustments to his drainage plan to capture all the water from his south line, which necessitates a larger drainage easement, and some reconfiguration so that it doesn't interfere with the storm sewer system. I mean, excuse me, the sanitary sewer system. This is only along lots 155, 156, and 157. Basically, it's to realign the ditch to protect the sanitary sewer, and to protect the adjacent property owner's tree line and root zone. Both the developer and his engineer are in the audience if you have any questions. I don't expect any remonstrations, because this is to satisfy the remonstrators. The County Surveyor recommends approval of Windham Hill, Section One, modified final.

Commissioner Fanello: Does anyone have any questions? I'll move approval.

Commissioner Mourdock: On final, I will second.

President Mosby: Motion and a second. So ordered.

Bill Jeffers: Crowne Ridge is a final drainage plan for the subdivision located at Kansas Road and Greenriver Road. There have been previous hearings that drew remonstrators. The final plan was modified slightly from the original plan in that Vectren required a wider work area along their easement fronting on Greenriver

Road, and that kicked the drainage basin a little bit to the west, which placed the drainage basin closer to the back doors of the adjacent homes, so that the 50' clearance between a domicile and a basin is not there any longer. Okay?

Commissioner Mourdock: Is that 50' something that is by ordinance?

Bill Jeffers: 50' is by drainage ordinance, however, on many occasions we've reduced that to 20' or 25', even to a lake, a standing body of water. This happens to be a dry basin. It was originally, we had that 50' separation because it was recommended from somewhere. We have found that that is an archaic separation. As I pointed out the last time, I asked for a relaxation of the 50' to 25'. Bloomington has reduced theirs to either 20' or 25', between a lake and a house. This happens to be a dry basin, so it will only be full of water for 24 or so hours, during heavy rain storms. I don't think it's a safety issue. The developer has agreed to put up some type of fence, at a minimum, a 4' picket fence separating the yard from the basin, for safety. He's agreed to some other improvements above and beyond the requirement; planting vegetation, and other things to delineate the separation, so a person will know that there's a basin there. Even at night time. The rest of his plan substantially conforms to the requirements for a final drainage plan. The County Surveyor recommends approval of Crowne Ridge, final drainage plan, with the provision that the Drainage Board allow for the relaxation of the 50' to that which is shown on the plan. What's the closest you get to the basin?

Unidentified: Maybe 20.

Bill Jeffers: 20'.

Unidentified: Then on that one lot you come in (Inaudible. Not at mike.)

Bill Jeffers: 20' on the back side of the lots. The design engineer is here. The developers are here, and you may want to ask for any comment from the audience before you make your motion.

President Mosby: Are there any questions? Anybody in the audience that would like to speak? Crowne Ridge.

Commissioner Mourdock: Seeing none. I will move approval of the final drainage plan for Crowne Ridge, with the provision that we relax the 50' distance from the domicile to the lake, down to 20', and with the understanding that the developer will be installing at least 4' fences in those areas.

Commissioner Fanello: Second.

President Mosby: Motion and a second. So ordered.

Bill Jeffers: The next plan is Mill Ridge. It's a preliminary plan. It's never been before the board. It's located on Millersburg Road, just east of Greenriver Road. The plan is substantially compliant with the provisions for a preliminary plan, except that it lacks sufficient basin maintenance assignment, in the second phase only. That would be basin number two at the northeast corner. The maintenance responsibility must be resolved before final plan approval. Okay, what's going on here, if you look at the plan, the developer has purchased a certain amount of ground, and is in the process of negotiating for additional ground. At the time he succeeds in negotiating for additional ground, the basin will be moved on to that

additional ground. Okay? At this time he's showing it as Lot A. It's basically a provision for complying with APC's plat requirements that he do it this way. I want the Drainage Board to understand that when, whenever phase two comes in for final platting, he will either have to have made the maintenance responsibility assignment to the adjacent property owners, or to a homeowners association. If you look at the plat you can tell he intends to extend a street through what he's showing is a basin now, and move the basin farther to the east. However, for a preliminary plan, what he's showing will work. It does comply with the requirements for a preliminary plan, in all other respects. The County Surveyor is going to recommend approval, and does recommend approval of the preliminary plan. However, I do know that there are people here to speak to this subdivision.

President Mosby: Do we have a spokesperson? I guess we'll just...I don't have a list, but anybody that wants to speak.

Commissioner Mourdock: Who is here to speak to us about Mill Ridge? If you would, just raise your hands first.

President Mosby: How many we got?

Commissioner Mourdock: Okay, just three or four folks.

President Mosby: Okay, we'll just start right there, and you three can start speaking. In any order. Okay, we have a gentleman over here too.

Commissioner Mourdock: You need to come forward and state your name on the microphone, for the record.

President Mosby: Oh, I'm sorry. They're leaving. They're not coming forward to speak, so.

Bill Jeffers: This meeting is being streamed over the Internet live. Everything you say is heard by whoever may be listening on the Internet. You should identify yourself for the printed record, and keep in mind that people are listening to everything that's being said.

Warren Roettger: My name is Warren Roettger, property owner at 8103 N. Greenriver Road. My concern with the plan is, and I really haven't seen what the drainage plan is. My concern is that drainage on the north side of Millersburg Road, the basin that runs through my yard, and drains that field behind us, which this will be going into, all drains underneath a, approximately 30" tile that goes underneath Millersburg Road. I am concerned that that is not sufficient right now, as it is. If we increase the amount of water going into that, that we'll be the bearer of bad tidings.

Commissioner Mourdock: You live on the north side?

Warren Roettger: Yes, sir.

Commissioner Mourdock: Okay. I'm sorry, I don't have a plat of this, the developer is on the south side?

Bill Jeffers: The developer is also on the north side behind this gentleman, and will be intercepting all the water that comes out of the field that he's currently asking to develop. That water will be intercepted by a shallow ditch that will direct it down to

a basin, that we call a detention basin, at the southwest corner of his lot, right at Milelrsburg Road, at the entrance to this field. The way that they have calculated is that what would normally run off that farm field during a ten year storm, in it's current crop land condition, that's his allowable peak run off for all time in the future. So, the detention basin has to be large enough to capture a 25 year storm, after development, with all the new rooftops, and all the new street surfaces, and hold that quantity of water in that basin, and through a smaller pipe, choke it down and discharge it at the allowable ten year, pre-development rate. So, that should help alleviate some of the lower capacity of the pipe you're speaking of, that is a county maintained pipe that runs under Millersburg Road. If that pipe is currently insufficient to handle the 25 year storm, the County Highway Department is responsible for examining that condition, and determining whether a new pipe would be put in under that county road. This developer's responsibility is to limit the discharge to the allowable ten year rate. He's also intercepting the water that otherwise would come on to your property, and your backyard, and taking that to this detention basin, and slowing it down as well.

Warren Roettger: Would it be possible to get a copy of the plans?

Bill Jeffers: Right now they remain the property of the developer, until they are approved. When they are approved, they will be on...you can get a copy to look at during this meeting, if you would like to.

Commissioner Mourdock: Who is the developer, Bill?

Bill Jeffers: The developer is Scott Railey.

Commissioner Mourdock: Oh, okay.

Bill Jeffers: His design engineer is Lee McClellan. I can show you what they showed me, but in order for you to get a copy of it, it has to become an approved document, and then you could actually get a copy of it.

Commissioner Mourdock: Unless Mr. McClellan and Mr. Railey would prefer, or would choose to give a copy of their document in advance. Which, since this is a preliminary hearing, they may well be willing to do it. I don't know. I don't want—

Bill Jeffers: I'm sure they wouldn't have any problem showing it to you, and explaining it to you—

Commissioner Mourdock: Right.

Bill Jeffers: If you want to, if this has answered everyone else's questions, we could come back to it. We can go on to the next one, and come back to it as they show you—

Commissioner Mourdock: Then as part, as you heard Bill define it, we go through a two part process here. A preliminary hearing, and a final hearing. Yours happens to be the first one before us tonight that's preliminary, but the reason we do that in two steps is so that questions like yours, Mr. Roettger, can be answered with the people who design it. So, we want to use that opportunity to let you meet with them, and find out that your concerns are answered.

Madelyn Grayson: Bill, it may be appropriate that if this is going to be heard final next month, to remind everybody that it will be at 9:00 in the morning on a Tuesday. In January, Drainage Board will be on Tuesday, January 21<sup>st</sup> at 9:00 a.m.

Bill Jeffers: Okay, the final, if this is passed in it's preliminary form, what Madelyn is saying, it will come back, most likely, in it's final form on Tuesday—

Madelyn Grayson: Tuesday, January 21<sup>st</sup>.

Bill Jeffers: —January 21<sup>st</sup> at 9:00 a.m. in the morning. Because that Monday is a holiday that we would normally meet, so it will be heard on Tuesday morning.

President Mosby: Tuesday morning.

Bill Jeffers: And as Mr. Mourdock pointed out, what we do at preliminary is we ask for comments such as yours, and we welcome them, so that if there's some condition that we're unaware of in the field, like this pipe that you're talking about under Millersburg Road, that those things can be examined. If it truly represents a severe restriction, they have to alter their plans to account for that.

Warren Roettger: I'm also concerned about the waterway to the south side of Millersburg Road, before it reaches Greenriver Road. It's pretty congested with saplings. That's another concern that we can't get the water away—

Bill Jeffers: Right.

Warren Roettger: —presently.

Bill Jeffers: The only problem there is that that's on private property that we don't have control over. So, all they can do is examine the waterway, and assign it a volume that it can carry, and then limit their discharge to that volume. We can't forcibly go on to that farmer's ground and clear his ground, under the current laws. All we can do is ask them to design their outlet to discharge what that ditch can take.

Warren Roettger: Thank you.

President Mosby: Are we coming back to this?

Bill Jeffers: Is there anyone else who would like to speak to this one? Or would you all like to talk to Mr. Railey for a few minutes, while we move to the next one?

Unidentified: (Inaudible. Not at mike.)

Bill Jeffers: Okay.

President Mosby: You could use that room right next door, if you want, so that you're not disturbed.

Bill Jeffers: Now, the rest of what we're going to discuss is not going to take very long. You probably should be back here in about ten minutes.

Warren Roettger: Okay.

Bill Jeffers: Browning Road Estates West, Lot 42 is on the agenda to deny final approval, due to lack of sufficient submittals in compliance with preliminary approval by this board on September 23, 2002. The reason for that is that in the minutes we had said that the reason this was up for approval was that the owner of Lot 42 indicated he wanted to acquire a building permit and start construction of his house in October. So, he was on the fast track. We tried to make an arrangement where we approved his preliminary plan at September, which you did, that he would come back and submit, according to the minutes that I hold in front of me of that meeting, he would submit to the Building Commissioner a site grading plan showing how he would grade the site, in the flood plain, to protect his home, and that he would get a building permit from the Commissioner before he came back to us. The Surveyor would then document to the Drainage Board in October that the plan complied. What actually happened was the owner of Lot 42 had a change in plan, and ran into some obstacles in the field that required him to pipe, rather than ditch around the house, and made some other alterations that were above and beyond the County Surveyor's ability to approve, at the desk. So, and subsequently, Friday, after the agenda was printed and published, publicly the owner of Lot 42 came in with a modified plan that was substantially different than the preliminary plan. But, as of today, I am not aware that he's obtained the building permit, or shown a site grading plan to the Building Commissioner for construction of a house in a flood plain. The County Surveyor's recommendation, at this time, is still to deny final approval of the plan that was presented to us in September. But, I do see the owner of Lot 42 in the audience, and he may wish to speak to that.

Ben Kunkel: I'm Ben Kunkel, the owner of Lot 42, that we're speaking about. Yes, all of those things are true. I would like to, I would like to have...the reason, excuse me, the reason I didn't get it going forward earlier, and have all the approval and everything was because my construction got put behind, didn't get the building permits, all that kind of stuff. That's why I didn't submit all of those things earlier, and move forward. So, I've got, I've done all the things that Mr. Jeffers has asked for. I do have now, I do have the building permit. I do have a site grading plan filed with the Building Commissioner. I've done those things. I haven't spoken with him about those yet. I've got that, and then he's also got a plan that, I believe, eventually will be able to work out to be in compliance, fully in compliance with the drainage ordinance. So, I'd ask that, at least, at least allow me to move forward with the construction of the house, which is really not affecting anything to do with the drainage. So, I have secured those permits, and I would like to do that, as we wait for the approval, final approval of the drainage plan.

Commissioner Mourdock: So, you got a building permit before you had the drainage permit, obviously, approved?

Ben Kunkel: Correct.

Commissioner Mourdock: But, you now do have the building permit?

Ben Kunkel: I do have the building permit.

Commissioner Mourdock: Okay. It would seem, Bill and Kevin, correct me. I don't know that we have any other choice here, do we? Other than, I mean, I guess, what I'm hearing is we can take two actions. We could formally deny the preliminary plan that's been brought to you, but more practically speaking, what I think I hear you say, you, Bill, say is you pretty well need to start from scratch. You know, come up with a whole new plan anyway. Is that correct?

Bill Jeffers: He has submitted...I left it at the office. He has submitted an alternate plan. But, I still have some concern about it, because...okay, now he's added more pipe. That addresses some of my concern. He had, he had placed a ditch along the north line of the lot that had 1:1 side slopes, and was adversely affecting the property to the north. Because it would have effectively placed an easement on a piece of property he didn't own.

Commissioner Mourdock: Okay. So, if--

Bill Jeffers: So, now he's put a pipe there. My concern, at this time, is not so much to the alterations he's made to the original plan, as it is to protecting what he shows as quite a large home. Should this pipe system be overcome by a 100 year storm, because it's definitely not large enough to handle a 100 year storm. How is the storm water going to be routed around this rather large home? That's right adjacent to the watercourse? That's why I had asked for a grading plan that I hoped would be sufficient to show, carrying the 100 year flow, around the home, during an extreme situation, without flooding the foundation, flooding the home. Is that a basketball court back there?

Ben Kunkel: Yes.

Bill Jeffers: That's open?

Ben Kunkel: Yes.

Bill Jeffers: So, that's not part of that, that's not an indoor court?

Ben Kunkel: Yeah, no, no. Though I would like that someday, maybe.

Commissioner Mourdock: Okay, well I'll--

Bill Jeffers: And really, I guess, I'm more concerned with acquiring a grading plan that shows safe passage of the most extreme storm, a 100 year storm, around his home. Because he is in a flood plain, and he has, he used to have...basically, he's building the house right over the old creek.

Commissioner Mourdock: From your office's point of view, is there any difference in starting with a new plan, versus denying the preliminary that he's already submitted? Does he have to file a new fee, or anything like that?

Bill Jeffers: No, we don't, we don't charge a fee.

Commissioner Mourdock: Okay.

Bill Jeffers: If you want to go forward the same way you did September with this plan, that's fine with me. Just recognize that this plan is not a plan for an open ditch. This plan is a pipe system around his house.

Commissioner Mourdock: Well, you're our technical expert, so I'll follow your advice here, and I will move that we deny the preliminary plan for Browning Road Estates West, Lot 42, understanding that you've made some progress, doing some things. However, you still need to get with Bill.

Ben Kunkel: Is that going to affect me starting construction on my home?



Bill Jeffers: I really need to sit down with...see, I didn't know you went and got a building permit today.

Ben Kunkel: Oh, I talked to, I'm sorry. When I talked to you on the phone today about that, I thought that's what I was supposed to go do.

Bill Jeffers: Oh, okay. Well, that's fine. It's good that you got a building permit, before you put your foundation in.

Ben Kunkel: Yeah.

Bill Jeffers: Let's go back, if you want to, if it's the pleasure of the board, let's go back to what we did in September. Approve this preliminary plan, with the same assumptions that you approved it in September, that he acquire a building permit, based on a grading plan that sufficiently protects the foundation, and the home, from 100 year flooding.

Commissioner Mourdock: Okay.

Bill Jeffers: And we'll take it from there. There may be some alterations made to this plan to make it conform to the drainage ordinance, but my primary concern is the protection of the house.

Commissioner Mourdock: Alright.

Bill Jeffers: But, I'm talking about like 4:1 side slopes, and easements, blah, blah, blah.

Commissioner Mourdock: Yeah. Okay, well, I'll withdraw my motion of a moment ago that we deny the preliminary plan then. Instead go forward, as the Surveyor has just recommended, with the plan that was put forward for preliminary approval back in September.

Commissioner Fanello: Second.

Ben Kunkel: Thank you.

President Mosby: A motion and a second, so ordered. When does he come back for final?

Bill Jeffers: This means that I have to report to you at your January meeting, that he has met all the criteria. So, this puts him right back in the same boat he was in at the end of the September meeting, with this new plan. Then I will work with Mr. Kunkel, his engineer, and Roger Lehman, and Roger Lehman's assistant, Steve Fuchs, to make sure that everything's copasetic, and report to you, with a recommendation in January. Is that okay, Ben?

Ben Kunkel: That's great. Thank you.

Bill Jeffers: Ditch maintenance claims have the, uh, these are for maintenance done in year 2000 to regulated drains, with the attendant paperwork, etcetera. The recommendation of the County Surveyor is to pay these ditch maintenance claims.

Commissioner Mourdock: So moved.

Commissioner Fanello: Second.

President Mosby: So ordered.

**Signing of Paperwork for Relaxation of Legal Right-of-Entry for  
Crawford Brandeis Ditch & Bonnie View Ditch**

Bill Jeffers: I believe there's a document at the other end of the table for acknowledging relaxed drainage rights-of-way for some projects that's in order, and requires your signatures.

Commissioner Mourdock: I'll move approval of the relaxed drainage right-of-way agreements.

Commissioner Fanello: Second.

President Mosby: So ordered.

**Encroachment Requests and Agreements**

Bill Jeffers: I would also ask Madelyn if she's received any requests for encroachment to rights-of-way and easements for drainage easements.

Madelyn Grayson: No, I have not.

Bill Jeffers: Okay. I was expecting one, but apparently it didn't make it this month.

**Receive Petitions to Remove Obstructions**

Bill Jeffers: And has the Drainage Board received any petitions to remove obstructions? I'm aware of none.

Madelyn Grayson: No.

**Other Persons Wishing to Address the Board**

Bill Jeffers: Are there any other persons wishing to address the board, other than the folks who are still waiting to make comment, or hear answers on Mill Ridge?

Madelyn Grayson: I don't have any comments, I was just going to go get them.

Bill Jeffers: I'll go get them.

Kevin Winternheimer: Have you set the 2003 meeting dates for this meeting? Or do we need to do that?

Commissioner Fanello: That's a good question.

Kevin Winternheimer: I know you're meeting a little differently on the 21<sup>st</sup>.

Commissioner Fanello: I don't know.

President Mosby: (Inaudible. Mike not on.)

Kevin Winternheimer: I need to look through it. I didn't see this before.

Commissioner Fanello: Hey, David—

Commissioner Mosby: When did you stop by?

Commissioner Fanello: The union contract, oh.

Kevin Winternheimer: Did you bring these? I didn't bring them.

Madelyn Grayson: No, they were in the signature file.

Kevin Winternheimer: I don't where they came from. I need to look at one. I haven't looked at it. This is what I was looking for. Remember we were just looking for language that we could put in the other.

Commissioner Mourdock: Are we still rolling? Those of you who were in the other room meeting on Mill Ridge, did you, at least, reach some point of setting a time to discuss your concerns with Mr. McClellan and Mr. Railey?

Warren Roettger: As of right now, I think, we're satisfied.

Commissioner Mourdock: Okay. Well, again, you will have until, at least, next month at the date Madelyn gave, which is when, if everything goes perfectly, that's when that would come back for preliminary approval.

Scott Railey: I don't anticipate being here next month. (Inaudible. Not at mike.)

Commissioner Mourdock: You mean you don't expect to have it ready for final approval? Or you won't be here?

Scott Railey: (Inaudible. Not at mike.)

Madelyn Grayson: Mr. Railey, can you come to the microphone please?

Commissioner Mourdock: Yeah.

Scott Railey: Yes, my name is Scott Railey. I don't, I'm not planning on being in town.

Commissioner Mourdock: Okay.

Scott Railey: So, I doubt if we'll have this before the board for the next meeting.

Commissioner Mourdock: Okay, so your final ,probably, will be in February then, instead of January?

Scott Railey: Yeah.

Commissioner Mourdock: Okay, well, that gives you that much more time to meet.

Unidentified: I mean, we'll be ready from an engineering standpoint, but we need a representative (Inaudible. Not at the mike.)

Commissioner Mourdock: Sure.

Scott Railey: Yeah, I would like to—

Commissioner Mourdock: Okay.

Madelyn Grayson: Just for the record, that meeting is also at 9:00 a.m. on Tuesday morning, because of another holiday. So, it would be Tuesday, February 18<sup>th</sup>.

Scott Railey: In the middle of winter, I don't think it's really going to be —

Commissioner Mourdock: Yeah.

Scott Railey: —something that is going to hurt us, waiting. Okay, thank you.

Commissioner Mourdock: Thank you. Well, with the idea that as the County Surveyor recommended that discussions take place between the neighbors and the developer. You were recommending that to be approved on preliminary, correct?

Bill Jeffers: County Surveyor recommends approval of the preliminary drainage plan of Mill Ridge, and still would ask that you....are there any other persons wishing to address this tonight? Or would you just as soon talk to the developer over the next 45 days?

Unidentified: Talk to the developer.

Bill Jeffers: Okay, they would just as soon talk to the developer over the next 45 days or so, before he comes back with a final. The County Surveyor recommends approval of the preliminary.

Commissioner Fanello: So moved.

Commissioner Mourdock: Second.

President Mosby: So ordered.

<b>Correspondence: Discussion of 2003 Meeting Dates and Times</b>
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Bill Jeffers: While you're signing your claims, I received a letter today, e-mail, from James W. Beck, Assistant Metro Editor, Evansville Courier and Press, which, in part, reads;

“Please consider this letter as a written notification for meetings in the year 2002.”

I assume that that’s a typo, and he meant 2003. He’s basically asking us as a public agency to notify media outlets of upcoming meetings of the Drainage Board. So, I replied to him that, basically, the Drainage Board reorganizes at it’s January meeting, and fixes the times and dates for the regular meetings of the year at that time, and that I would ask you tonight that you would notify Mr. Beck of the meetings that you fix.

Madelyn Grayson: I would be glad to send him a copy of that resolution that you sign.

Bill Jeffers: Yeah, you all generally sign a resolution every January.

President Mosby: (Inaudible. Mike not on.)

Commissioner Fanello: I agree.

Bill Jeffers: But, just, so as no mistakes were made, I did notify him of all the meetings that occurred in 2002. I surely didn’t want, all I know about us is that everything we do is open door, but I want to make sure we remain that way. I did assure him that, I thanked him for his interest in the services, duties, and activities of the Drainage Board, and assured him that we would need his help next year to begin our public awareness and outreach programs regarding Phase II, etcetera, blah, blah, blah.

Kevin Winternheimer: Are you going to wait until January then to pick those times and dates?

Commissioner Mosby: (Inaudible. Mike not on.)

Bill Jeffers: That’s the statute.

Kevin Winternheimer: Yeah, nothing else. I know.

Bill Jeffers: Yeah, you can. Yeah, if you want to fix them now, fix them now.

Kevin Winternheimer: Yeah, that’s just up to you. We’ll have to send a, if we don’t send the annual notice listing January 21<sup>st</sup>, then we’ll need to give notice of a special meeting for that date. So, you can do it now—

Bill Jeffers: Oh, I see what you’re saying. Yeah, you can go ahead and fix them now.

Kevin Winternheimer: Yeah, if you want to.

Bill Jeffers: And you could reorganize, with your new Commissioner, in January still at that time. Yeah.

Kevin Winternheimer: It’s up to you.

President Mosby: (Inaudible. Mike not on.)

Bill Jeffers: Well, you know, you all have always done the fourth Monday, but you can do it, it's up to you. You can do it any day of the week. You can do it any time of the day.

Kevin Winternheimer: Just not on zoning night.

Commissioner Mourdock: Yeah, you don't want to do that.

President Mosby: That's the third Monday, so, let's just leave them on the fourth.

Commissioner Fanello: Right. Right after the meeting. Right after the regular Board of Commissioner meeting.

President Mosby: Immediately following.

Bill Jeffers: Right.

Kevin Winternheimer: What do we need to say, 6:45? Or something like that?

Commissioner Mourdock: Traditionally we've always—

Madelyn Grayson: Immediately following.

Commissioner Mourdock: —immediately following.

Bill Jeffers: We've always said immediately following...you know, whenever I send a notice, I always say at, or about 6:30 p.m. Because generally that's about when you start, you know.

Commissioner Mosby: Oh, I can't make a motion, I'm the President.

Commissioner Fanello: I'll make a motion that we set the meetings on the fourth Monday, immediately following the regular Commissioner meeting.

Commissioner Mourdock: Second.

President Mosby: (Inaudible. Mike not on.)

Kevin Winternheimer: Send one to WIKY and all the other media suspects.

Commissioner Fanello: The usual suspects.

Commissioner Mourdock: Do you want to go ahead and reorganize and assign your officers for that? This is your chance, you can appoint Suzanne President. She missed the meeting.

Commissioner Fanello: I think that's what we ought to do.

Bill Jeffers: On your—

President Mosby: That's a little cruel.

Madelyn Grayson: I won't tell.

Commissioner Mourdock: That's the way things usually happen.

Bill Jeffers: On last year's resolution you said, however, if a holiday falls on the fourth Monday of a month, the Vanderburgh County Drainage Board will hold it's meeting on the third Monday of the month, immediately following the Commissioners meeting, unless otherwise stated by the County Commissioners, or the Drainage Board in an open meeting.

Madelyn Grayson: Which that happens at least twice a year. Like in May, and Labor Day, or Memorial Day and one other day, which means we have Rezoning and Drainage Board in the same night.

President Mosby: Well, then why don't we say that if that's going to happen, let's look through the schedule and go to the second, instead of putting them both on the third.

Madelyn Grayson: Then you've got Solid Waste.

Commissioner Mourdock: Well, you have Solid Waste before.

President Mosby: That's earlier, that a way we can, at least, at 6:30—

Bill Jeffers: Well, you all are going to be discussing liquid waste next year. Under Phase II.

President Mosby: Yeah, I know.

Commissioner Mourdock: So—

President Mosby: Could we amend our motion, and just add that?

Commissioner Mourdock: Sure, I'll move that should there be a scheduled Drainage Board meeting on a Monday that is a holiday, that on those weeks instead, or on those months when that occurs that the meeting would take place on the second Monday, immediately following the Commission meeting.

Commissioner Fanello: Second.

President Mosby: Madelyn looks like she's got a question.

Madelyn Grayson: Well, I just remembered John Stoll coming up here and saying that that affects Site Review or something like that. That you don't have time, because it's the second Tuesday, or something.

Bill Jeffers: Oh, you know, we're just going to have to start doing things different anyway next year.

Madelyn Grayson: Let's just do them during the day.

Bill Jeffers: We don't even know what we're going to be talking about, along about June. We may have to have a Drainage Board meeting every week.

Commissioner Fanello: If they have enough notice, and they already know that we're going to have—

President Mosby: Bill, I would rather you not say that.

Bill Jeffers: I wish I didn't, you know, I wish I didn't have to say it, but we really don't know.

Commissioner Fanello: We'll have to start meeting at 7:30 in the morning.

Bill Jeffers: But, I think what John Stoll is saying there is then there's not enough review time between submittal of drainage plans, and the Drainage Board meeting if you hold it on the second.

President Mosby: One more time, Commissioner.

Madelyn Grayson: Well, you could do what you're doing in January and February, which is if there's a holiday on the fourth Monday, you just have it the next Tuesday morning.

President Mosby: That's what I'm saying, if the fourth Monday, if it happens to be a holiday, then we'll have it on the Tuesday morning following at 9:00 a.m.

Commissioner Fanello: Well, I won't be here because I'll be in tax season, and it's going to be impossible for me to be here in the morning, so. I would rather do it in the evening.

Kevin Winternheimer: (Inaudible. Mike not on.)

Bill Jeffers: Okay—

President Mosby: Okay, then we do it Tuesday at 4:30 or something.

Commissioner Fanello: That's fine.

President Mosby: If the fourth Monday falls on a holiday, then we meet that next Tuesday at 5:00 or 4:00.

Commissioner Mourdock: The following.

Bill Jeffers: The next day.

Commissioner Fanello: Oh, okay.

Commissioner Mourdock: At 4:00?

Commissioner Fanello: 4:00 or 4:30?

President Mosby: Whatever is best.

Commissioner Fanello: 4:30.

Commissioner Mourdock: (Inaudible. Mike not on.)

President Mosby: So, we need to amend.

Commissioner Mourdock: I'll withdraw my motion, and you withdraw your second.



Commissioner Fanello: I'll withdraw my second.

Commissioner Mourdock: So, now we will try for those Mondays that fall upon a holiday that Drainage Board wouldn't be scheduled on the holiday, will instead take place at 4:30 p.m. the following day.

Kevin Winternheimer: With the exception of January 21<sup>st</sup> and February 18<sup>th</sup>, which you've already scheduled.

Commissioner Mourdock: With those two exceptions.

Commissioner Fanello: Second.

President Mosby: So ordered.

Madelyn Grayson: I'll put together a schedule for you guys, okay.

Commissioner Fanello: Now, when does my birthday fall. We don't want to have one on my birthday.

Bill Jeffers: I was born on Lincoln's birthday, so, I'm taken care of by President's Day.

Commissioner Fanello: Let me see here.

Bill Jeffers: Can you believe they took two Presidents and crammed them into one.

Commissioner Fanello: My birthday is before the Drainage Board meeting.

President Mosby: Is there any other—

Bill Jeffers: Then we have to worry about Halloween. That's become a national holiday. Did you have anything, Keith? This gentleman here, did you have anything? Ma'am? Okay.

<b>Recognition of Commissioner Mourdock</b>
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Bill Jeffers: I would like to say, at this time, that I've appreciated Richard Mourdock more than I ever thought I would. His laptop has saved me on so many occasions. I've really enjoyed working with you, Richard. I wish you the best. Merry Christmas. Have a prosperous New Year. I hope you don't go away. Stick around in town, because you've really been a big help to all of us.

Commissioner Mourdock: I can't say that I've enjoyed every moment on the Drainage Board. We've had some long, long meetings here, but it has been one of the more interesting assignments of being a Commissioner, and, certainly, my background coming into this job, it was the thing I was probably best suited to be involved with. So, I appreciate your efforts.

Kevin Winternheimer: Do you need a ditch cleaned or anything before you leave?

Commissioner Mourdock: I'll need to think about that. I would move that we adjourn.

Commissioner Fanello: Second.

President Mosby: So ordered.

The meeting was adjourned at 7:30 p.m.

**Those in Attendance:**

David W. Mosby	Catherine Fanello
Kevin Winternheimer	Bill Jeffers
Warren Roettger	Ben Kunkel
Others Unidentified	Members of Media

Richard E. Mourdock  
Madelyn Grayson  
Scott Railey

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**David W. Mosby, President**

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**Catherine Fanello, Vice President**

**(Not in office when minutes approved.)**  
**Richard E. Mourdock, Member**

Recorded and transcribed by Madelyn Grayson.