

**VANDEBURGH COUNTY
DRAINAGE BOARD
JANUARY 21, 2003**

The Vanderburgh County Drainage Board met in session this 21st day of January, 2003 at 9:05 a.m. in Room 307 of the Civic Center Complex.

Call to Order

Commissioner Mosby: Call to order Vanderburgh County Drainage Board, January 2003.

Election of Officers

Commissioner Mosby: I believe the first thing we need to do is re-organize the board and appoint new officers. In the case that I've had enough of this, I'll appoint, or I'll make a motion to appoint Catherine Fanello President of the Board of Commissioners, or Drainage Board.

President Fanello: Or Drainage—

Commissioner Mosby: Drainage Board, I'm sorry.

Commissioner Crouch: Second.

President Fanello: I was gonna, Suzanne, you've been sitting in our meetings, you know how it works. Okay.

Commissioner Mosby: So, I have a motion and a second to appoint Catherine Fanello President of the Vanderburgh County Drainage Board for 2003. I will say so ordered.

President Fanello: I will make a motion to appoint David Mosby Vice President.

Commissioner Crouch: Second.

Commissioner Mosby: You're the President.

President Fanello: Oh, so ordered. That's right.

Approval of Minutes

President Fanello: Okay, approve minutes for December 2002 meeting. Do I have a motion to approve the minutes.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: Second, and so ordered.

Announcement of 2003 Meeting Dates

President Fanello: 2003 meeting dates. I don't, do you have a list of those?

Bill Jeffers: You published those at your Commissioner meeting at the first of the year, didn't you?

President Fanello: Uh-huh.

Bill Jeffers: Just wanted to incorporate them into the minutes at this time.

President Fanello: Okay. Okay. So, we'll make that list a part of the record.

Bill Jeffers: Just because it's a statutory requirement—

President Fanello: Okay.

Bill Jeffers: —that you announce your meeting dates at your first meeting.

President Fanello: I don't, I have a copy in my office. I don't need one. Unless we need to read it into the record or something.

Bill Jeffers: Just incorporate it into the record.

President Fanello: Okay.

**Waterford Place Subdivision; Lot 3 and Part of Lot 2
Final Drainage Plan**

President Fanello: Drainage plans.

Bill Jeffers: Can we take Waterford Place first? Because the two gentlemen are here, and I don't see any remonstrators to the plan. It's a simple final drainage plan for Waterford Place Sub, lot three and part of lot two. Basically, Mr. Joe Ream, Decem Development is here in the audience, along with the builder, Castle Construction, is here in the audience. What they basically do is they have an overall drainage plan, and then when they acquire a client for a lot, they come in with building specific drainage plan. That has been, it is here in the envelope if anyone would wish to see it. I don't see any remonstrators. I don't anticipate any. Vanderburgh County Surveyor recommends approval of the final drainage plan for Waterford Place Subdivision, lot three and part of lot two.

President Fanello: Do I have a motion? He just, are there any remonstrators in the audience?

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: Thank you.

Browning Road Estates West; Lot 42: Final Drainage Plan

Bill Jeffers: Browning Road Estates West, lot 42, final drainage plan, which should be subject to the vacation of the original drainage easement, and the dedication of

the, of any applicable new drainage easements is on the table here, in it's final form, presented by Ben Kunkel, the owner of the lot 42, and also represented by James E. Morley, land surveyor and designer of the final drainage plan, from Morley and Associates is also here. There are people in the audience who wish to speak to this drainage plan, including, but not necessarily exclusively, Tom Rich, an abutting neighbor and landowner. Basically what this plan is, and I very hurriedly colored it up. It's not a very neat coloring job, but I hope it helps you understand it. If you all would like to see this. If you all would like to share that one copy that I colored up. Or if I can remember everything, I've got two of them.

Commissioner Mosby: No, that's okay.

Bill Jeffers: The green outlines the original old easement, or existing, at this time, on the plat for a creek, a natural creek that runs right through the middle of the lot. Now even though Bill Wedeking, the original developer of this parcel, was advised by our office that that split the lot in two, and probably made it undesirable as a building lot, his reply to that was it's an acre and a half, and they can find some place to build a house. We had originally proposed to him that he run the creek, re-route the creek either closer to Harvest Gate, and the entry to the lot would be across the creek. Or for him to route it to the back of the lot, so that it would make a nice, large acre and a half building lot with very little channel. He didn't want to do that. Since it was his property, I guess, he has a right to plat it as he wishes, because it's up to him to sell it. He eventually did sell it many years later to Mr. Kunkel, I believe for a price far less than what he could have if he had...well, that's immaterial. Mr. Kunkel then decided he would like to maximize his yard, move the house to the north end of the lot, and re-route the channel around the north and west sides of the lot, as outlined in yellow. This plan shows a channel, which apparently can contain and convey a 100 year storm along the north line. That's where I have the words 100 year flow channel. Then he has a head wall and he takes the water from a 25 year storm and runs it through a 24" plastic pipe in the easement towards the rear of the lot down into a newly designed detention basin. Because of the possibility of that pipe being clogged up, and the fact that it doesn't carry the entire 100 year flow, it carries a little bit more than a 25 year flow, we asked for an emergency overflow along side that. He's provided that. That's the hashed yellow area labeled 100 year overland flow. That carries the entire 100 year flow into the new basin. The old green outline also shows the delineation of the original old basin, which Mr. Wedeking, in our discussions we had encouraged Mr. Wedeking, because of some existing problems from the rest of this subdivision, numerous complaints from neighbors who had been adversely affected by high water, and a situation in Hunters Ridge that was discharging a large amount of silt into this creek, we asked Mr. Wedeking to oversize the basin. On his design in 1996, which was the year when all these problems arose, he shows a temporary easement for that basin, and when the basin was excavated it had 6,700 cubic feet of storage, which was in, which was greatly in excess of the required storage of 3,500 cubic feet that he was required to store from his new development. He over excavated it in case there were additional silt problems, or drainage problems in this hilly area during construction. But, he did so with the condition that the developer retain the right to change the shape and location of said basin with the approval of the drainage board. This right shall be extended until the final section of the area has been developed. We agreed to that. So, in essence, Mr. Kunkel inherits the right to change the shape and location of the basin, and that's what he's asking to do. He also, in fact, has a right to reduce the storage capacity of the basin from the 6,700 cubic feet that it currently stores, to no less than 3,500 cubic feet, but I encouraged Mr. Kunkel to retain, as much as he could for the benefit of downstream neighbors. The basin he shows, I believe,

increases the storage to 6,950 cubic feet. That may be coincidental, or that be on purpose, but, basically, what he's done is he's moved his basin, as you can see to the southern most extent of his lot to maximize the area between the basin and his home for yard use. Everything I've described up to this point is based on the County Surveyor and the previous Drainage Board's philosophy of highest and fullest use of private property as guaranteed under the Indiana State Constitution. What I anticipate hearing today, from at least one of the neighbors, is that this basin in the lower left hand corner of the lot has been extended to meet the new pipe, to pick up the water from the new pipe, has been extended westward to within 10' of a property line, and adjacent property line. The adjacent property owner, Mr. Rich, has enjoyed a 60' separation that I've shown you, an approximate 60' separation, between his property and the basin. During that time located a play area for his children in that general area that I've hashed out for you there, about a 50' by 50' area, he has a swing set, etcetera. And his concern, as expressed to me on the telephone, was that his children will now be playing within 10' of a facility that will, at times, have 4' depth of water in it. This is a dry basin. It's not a permanent standing pool. Our minimum clearance is 10'. That is achieved by this plan. However your drainage ordinance does allow either the board or the design engineer, if either or both feel there's a safety issue, to require fencing or other safety considerations. I told that to Mr. Rich, and I've told that to the owner, Mr. Kunkel. A fence is a separation. Mr. Kunkel contemplates putting a fence up. However, with a fence, then you have a situation where if a child goes around the back side of the fence, you can't see the child. I mean, the fence may act as a safety separation, to keep them from jumping off the swing set and inadvertently stumbling into the basin, which could happen. You know, in a worst case scenario. The fence would stop the child, but additionally, if a child were to wander around the other side of the fence, you can't see the child. So, there are considerations in both regards. The only solution, therefore, would be to reduce the size of the basin, so it's removed farther away from the line. Or a greater safety separation. I'm not opposed to that. The plan itself contemplates the basin being smaller if the owner or developer so chooses, but then I would anticipate complaints from downstream neighbors, who say they are being flooded in their yards by heavy storms. Which heavy storms have cast water in very close proximity to a house on the other side. If you look over here in the aerial photograph there is a house, second from the end of that road, which happens to be Pine Gate Road, I believe, Oak Gate Road, excuse me. The very last house is on a higher slope, but the second to last house on the left hand side, which is the west side of Oak Gate Road, the creek runs through that yard and around back of that yard off into a wooded area, and the wooded area is not maintained. The owner of the lot does maintain the channel, but as the water passes into the wooded area, his complaint over the years has been that the water backs up and gets very close to his foundation. My personal, or the County Surveyor's analysis of this plan does not see a result in higher water on that man's yard if this basin were reduced slightly. If this basin were removed, totally filled in, yes, it would probably have an adverse effect. But, if some of the cubic feet were removed, I don't think it would have any significant effect on that yard. However, the man who lives there might have a different opinion. So, rather than extend the conversation any longer, I would say that the County Surveyor recommends approval of the final drainage plan for Browning Road Estates, lot 42, as a final plan to become effective when Ben Kunkel achieves vacation of the original drainage easement that passes through his home, and dedicates all necessary applicable new drainage easements, as shown on this plan, and, of course, with the provision that if the board would like to add any safety features, or safety requirements to the plan, the Surveyor would recommend those as well. That would be either safety fencing, greater separation, allow him to fill in a portion of the basin, to move the excavated portion farther to the east. That type

of thing. I would not be opposed to that either. Then I'll turn the microphone over to whoever in the audience may wish to make a comment.

President Fanello: Who would like to speak? Would you please approach, and please state your name and address.

Tom Rich: Tom Rich. People have been out to see it. Ms. Crouch has come out to see it. Our lot has been there, all this now has happened, he's almost got his house built. All this stuff has not gone on until it's almost too late. He come out there, and he is not 10' off the property line. If you measure it, it's more like six. The kids in the neighborhood, not just my kids, but almost all the kids in the neighborhood come play in our yard. I think it's a safety issue with the basin. It can either be filled in, and moved to another location or something. But, you look at my yard now, and the swing set, I mean, you've got a gigantic hole. Plus it's going to attract all the other neighborhood kids coming over and playing. They've already had kids over there playing now, throwing bricks and everything else in there. So, I think it needs to be addressed. Either just filled in, or move it to another location, or just fill it in.

President Fanello: Does anyone have any—

Tom Rich: I mean, she's come out and seen it, and everybody else in here has seen it. It's nasty.

President Fanello: Do have anything you wanted to ask?

Commissioner Crouch: I went out with Mike Wathen. Do you have some erosion control concerns, Mike?

Mike Wathen: Mike Wathen, Soil and Water Conservation District. I brought a copy of notes that I have on it. Our office received, I think it's 1/7 on there, a complaint from Mr. Gretler. He owns a piece of property, what is that, Oak Gate, Bill, that's down there? Downstream of the lot in question. He had originally called me out because the water is going over the road there. He felt like that in part that was being contributed to by the ditch silting in, which reduced the capacity of the ditch, which increased the flooding, which ultimately sent it over the road and around his house. He showed me pictures in the past where the water was completely around his house, with the exception of his driveway. So, his concern, I think, was more from a standpoint that the lot was going to dump sediment into the ditch. That was the take he had on it. I received complaints from four neighbors. I've had a chance to meet with two of them, one of them being Mr. Gretler, one of them being this man here, which is when you and I were out there, Suzanne. Also another man who I've not yet made contact with was a Jeremy Racine, a Michael Schapker, I guess it is. Then you're Tom Rich, correct? And then Mr. Gretler, as I already mentioned. I've called Mr. Kunkel. I have not had a chance to meet with him at the site. When I spoke to him on the phone, he was very cordial, said that he would do what he could do to correct it. But, I was approaching it not from the drainage aspect that Mr. Jeffers is. I was approaching it from a standpoint of what needs to be done to stay in compliance with the local erosion control ordinance. Right now, or let me rephrase that. As of Thursday of last week, I've not looked at it yet today, with yesterday being a holiday, but as of Thursday of last week, I mean, it needed quite a bit of attention. I've explained to Mr. Kunkel what was expected, and he may have gotten some stuff done this weekend, I don't know. He told me on the phone he was going to try. I guess my point is, even if all the drainage aspect is corrected to the letter, the erosion aspect out there still needs to be addressed, and as of Thursday

it had not been. There's going to be letters going out today, which you guys will get copies of from our office, and which it's basically going to say is that it's out of compliance with the local ordinance, and he's got ten days to fix it or we intend to fine him. That's my take on it.

Commissioner Crouch: Does the drainage and the erosion go hand in hand?

Bill Jeffers: Ms. Crouch, one of the reasons that this particular location is of, where it does go hand in hand, is because, in fact, this location was the cause for both the drainage ordinance and the erosion control ordinance to be initiated and adopted by, well, the drainage by your board, and the erosion control by the Commissioners and the Soil and Water Conservation District board. Don Hunter had a, not a financial or ownership interest in Hunters Ridge, but at the time Hunters Ridge came in, there were some severe erosion problems that cast, and we have pictures of it, cast tons and tons of soil downstream to this exact location, and caused a plethora of complaints. It even initiated people wanting this to become a legal drain. They were circulating petitions in that regard. The reason people's yards are flooding, at that time, had something to do with the erosion. So, that went hand in hand with the drainage. The erosion resulted in the deposition of tons, as I say, of sand and other soil, in this channel, in the pipes along the way, and clogged them up to the point that water was hopping over roads, and running close to people's homes, and this, that, and the other. Now, most of that's been cleaned up either physically by people, or naturally by subsequent rainfalls that washed the creek relatively clean. The water I see running through the creek at this time is clear, and doesn't have any sediment load, but I believe the apprehension by the neighbors is that it will happen again. It's legitimate apprehension. Also your board has never approved a final drainage plan, or I won't say never, they have always required that a final drainage plan be accompanied by an erosion control plan. For this reason. So, they do go hand in hand in some regards. Sedimentation results in reduction of the capacity of the drainage channel.

Commissioner Crouch: So, would it be unreasonable for this board, at this point in time, to not take action until the soil and erosion issue can be remedied?

Bill Jeffers: That would be at the pleasure of the board. You have that discretionary power under the ordinance, if you wish. I would not recommend against it. It's your discretionary power to add to, or require, or, you know, add requirements to a drainage plan as you see fit to protect the public, and the public's interest. Or your interest, for that matter. You have pipes downstream of here that have been affected by erosion and sedimentation, specifically under Oak Gate Road. The pipe's too small to begin with. When the county offered to make the pipe larger to carry more water, the downstream neighbor was afraid, well, that would just throw more water on him. He would rather have it, have the undersized pipe back it up. That was my take on it. Not necessarily his words, but that was conveyed to me, indirectly, that he was apprehensive about a larger pipe allowing more water through the road. Water still goes over the road, because the pipe's too small. The apprehension is still there that sedimentation from any source would lessen the channels, and the pipes ability to carry water.

President Fanello: I've got a question for Bill. Now, Mr. Rich made a comment that the house was in the process of being built, and you said it was almost built? Or a large part—

Tom Rich: He's got it halfway framed now.

President Fanello: Okay. I thought—

Bill Jeffers: It's under construction at this time.

President Fanello: —plans like these had to be done before construction actually took place.

Bill Jeffers: Mr. Kunkel acquired a building permit from the Building Commissioner, because it's a platted lot, and so, it's an unusual case.

President Fanello: It is unusual? Is that what you said?

Bill Jeffers: To some degree.

President Fanello: Okay.

Bill Jeffers: Mr. Kunkel initiated this process in September, and had hoped that the final drainage plan would be approved before he initiated construction. It's dragged on to the point that the construction of the home precedes the approval of this plan.

Commissioner Crouch: The environment, or the erosion issue, that's not going to address the neighbors concern about the safety of the placement of the drainage basin, is that correct?

Bill Jeffers: That's correct. It's two separate issues. I'm sure the neighbor is concerned about both issues, but his primary concern appears to me to be the safety issue. Secondary concern is the erosion issue, because that would affect his home, should the erosion cause flooding that would inundate a portion of his house.

Commissioner Crouch: Can you show me, Bill, and I apologize for asking all these questions, but this is my first meeting. Can you show me if there's anyway to get this basin away, a little further away from the boundary line, and still adequately address the drainage issue? Mr. Rich, you may want to—

Bill Jeffers: I don't want to design anything for anyone, but what I was saying is right now you're 10', the original basin was 60', so, this pipe would have to be, would have to discharge the water in an area over here somewhere. Like maybe reduce it to 30' or 40'. The pipe that is already installed and terminates right here would have to be extended to discharge over here somewhere. Then this area could be filled back in.

President Fanello: Do you think that's acceptable?

Bill Jeffers: It would receive the....I think it's acceptable, and would receive the recommendation of the County Surveyor, if the design engineer were to depict it in accordance with all other requirements. Specifically, that, you know, the water got there, and was conveyed there, stored, and discharged in an orderly fashion in accordance with the ordinance, I would have no problem recommending that.

Commissioner Crouch: We're talking about the proposed basin is actually 200' larger than the existing basin.

Bill Jeffers: It's—

Commissioner Crouch: Is that not correct? You said it went from 6,700 to 6,900.

Bill Jeffers: Not to rehash all the figures, but, basically, at the present...the way that it was constructed was twice as big as it had to be by requirement. It's even larger yet, by two or three hundred cubic feet of storage.

Commissioner Crouch: So, if it was lower—

Bill Jeffers: Reducing that portion over there would not take it below the required storage area. It might reduce it below the existing storage of 6,700 cubic feet. It might reduce it down to 5,000 cubic feet. That would have to be determined by the calculations by the design engineer. I don't see how it would possibly, as a matter of fact, that little area that's the objectionable area to Mr. Rich, in itself meets the requirement of 3,500 cubic feet. So, if it were removed you'd be down to about maybe 4,000 cubic feet, something along that lines. Now, I'd had an indication from Mr. Kunkel that he'd be willing to do that, but I would rather that he state that on the record, after having considered it over the weekend more fully.

President Fanello: Do you have any more comments, Suzanne? David?

Commissioner Mosby: I'm going to wait to hear what they have to say.

President Fanello: Okay. Why don't I go ahead and let them speak, and then we'll let you add something. Please state your name for the record.

Jim Morley, Jr.: Jim Morley, Jr., design engineer.

Ben Kunkel: Ben Kunkel, the lot owner.

Jim Morley, Jr.: I just kind of want to start off, this is Ben's personal house. Ben works at our office, I'm kind of doing this on the side to help him out. What we would like to do here today is kind of get this thing brought to a head, and get it wrapped up. I would like to address the erosion issues. Ben's had several people call him, or not call him, but call the erosion department. I've been to the site a couple of times, and did not see any sediment leaving the site. I spoke with Bill Jeffers, Bill said that if he didn't know that it was in Indiana, that he would take a cup and drink out of that creek. He didn't see erosion leaving the site. However, I am aware that erosion can leave the site. So, if you notice on the plan, over here, we have listed the things that need to be added to the site to prevent any erosion from leaving the site. We didn't add it, we didn't show pictorially on the plan just to try to keep it clean. So, we added notes saying what needs to be done. Ben will always be under, until his construction is complete, will be under the thumb of Mike Wathen. You know, Mike has the ability to come levy a fine on him, or do whatever through this process. So, I guess, that we would ask that we not delay this another month for that issue to happen, because Mike has the authority to go after Ben, and to meet with Ben, and to levy fines tomorrow, or two months from now. I mean, that's something that I feel that, you know, Mike can take care of outside of the Drainage Board, and prevent this from being delayed. As for the basin, to be honest, I think it's a property rights issue, you know. The guy has a swing set near his back property line. If he wants to buy a swing set easement from Ben for kids to jump off the swing set, then that's one thing, but by asking Ben to relocate that basin, which is the required distance from the property line, Ben will incur the expense of setting a manhole and more pipe, which would probably run in the range of \$2,000. This is \$2,000 because the neighbor doesn't want to move a swing set farther from the property line. Ben bought this ground with a warranty deed and fee. He should be able to use the ground as he wants to use it. If kids are running and playing in the

basin, the kids are trespassing. They should not be there. The, if the kids are out playing in the yard when this thing is full, it means they are either playing out in the rain, or they are playing out in a muddy yard, one of the two. It's, to me, it's a property rights issue. I don't see where the neighbor should have the ability to say I don't want that so close to my house, even though it's not on my property. We've met the requirements for offsetting. Anything more than what we've shown here, Ben will incur costs to either relocate that pipe, put up a fence, or whatever. He won't incur redesign fees, because I'm not going to charge him. Is it currently 10' from the property line? I don't know. But, it will be when the plan is done. You know, that's the plan that you're approving. Your not approving a plan that shows it 6'. The final product would meet the county ordinance of having 10' of separation. So, and there also becomes a problem of grade, of getting that pipe at the invert of the ditch, and the invert of the 24" pipe, of getting it relocated much farther away from where it is now.

Commissioner Crouch: Well, to use the argument that a month is, you really don't want the delay, when you built before you got drainage plans, to me, isn't a very viable argument. The other issue is, to say that you're under the thumb of Mike Wathen, who can fine you at any time, excuse me, it's a \$100 fine. I mean, I would rather see the issues resolved before we approve a plan, than to have someone think, well, you know, the worst that's going to happen is I'm going to get a \$100 fine. You know, we'll move on, and continue to move our schedule ahead. I just don't, I just don't buy into that argument.

Jim Morley, Jr.: It should be noted that I was at the previous Drainage Board, Ben stated at that time that he did have a building permit, and that he wanted to make sure he could proceed with construction. I mean, so maybe this isn't the normal, but I think everybody would agree that, you know, nobody did, you know, everybody realized the thing was going to start. That was said at a previous meeting.

President Fanello: I remember that.

Jim Morley, Jr.: You can speak to your erosion, to the erosion control, as to your action.

Ben Kunkel: I plan to work with Mike in anyway possible, and to make sure that there is no erosion leaving the site. Currently there is no runoff from the site. I realize there is always potential for that. The fine is \$100 the first time, and \$750 the next, and I don't know where we go from there, but I'm not interested in paying either one of those. So, I'll work with Mike in anyway, but I really would like to get this taken care of.

President Fanello: As far as the safety features, what are you willing to do as far as safety features?

Ben Kunkel: I think that it causes a lot of problems to try to make the basin smaller, because of our grade issue. As far as the fence issue, I don't know that I'm ready to put up a fence right now. I'm not saying I won't do it, but I don't think that's necessarily an issue for right now. I think that's my decision to make as whether I feel like it's a safety issue.

President Fanello: Are there any other questions or comments? Mr. Rich, did you want to add something?

Tom Rich: I know that the way he went about this, he went and got a building permit, right? He didn't have any of this approved before hand. So, he goes ahead and starts building his house. He's got it almost framed. He's redone everything, and the existing basin there now is almost gone. He's already filled that in. So, he's already had a bulldozer in there, and he's already leveled the whole ground out, moved all that, and everything that was there before is filled in. So, he's trying to get this approved now, so, he doesn't have to put it back the way it was.

President Fanello: Well, what I'm wrestling with, and I'm going to have to have the County Surveyor help out a little bit here, is, you know, the minimum requirements. If they are meeting the minimum requirements of 10', what, you know, what are the issues here? I know you've stated the issues, but—

Tom Rich: Another thing, he has sent him a two page letter of complaints that nobody, that we haven't received yet. I would like to receive a copy of that.

President Fanello: Okay. I don't think I've seen a copy of that either.

Bill Jeffers: Again, the Drainage Board, and/or the design engineer, James. E. Morley, can, if they feel it necessary, they can under the terms of the Vanderburgh County Drainage Ordinance require additional safety features to be added to a detention basin for safety reasons. The drainage ordinance specifically states a fence or other drainage feature. Or, you know, construction feature; safety ledges, I would interpret that to mean greater separation for that matter. The model ordinance from the State of Indiana contemplated a 75' easement around drainage basins, and several interests, local interests found that excessive. We've discussed this before, just like the 50' separation between a dwelling and a basin was found to be excessive. Not only in this county, but in Bloomington, as I said, they reduced that to 20' or 25'. This original model drainage ordinance that came out of HERPICC it came out of Purdue, did contemplate a 75' separation, plus safety ledges. That was determined to take up so much area as to adversely affect development rights. So, our ordinance reduced that to a minimum 10' separation.

President Fanello: Do you see major safety issues with this site?

Bill Jeffers: I see the potential for major safety issues, as Mr. Morley pointed out, during a storm when that basin has 3' to 4' depth of water in it during the storm, and for an hour or so after the storm has subsided, and before it drains out dry again, there is a period of time during which children, without adequate supervision, might wander into the basin. That would be my safety concern. But, you have to understand, that's an unsupervised child, and that child is outside either during or immediately after a heavy rainfall.

Commissioner Crouch: Is there an issue with the fact that the little creek already floods? And the fact that we are moving the basin closer to where it feeds into the creek, is that, does that become an issue in terms of future flooding?

Bill Jeffers: Only if the embankment of the new basin is below the 100 year flood elevation. So, that the creek, during a 100 year storm, would overtop the basin. We only require that it be above the 25 year elevation, because this was designed for a 25 year storm, with a 100 year pass through. In other words, the water from a 100 year storm will pass through here safely, but it only detains the storm water from a 25 year storm, under the terms of the ordinance. So, the only issue, in that regard, would be if the storm water topped this basin, and displaced it's detention capacity

during a 25 year storm. But, I don't see that as a safety issue, no.

Commissioner Crouch: I'm talking drainage.

Bill Jeffers: You're thinking of that as a drainage issue. Correct. I think it still accomplishes...whether it's the minimum 3,500 cubic feet of storage, or the maximum shown by this plan of 6,950 feet of storage. Either way, I think, it sufficiently stores the required capacity, or the capacity required by the drainage ordinance, as shown on the plan.

President Fanello: Any other comments? Are there any other comments from those in the audience? Mike.

Mike Wathen: I've got a copy of the erosion control ordinance in front of me. I wanted to interject two points. One, under policy, it says;

"It's the policy of the Board of Commissioners of Vanderburgh County to require that erosion sediment control measures be employed prior to any land disturbing activity."

So that's why, I mean, obviously, if it don't rain, nothing is ever going to wash. But, we've got an acre of bare dirt out there, next to a creek that has already received some sedimentation problems in the past. So, you know, I'm doing what this ordinance says when I go out there. I'm not waiting for a rain event to happen, and then suddenly decide. I'm going out there just as it says, prior. It then goes on to say;

"Land disturbing activities. The definition of land disturbing activity—

according to the ordinance;

"means any change of land surface, including removing vegetative cover—

which has been done to some extent.

"—excavating, filling, transporting, grading, stockpiling or movement of soil, sand, gravel, stone or other material."

Some of those also have been done. So, we're doing exactly what we're supposed to do. Now, having said that, I'm willing to work with Mr. Kunkel, or anybody for that matter, to bring a peaceable remedy to this. I certainly don't have any burning desire to go out there and see anybody get fined. But, there is going to have to be some erosion control work done, and here we are in the middle of January. It's not going to be that easy to do. We can't get grass to grow. I mean, there a limit to what we are going to be able to do, just because of the time of the year it is. There is going to have to be some things done within 10 days for it to stay in compliance. I will bend over backwards to work with Mr. Kunkel, or anybody else, but, I think, you know, the position that I would take on it is, we've done to the letter what we're supposed to do, to this point. I intend to follow through. Hopefully, you know, we can get a peaceful solution, and have everybody leave here friends. Who knows.

President Fanello: Bill, I've got one more question.

Commissioner Mosby: Hold it. Mike, while you're there, you do agree that you have the right to pursue any erosion control problems that we have, even if we pass this today. I mean, do you agree with that?

Mike Wathen: Yes. I mean, you've got a drainage issue, you've got an erosion control issue. While the two go hand in hand in some respects, there also needs to be, I think, some distinguishing factor there. You know, I would bow to Mr. Jeffers as far as his opinion on the drainage aspect. I guess, I see the erosion aspect out here as, one, I intend to follow through with the erosion aspect of it, irregardless of whether you guys approve it or not. I mean, that's what I'm supposed to do.

Commissioner Mosby: Exactly. But, if we approve it, I mean, you do agree that you have measures set up in the ordinance to do whatever you need to do.

Mike Wathen: Address the erosion aspect of it? Yes.

Commissioner Mosby: I mean, there's fines.

Mike Wathen: Yes, we do.

Commissioner Mosby: That's what I'm wanting to hear from you.

Mike Wathen: Yes.

Commissioner Mosby: There is fines set up, first, second, and third time, I believe.

Mike Wathen: Yeah, the first time is a hundred bucks, after ten days. Then in ten more days they get a fine for \$750, and ten more days, we can issue a stop work order. So, yes, there is a vehicle in place to enforce that.

Commissioner Mosby: That's what I was....yeah, so, I mean, regardless of what we do here today, if we pass this, you still have your measures to work with.

Mike Wathen: Yes.

President Fanello: I guess, that was kind of....my question goes hand in hand with that. Even if we approve the final drainage plan today, we could make it contingent on erosion control measures being put in place.

Commissioner Mosby: Well, I don't think we have to make it contingent.

President Fanello: Well, and after you said that, and he answered that question, I'm not so sure we need to do that either, but.

Commissioner Mosby: I guess, my other question then would be for Bill and Ben, what happens if we just move this another 10' off the line, and make it 20'? I don't like the idea of going all the way back to the 60 and cutting that much drainage out, or retention out.

Bill Jeffers: Yeah, retention capacity.

Commissioner Mosby: I mean, I think that's detrimental to everybody involved if we do that. If we're saying it's going to happen, is this going to be flooding (Inaudible).

Bill Jeffers: Okay, there's a couple of things that could happen, if he moves it 10' over, and leaves the pipe exactly where it terminates, without the manhole and the pipe extension described by me, and referred to by Mr. Morley as costing a couple of thousand, or whatever, dollars, that would result in steepening the slope from 4:1, which right now it's shown as a 4:1 slope. That's the required slope for a drainage basin with earthen sides. He would have to steepen that slope to possibly 3:1, 2 ½ :1, that would require rip rap for stabilization. So, the result of moving, of separating it a greater distance would most likely be steepening the side slope, and adding a quantity of rip rap for stabilization, or extending the pipe by using a manhole connection that was referred to as increasing the cost of the project.

President Fanello: Ben, did you want to address that?

Bill Jeffers: But, as to, before I forget, which I think I just did...oh, Mr. Rich's statement that he would like to see a letter that I wrote to Mr. Kunkel, in that letter I did inform Mr. Kunkel that he was in violation of the erosion control requirements, and he was in violation of the, technically, in violation of the drainage ordinance. Both, and that might be what Mr. Rich wanted to hear me say, but that's a matter of record, because it was part of your last month's meeting.

Ben Kunkel: If that would satisfy everyone, to move it another 10', if you'll allow me to put a permanent fabric across on a 2:1 slope, that would gain another, I believe another 10', correct? That would get it 20' away. I would be willing to do that if (Inaudible),

Commissioner Mosby: What do you mean by permanent fabric? You lost me on that one.

Jim Morley, Jr.: You can buy erosion, permanent erosion control fabric. I'm not fond of rip rap. It's just a pain to deal with, it's a pain to place, it's a pain to mow around. You can buy permanent, or you can buy erosion control fabric that doesn't bio-degrade, that stays there, basically, forever, that will help hold the bank. It's similar to what we put out there, the berm around the back of the Premiere, there's a 1 ½ : 1 slope, and they put an erosion control fabric on that. You can see that it's held fine. So, if you put the same type of erosion control fabric we did out there on that bank by, that's a 10' tall—

President Fanello: Where did you say you did that?

Jim Morley, Jr.: On that big berm—

Commissioner Mosby: The new wal, the super—

Jim Morley, Jr.: —that we put behind the Target.

President Fanello: Oh, okay.

Jim Morley, Jr.: That little mountain that they've got going around there.

Commissioner Mosby: Yeah.

Jim Morley, Jr.: That's a 10' or 15' bank we hold there, and Ben's got to hold a 5'. So, I would think the same fabric they've got out there would be more than applicable to hold this small bank here.

President Fanello: Okay.

Commissioner Mosby: Then that would, and that would move you 20' off the line?

Jim Morley, Jr.: Yeah, because the base then is roughly 5' deep, and the difference between 4:1 and 2:1 would pick you up 10'. In addition to the 10' you already have.

Ben Kunkel: I would also like to decrease the basin size by doing that. Whatever that volume calculates to would still keep it well above the required 3,500.

Commissioner Mosby: I guess, I'm curious as to how much cubic feet we do lose by doing that. I mean—

Bill Jeffers: Our drainage ordinance requires the use of any material...because our drainage ordinance was written in 1994, and there's been a great deal of new material for erosion control, besides rip rap, and rip rap being about the least desirable anyway. We do allow them to use other materials, so long as it meets the manufacturers recommendation. I'm saying that while Mr. Morley is calculating the displacement. It would be, what? It would be triangular.

Jim Morley, Jr.: You lose about 400 cubic feet of storage.

Commissioner Mosby: So, they'd still have 6,500.

Bill Jeffers: Let's say 6,500. You're back down to—

Commissioner Mosby: 6,500.

Bill Jeffers: Right.

President Fanello: Which is well above—

Commissioner Mosby: It's well above—

Ben Kunkel: Well above the 35, or the 3,750 that was required by the Drainage Board.

Commissioner Mosby: And is that on a 25 year? The 35?

Bill Jeffers: Yes, sir. That's the drainage ordinance requirement for a 25 year storm.

Commissioner Mosby: Okay.

Bill Jeffers: With a hundred year, with the capacity to allow the 100 year overflow to run safely through there. We only require, except in the impacted areas above Inglefield Road, and out on the east side we only require detention of a 25 year storm at the release of a ten year storm.

Jim Morley, Jr.: You had also asked earlier about the moving in closer to the creek and filling the basin up with creek water. It's important to note that we kept the same emergency overflow elevation, which is the low point in the dam is the same as it is today. We did that so that they, you know, people downstream would get what they get now and not anymore, not any less. So, that the pipe leaving the basin, and the emergency overflow, basically, wherever water comes out of the basin is the same

elevations as what it is today.

President Fanello: Okay, if we, we kind of need to come to a conclusion here. If you have anything new to add, why don't you go ahead.

Tom Rich: All he would have to do is take that pipe and run it around (Inaudible. Not at mike.) move it over next to where his (Inaudible). That would solve my problem. He wouldn't have to worry about safety issue, or any of that stuff.

President Fanello: Mr. Morley do you have anything to add to that?

Jim Morley, Jr.: It's a great problem. We don't have the elevation difference to make it happen. It's a pretty flat site, and the elevation just doesn't allow it. I think adding 20' there is a good compromise.

President Fanello: Well, I guess, the board will entertain a motion at this point.

Commissioner Mosby: Mike, are you okay with the erosion control measures that they are talking about? Rather than rip rap?

Mike Wathen: Yeah, I'm fine with that. (Inaudible. Not at mike.)

Madelyn Grayson: Mike, can you come to the microphone please.

Mike Wathen: As long as it follows under the Indiana Handbook, which is what is like our bible that we go off of. Yeah, we're fine with that. I mean, there's nothing that makes them, as far as we're concerned, put rip rap in. I mean, I'm not crazy about rip rap myself.

President Fanello: Okay, the board would entertain a motion at this point.

Commissioner Mosby: I would make a motion that we accept the plan in front of us for Browning Road Estates with the amendments stating that this would be moved back 10' off the property line to allow for a 20' setback instead of a 10', and that the rip rap portion of the drainage would be dropped to allow for the new sediment erosion control measures. I don't know exactly what it's called.

Jim Morley, Jr.: Erosion control fabric.

President Fanello: Erosion control fabric.

Commissioner Mosby: Okay, erosion control fabric. I would make that in the form of a motion.

Commissioner Crouch: I will second for purposes of voting, but will not support, or vote for this today, because I believe that we should address the soil and erosion control issues. This should have come before the board for approval long before the building of the house.

President Fanello: I don't think that always happens, but we'll take a roll call vote. Commissioner Crouch?

Commissioner Crouch: No.

President Fanello: Commissioner Mosby?

Commissioner Mosby: This has been in front of us several times, and, I mean, for the sake of getting things to move on here, and not putting everybody at a, I guess, inconvenience, is what it amounts to. I think it's a compromise that we can make knowing that everybody's probably not going to be as satisfied as they would like to be. I understand the fact that you say we can't get the drainage that we need to come on down the line, which I would have like to have saw, but I'm going to vote aye.

President Fanello: Okay, and I will vote yes, for reasons that I think this is a multitude of issues here, but I do believe I see some willingness to take the steps necessary to correct it, and we do need to make a compromise, because you were meeting the minimum standards to begin with. I think we've come a long way here in this meeting of meeting some kind of compromise. So, I'll vote yes, and the motion passes.

Ben Kunkel: Could we add into there that the basin capacity will be reduced?

Bill Jeffers: Well, they acknowledged that.

Ben Kunkel: Okay.

Commissioner Mosby: I did acknowledge it at one point when he recalculated in his mind that it would be about 65, and I won't hold him to that exactly.

Bill Jeffers: We'll see that on the modified plan. He'll show us what it is.

Commissioner Mosby: Okay.

Bill Jeffers: It's not going to be less than that though. Or less than the required.

Ditch Maintenance Claims

Bill Jeffers: Okay, ditch maintenance claims are on your table, in order, and the County Surveyor recommends payment of the ditch maintenance claims on your table at this time.

Commissioner Mosby: Motion to approve ditch maintenance claims.

Commissioner Crouch: Second.

President Fanello: So ordered.

Barr Creek Channel Improvement Transfer to Bridge Contract Claim (Heppler Road Bridge)

Bill Jeffers: In February of last year at the Surveyor's annual report noted that Barr Creek channel improvements would be made concurrent with the bridge improvement on Heppler Road. The County Surveyor indicated his approval for a transfer of ditch maintenance money from the Barr Creek account, up to \$10,000 to help pay the bridge contract claim. I wanted to let you know that, at this time, because, basically, John Stoll is going to bring you some paperwork during a

Commissioners meeting showing that \$10,000 is going to be transferred from the Barr Creek account to pay for work that was done upstream and downstream of the Heppler Road Bridge, and outside the right-of-way, and that that was all part of our plan for 2002. I can come to the meeting when that happens, and restate it. I just wanted to let you know at this time.

Encroachment Requests/Agreements

Bill Jeffers: We don't have any encroachment agreements or requests that I know of at this time.

Filing of Obstruction Petition: Local #37 Asbestos Workers

Bill Jeffers: We do have a petition from the Asbestos Workers Local #37 on Cullen Avenue to remove an alleged obstruction. It was accompanied by notification of adjacent property owners, apparently requesting them to do the work prior to the petition. That didn't happen. So, the petition came to you. It apparently was accompanied by a \$100 check, which is the filing fee for such a petition. If you receive the petition at this time, the Surveyor will promptly go out, make an inspection, or an investigation, as required by statute, and report to you at your next meeting. Or you may order me to do so at this time, to acknowledge all that.

President Fanello: Do I have a motion to accept the petition?

Commissioner Mosby: Motion to accept the petition from the Surveyor (Inaudible. Mike not on.)

Commissioner Crouch: Second.

President Fanello: So ordered.

Other Persons Wishing to Address the Board

Bill Jeffers: Don't see any other persons wishing to address the board except Mike here, Mike Wathen.

Comments or Questions from the Board

Bill Jeffers: Are there any comments or questions from the board at this time? To the Surveyor? Seeing none, or hearing none.

Correspondence: Ashley Place Subdivision

Bill Jeffers: Under correspondence, I would respectfully request the Auditor to put a header above this, so that if someone were looking at this meeting they would see that correspondence applied to Ashley Place Subdivision. The first piece of correspondence is dated October 21, 2002, from Andy Easley, asking...it's addressed to John Stoll and it's asking for his recommendation for acceptance of several runs of concrete and plastic pipe located outside the right-of-way. That initiated the discussion in the Drainage Board meeting dated October 28, 2002. The discussion is 19 pages long. I won't read that into the minutes at this time, but near

the end of the discussion Mr. Mosby, President Mosby, at the time, said;

“ So, let me see what I gather here. Do we take this under advisement until the punch list is completed?”

Mr. Mourdock said:

“My suggestion would be to take it under advisement until the next month to get a report back whether or not covenants and restrictions were properly documented when Jagoe sold the lots.”

Then some more comments. So, that was the motion. Then Mr. Broerman interjected can I ask about the 24" pipe, blah, blah, blah. Basically, you all tabled it. So, I'm referring to those minutes as part of this correspondence. The next piece of correspondence....well, I would like to say that Mr. Broerman, during the meeting, said that he had not recorded covenants and restrictions, and as a part of this report, I will say that here are the covenants and restrictions recorded for Ashley Place by Mr. Broerman and Mrs. Broerman, Linda K. Broerman and Richard F. Broerman on the 20th of October, 1998. The restrictions include a, the establishment of a homeowners association, which he said had not been established in those minutes that I refer to, October 28th, I believe. It also specifically assigns the drainage, maintenance of the drainage easements to the adjacent property owners. I say all this at this time, and take up your valuable time because I have received an additional piece of correspondence from Mr. Steve Bohleber. I received it on January 16, 2003, indicating in there that Susan Helfrich, owner of 8444 Aster Lane, which is one of the properties subject to all this approval of these pipes and ditches and everything that took up 19 pages of your minutes on October 28, and you can read those at your pleasure. Mr. Bohleber represents her, and states she has frequent flooding problems, and apparently a dispute has arisen concerning the size of the pipe along her lot, and who's responsibility it is to install and maintain the pipe, and it's integrity into the future. That's a partial quote. So, that's the urgency of my bringing this to your attention at this time, and asking you to include all this correspondence in your minutes. I'm telling you that I'm releasing the file, as requested. Let's see;

“I would like to take the opportunity to talk with you to expedite my understanding of the facts, the dispute, and your proposed resolution from the perspective as County Surveyor. Please call me at your convenience after you have reviewed your file. Thank you.”

Etcetera, Steven Bohleber. So, I've called him and said I've reviewed the file, and it's open to his....is that okay? Public file.

Kevin Winternheimer: Most of it has been discussed—

Commissioner Mosby: It's public record.

Bill Jeffers: It's public record. Most of it's been openly discussed in your minutes anyway. So, apparently there are disagreements between the property owners and the developers of Ashley Place, Section One, Phase B, I believe it is, and others. There is still an ongoing punch list from Mr. Stoll that has not been completed. There is actually an additional letter I got also on the 15th of January from Mr. Stoll indicating the remainder of the punch list that was of concern to Mr. Mosby by his comments, additional stuff in the punch list that has not been yet completed. So, I

just wanted to bring that to your attention at this time, so that when Mr. Bohleber appears before the Drainage Board with Mrs. Helfrich you, it won't catch you by surprise. That's all I have today.

President Fanello: If there is no other business, the board will entertain a motion to adjourn.

Commissioner Crouch: Second. Is that not right?

Commissioner Mosby: Somebody's got to make it.

President Fanello: We need a motion first.

Commissioner Mosby: She made a second, I'll make a motion to adjourn.

President Fanello: Okay, adjourned.

The meeting was adjourned at 10:05 a.m.

Those in Attendance:

Catherine Fanello	David W. Mosby	Suzanne Crouch
Kevin Winternheimer	Bill Jeffers	Madelyn Grayson
Tom Rich	Mike Wathen	Jim Morley, Jr.
Ben Kunkel	Others Unidentified	Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Suzanne Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
FEBRUARY 18, 2003**

The Vanderburgh County Drainage Board met in session this 18th day of February, 2003 at 9:09 a.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Drainage Board, February 18th.

Approval of January 21, 2003 Drainage Board Minutes

President Fanello: Approval of the minutes from November 2002 meeting.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: Is that supposed to be November?

Bill Jeffers: Did they get that wrong one.

President Fanello: I just saw that. I think we mean January 2003.

Bill Jeffers: January. That's—

Commissioner Mosby: I thought there was something we never did in November, and we were doing it.

President Fanello: Approval of January 2003.

Bill Jeffers: Sorry.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: Okay. So ordered.

Bill Jeffers: I did this myself, instead of having my crack staff do it for me.

Madelyn Grayson: Bill, do you have your mike on?

Bill Jeffers: That's my typo, it should be January, I apologize.

**Report on Ambrose/Asbestos Workers Union Obstruction Petition
2360 N. Cullen Avenue**

President Fanello: Old Business, Bill.

Bill Jeffers: Okay, under Old Business, Tom Ambrose from the Asbestos Workers Union on North Cullen Avenue in the Evansville Eastside Industrial Park off Old Boonville Highway, filed a petition with you at your last meeting requesting that you

order the removal of various obstructions along the west line of the industrial park. His petition appears to be in order. He did request all the property owners along the west line to remove the alleged obstructions consisting mainly of overgrown trees, brush, and some blowing debris, or gathered debris that was hanging on those trees, so that the water could follow it's planned path north, through the subdivision. That kicks in a requirement that the Surveyor go out and investigate and file a report with you. I did that Saturday, because it was raining, and there was enough water in the ditch to see the conditions clearly. Basically, what I did was take the Eastside Industrial Park's drainage plan from 19, I believe '79 or '80, done by Morley and Associates, and I went out there, and the two lots owned by the Asbestos Union Workers union, they have a hall and a training center, and a large parking lot. They had cleaned their line, and the water was flowing north through their clean area, their cleaned up ditch. Then the next several properties had not, likewise, cleaned their ditch, until you get up to the end, which I believe is owned by Concrete Pavers, they had cleaned their ditch. You could see that the water was trying to take it's path through there, and there remains about 750' to 800' of unclear ditch. The Surveyor's estimate is that it will be about \$1,500 per 500 feet, or about \$3 a foot to accomplish that. Those owners have been requested by the petitioner to do it on their own, and they have not yet done it in a reasonable time.

Set Hearing Date for Ambrose Petition (March 24, 2003)

Bill Jeffers: So, you should set a hearing. The hearing has to be no less than 90 days from, and no...let's see how it's set, it has to be at least 60 days from the filing of the petition, but no later than 90 days from the filing of the petition. Because of our schedule this year, where you've had two Drainage Board meetings a little earlier than normal, on the attachment to your agenda I have set a hearing date. March 23rd would be 61 days, so that's a legitimate date to hold it, but I believe your, what's your scheduled date, the 28th?

Madelyn Grayson: The 23rd's a Sunday. The 24th?

Bill Jeffers: Oh, excuse me, March 24th is 62 days, that's what should be written there. March 24th is 62 days, so that would be a legitimate date to hear it. April 21st is your 90 days, so you would have to have a special meeting, because your April date is the 28th.

President Fanello: Do you just want to go ahead and set it for March 24th?

Bill Jeffers: It's at your pleasure.

Commissioner Mosby: I'll make a motion to set it for March 24th.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: Okay, you've set the hearing date for the petition, that's where the petitioner and the remonstrators can come in and give their sides of the story.

Authorize Certified Mailings of Notice of Hearing: Ambrose Petition

Bill Jeffers: Then you need to authorize the mailing of certified notices by the County Auditor to all affected parties, so that they have ample time to prepare for that hearing. I will help the County Auditor prepare the notice, but it has to be sent certified mail to each of the respondents named by the petitioner.

President Fanello: Do I have a motion for that?

Commissioner Mosby: Motion.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: Okay, that takes care of Old Business.

Carrington Meadows: Final Drainage Plan

Bill Jeffers: Under drainage plans we have Carrington Meadows final, which is located on Petersburg Road, south of Schlensker, north of Earle, Indiana, which is where the Hornet's Nest is located. So, it's about a half a mile or so north of the Hornet's Nest. The design engineer is James E. Morley. The plan was reviewed last Wednesday. The review process confirmed that the plan substantially complies with all the requirements for a final drainage plan under the county's storm water drainage ordinance. The Surveyor recommends approval. I don't see any persons who may be remonstrating against Carrington Meadows at this time. It's had it's preliminary review, and was found satisfactory at that time too.

President Fanello: Are there any remonstrators in the audience?

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Havenwood Meadows: Preliminary Drainage Plan

Bill Jeffers: The second subdivision is Havenwood Meadows. It's located on Hillsdale Road, about a quarter mile east of Highway 41. It's south of Bluegrass Subdivision. It's west of Plantation Estates Subdivision. The developers are the Elpers Brothers. The design engineer is Keith Poff of Sitecon. At the time I had printed this agenda, I had not yet completed review of the preliminary plan. However that review was completed yesterday at Sitecon's office, with the design engineer and his staff. Going down through the checklist, the plan substantially complies with all items required of a preliminary drainage plan, under your ordinance. There are some issues that will have to be resolved in the designing of the final plan. There are people here in the audience today who would like to comment in that regard. I had anticipated some Bluegrass Subdivision homeowners, because they are very active, and always have protected their drainage interests. I don't see any of them here, but they will be, they will also have an opportunity at APC, and prior to the final plan to

make their comments. Hopefully, those will be incorporated into the final plan. There are some other comments I have on what I submitted to you that you can read at your leisure, but at this time I would like to have you ask for comment on the Havenwood Meadows preliminary plan.

President Fanello: Is there anyone in the audience who would like to speak to the Havenwood?

Henry Schlensker: Henry Schlensker, 4100 Kansas Road. I'm the farmer of the Baumgart property, and they asked me to speak for them. Their concern is the water coming off of the subdivision property at the southwest corner. They own ground between the subdivision and the creek. What is going to happen there, I guess, will come on down the line, but they do have a concern of that.

President Fanello: Does the Surveyor have any comments on that?

Bill Jeffers: I have talked with Mr. Schlensker, and the Baumgart's, and I referred them to Keith Poff and his engineering staff. Basically, there was a government assisted project by probably Resource Conservation Department, or the SWCD, somebody along those lines that terraced and piped the property that's being developed now. Those terraces and pipes directs the water into a tributary of Little Pigeon Creek at this time. What the plan shows now is that that area is the southern most three quarters of the property to be developed, and the developers plan is to first develop, in phase one, the northern most quarter that's bounded by this tributary, and served by this tributary. They will continue to discharge that terraced agricultural land exactly as it is today, until they begin development. It will be phase two, phase three, etcetera. At that time they will have to have a final drainage plan that shows the re-routing of it along it's natural surface land contours, to a detention basin, and the discharge point that Mr. Schlensker has pointed out, and that the Baumgart's are most concerned about, happens to be their field crossing. I indicated to Keith Poff and his staff, the developers, the Elpers Brothers, will have to work out an arrangement whereby they obtain either a temporary construction easement, or a permanent construction and maintenance easement to replace the pipe that the Baumgart's currently use for a construction crossing, with a pipe of sufficient size, and to make whatever modifications are necessary to that discharge point to satisfy the hydrological demands on it. Because it would be much more beneficial to discharge the runoff from this subdivision directly into Little Pigeon Creek, where it's at least a half mile downstream of it's current discharge point, so that that water would be well under Highway 41 before other water from upland, particularly Bluegrass Subdivision, would be competing with it for the same channel. I believe they discussed this prior to the meeting of the Baumgart's, and Mr. Schlensker has discussed this with Keith Poff's assistant. I'm sure we can work all this out prior to the submittal of a final drainage plan for this particular project. That's one of the good things about our process is that something that may not have ever occurred to us is brought to you by a neighboring property owner during preliminary review, so that it can be incorporated into the final plans, and not cause a problem. So, I really appreciate the Baumgarts and Mr. Schlensker coming in and pointing this out to us, and I want to assure you that we, it will be worked out before the final plan is approved by this body.

President Fanello: Is there anyone else in the audience wishing to give any comments?

Bill Jeffers: When you make a motion, if this passes as a preliminary, and the County Surveyor recommends that it be approved as a preliminary plan. It will then go to the Area Plan Commission, possibly as soon as March 4th? Is that the first Wednesday? Or March 5th.

Unidentified: I think it's the 5th.

Bill Jeffers: March 5th will be Area Plan Commission's first look at this as a primary plat. At that time, if there, if you guys have worked out an agreement with the landowner, land developer with regard to a temporary or permanent easement, new crossing, whatever you work out, you may not have a comment at that time. If there is still a problem, the County Surveyor can, as a member of the Area Plan Commission, attach an additional condition to the plat approval. If the County Surveyor feels that it would be appropriate at that time to absolutely ensure that this gets done, I'll do it. So, get back with me before March 5th, and let me know if you all have got everything satisfactorily resolved with this developer concerning your, particularly your agricultural crossing there.

Commissioner Mosby: I'll make a motion that we accept this on preliminary.

Commissioner Crouch: Second.

President Fanello: So ordered.

Surveyor's Annual Report on Condition of Regulated Drains
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Bill Jeffers: Okay, on Surveyor's Annual Report, as required by statute once a year, where the Surveyor reports on the condition of the regulated drains. You have that in front of you for 2003. I don't want to read it into the record, but I ask that it be put into the record. Some highlights, not highlights, but some points that I would like to bring to your attention. On page three, FEMA's proposed floodplain maps. The consultant hired by the County Commissioners to examine the floodplain study, done by FEMA's sub-contractor, is complete. Has been published. The findings are available from the Vanderburgh County Building Commissioner, because the Commissioner is, the Vanderburgh County Building Commissioner is the chairman of the ad hoc committee that was put together to, for guidance on this. I do have a condensed version around here somewhere, if anybody is interested, but he has the full blown book with all the pictures, and color graphs and everything. I just have some of the narrative. As anticipated, the consultants discovered some specific bridges, culverts, and other structures that appear not to meet the structural and hydraulic requirements for proper operation of regulated drains. It tells you there on page three what those structures are. We knew that they would find those. On page four I go into a little more detail on those specific structures, and point out that a joint effort by the city and the county, back in 1979, there was a plan drawn that had a pipe for Stockwell Road that would have handled the flood water from the Eastside Urban drainage system that was created at that time, in 1979. The construction was completed in 1982. However, there was some difference of opinion with the railroad, and they thought it would close their rail line down for too many hours to put that structure in. So, it was not put in, and that is artificially raising the floodplain. There is a recommendation in here that we resurrect that plan, and try to move forward with it, in accordance with the Indiana Code 36-9-27-71, which specifically addresses insufficient waterway openings for regulated drains under city highways, county highways, and railroads. It specifically states how that's supposed to be addressed

where there is a cost sharing process for the various entities to pay for the new structure. I was wanting to bring that to your attention, and we'll talk about it later when we have more dialogue with various parties. The only other thing that I would like to bring up on the record at this time, I mean, openly, verbally, the rest of it can be read by anyone who wants to read it. It's too long to take up at this time. We are getting ready to experience some different methods of maintaining ditches, whether they're regulated drains, or whether they are MS4 entities, whether they are owned or operated by the city, or county, or whomever. I'm bringing up specifically some drains that serve the urban east side. I'm trying to find the page number, where we'll be using some, what might be called conservation practices, as opposed to simply ditch cleaning. That will be ditches like Aiken Ditch, Harper Ditch, Eagle Slough, various other ditches that I name here in this report where we'll be working with the Natural Resource Conservation Service, and Department of Natural Resources to incorporate practices that they recommend for filtration, infiltration, and bio-retention of urban storm water. We'll just be doing things a little bit differently. The specifications that I'm going to present to you reflect that. I wanted to bring that up. Other than that I just ask that the Surveyor's report be entered into the record, and be made available to whomever would like to read the entire thing. So, I'm asking you to receive the report at this time.

Commissioner Mosby: I'll make a motion to receive the report.

Commissioner Crouch: Second.

President Fanello: So ordered.

Commissioner Mosby: Bill, also, I think we're going to have a meeting on this FEMA thing here before too long. I had talked with Jim Morley (Inaudible).

Bill Jeffers: Yes. Morley and Associates and Bernardin Lochmueller Associates produced this report. In the report it gives you specific recommendations on what you should do at this time, should you wish to follow those recommendations. I would also like to say that the County Surveyor has some recommendations, more from our perspective, because the recommendations given you by your consultants don't take into consideration that specific citation of the statute I read into the record just now.

Commissioner Mosby: That's the purpose of the meeting.

Bill Jeffers: Right, to clear a few things up.

Commissioner Mosby: I met with some of the developers out on the east side who are real concerned. The purpose of the meeting was to get your opinion, John Stoll's opinion, invite the City Engineer, and the Building Commissioner.

Bill Jeffers: Right. I didn't want to really discuss it at length at this time. It would be unfair to people who aren't here to respond to what I might say.

Commissioner Mosby: I just wanted to tell you that I have set that up, and you will be getting a call whenever this is all ready to go.

Bill Jeffers: Good deal.

Approve Specifications for 2003 Maintenance of Regulated Drains

Bill Jeffers: Okay, you've received the annual report. Attached to the annual report is the Notice to Bidders, but I think actually we should take the specifications next. Okay, attached to the annual report, I've handed you copies, are the special, or the general specifications, and the special provisions for the maintenance of all 30 regulated drains in Vanderburgh County. They are based on the annual reports declaration of need for each of these ditches. I do need to run that through spell check, etcetera, but at this time I'm asking you to approve the specifications for the maintenance of regulated drains in 2003, as presented to you at this time.

Commissioner Mosby: I'll make a motion to approve specifications for maintenance of regulated drains.

Commissioner Crouch: Second.

President Fanello: So ordered.

Authorize Notice to Bidders on Annual Ditch Maintenance

Bill Jeffers: Okay, the next item would be to advertise those plans and specifications, which includes, I had a set of roll plans, I certainly hope I didn't lose them. It includes a set of roll plans, which are referred to in the specifications. For Barr Creek on Bill Luigs property, along with all the other specifications, for the repair of a really bad area that requires reconstruction, to some degree, and those plans in accordance with the Indiana Code were prepared by a registered engineer and land surveyor, along with his engineer's estimate. All those I would like to bid. You have just now approved, and the Notice to Bidders is in front of your Recording Secretary, the original copy, I've distributed other copies. Basically, the same as any other year, and I'm asking that it be advertised in the Evansville Courier and Press on Friday, February 28th and March, Friday, March 7th for opening and reading aloud March 24th. That gives, if you approve that, that gives the bidders a full ten working days to examine the specifications and submit a bid. We're only required to give them ten calendar days, but in this case, because you had your meeting early, it gives them ten full working days.

Commissioner Mosby: I'll make a motion that we give Notice to Bidders February 28th and March 7th.

Commissioner Crouch: Second.

President Fanello: So ordered.

Ditch Maintenance Claims

Bill Jeffers: I have two or three maintenance claims that are prepared in accordance with your regulations. Take the necessary paperwork, etcetera, signed by the County Surveyor, and recommends approval of the payment of those two or three ditch maintenance claims.

Commissioner Mosby: Motion to approve ditch maintenance claims.

Commissioner Crouch: Second.

President Fanello: So ordered.

**Additional Requests: Encroachment and/or Relaxation Agreements
and/or Petitions to Remove Obstructions**

Bill Jeffers: I know of no requests to relax drainage rights-of-way at this time, or encroachment requests, or petitions to remove obstructions, unless the Recording Secretary is aware of any.

Madelyn Grayson: None.

Other Persons Wishing to Address the Board

Bill Jeffers: So, at this time we are at other persons wishing to address the board. As I mentioned before the meeting, an e-mail came from Mr. Fred Padget of the West Side Improvement Association regarding the Rosenberger Development, which is Dennis Owens development of a commercial site located south of Hogue Road, east of Rosenberger Avenue, and north of the Expressway. Before anybody says anything on this, I would like to point out that the County Surveyor has not received, and is not aware of any drainage plan for this project. The board has not seen, has not been presented with, and has not had the opportunity to review any drainage plan associated with this project. It was rezoned by the Area Plan Commission a couple of months ago as C-4. It does not have a primary plan at this time, so the Area Plan Commission has not received or acted on a primary plat, so the County Surveyor has not had the opportunity to attach any additional conditions, drainage conditions to a primary plat. It's my understanding that the, Mr. Owen, at this time is logging, and he has removed logs from the floodway for Carpentier Creek. That floodway is under the jurisdiction of the Indiana Department of Natural Resources, not the Vanderburgh County Drainage Board. Any construction activity, land disturbing activity, etcetera, requires a permit from the Department of Natural Resources, not from the Drainage Board, at this time. It's my understanding that you can log in a floodway if you saw cut the logs, and drag them out of the floodway without any significant land disturbing activity. However, that would be an issue that would have to be addressed by state requirements, either from the Indiana Department of Environmental Management, or the Indiana Department of Natural Resources. Again, it does not require review or a permit from this body. However, your board has always welcomed comment from the public, and I would, I am not trying to make, in any way make light of the seriousness of the concern, or the need for it to be addressed. I was just simply pointing out jurisdictional issues. You have not seen a plan yet, and it's not currently under permit by the county.

President Fanello: Does anybody want to speak?

Fred Padget: Good morning. I'm Fred Padget. I live at 2345 Skyline Drive. I'm President of the West Side Improvement Association. Mike passed out an e-mail that I had sent to Phil Hoy as Chairman of the Soil and Water Conservation District, and to Bill Jeffers as Surveyor of the County. I also sent the Commissioners an e-mail last evening. I doubt that you have that yet, but it's in the process somewhere. I'll take maybe a few minutes here, because I think this is an extremely important issue, and if I get overbearing, just tell me, and I'll pack up and leave quietly. A few

months ago on December 16th of 2002, the County Commission approved a rezoning petition by Dennis Owens to rezone to C-4 approximately 20 acres north of the Lloyd, south of Hogue, and east of Rosenberger. It's since referred to as Rosenberger Development. At that time the West Side Improvement Association expressed several concerns, but did not oppose the requested rezoning based on commitments made by the developer to the Area Plan Commission, the County Commissioners, the City Council, because part of that property lies within the city, and ourselves, the West Side Improvement. Of our several concerns, the greatest was protection of Carpentier Creek and the associated floodway. A couple of months ago in preparing for the APC meeting of December 4th, when the petition was going to be heard, a representative of the Soil and Water Conservation District, the developer, and myself met, we walked the property to assure ourselves of an understanding of what was to occur. We observed an area along Carpentier Creek that was flagged, indicating the floodway. He, the developer, was very clear that the area beyond the flags, bordering the creek, was part of the floodway, and not to incur any disturbance. He said he was not going to touch that area. That was a quote. I felt the erosion control plan that had been filed at the time indicated an understanding that the area beyond the flags would not be filled, and therefore did not require an erosion control plan. This has been confirmed to me later by Mike Wathen. In reviewing the existing approved erosion control plan, the developers engineer did not indicate any erosion control measures in the floodway area. This past Friday, February 14th, a representative of Soil and Water Conservation District and myself observed the area being developed. I was shocked and quite disheartened by the apparent lack of concern for the filed and approved erosion control plan, and, in my opinion, utter disregard for regulations that pertain to the creek and the floodway. The area beyond where the flags were, and as I understand clearly in the floodway, and even into the creek banks...I'm sorry, clearly in the floodway has been devastated, even into the creek banks and channel. Most all of the trees have been cut within the designated floodway, and even into the creek banks. Many are currently laying in the stream bed. Major disturbance of soil has occurred within the floodway, and no erosion control practices currently appear to be in place, in that area. To the best of my knowledge, a revised erosion control plan has not been filed for the portion of disturbance, which is in the floodway. At this point, my e-mail goes on, but at this point there are several concerns, and, I think, really there are several agencies that need to be involved in this. One of the issues is obtaining a revised erosion control plan, which Soil and Water Conservation District is working on, and I know they will do that. I think part of it, I think maybe the Army Corp of Engineers has some jurisdiction over it, and I'm going to chase that down to try to clarify that. I think the important part of this, and I'm privileged to be an associate supervisor on the Soil and Water Conservation District Board also. We've discussed many times this developer as it concerns a development called McCutchan Court. You people probably know more about that than I do, but as I understand it, he has had, and continues to have some problems with that development. I think what we're seeing, quite frankly, is just a flagrant disregard for the authority of the Area Planning Commission, for the Commissioners, for the City Council, and for any kind of regulatory agencies that this activity pertains to. At this point I'm simply wanting to make you, the Drainage Board, and you are also the Commissioners, so, I want to make you aware of this concern, and any follow up that needs to happen, I would certainly appreciate your involvement in it. If I can be of any help, in any manner, I certainly will. Basically, that's my remarks. If there is any questions, I will certainly try to answer them.

President Fanello: Does anybody have any questions for Mr. Padget? Thanks for making us aware of that.

Fred Padget: Thanks.

Bill Jeffers: One of the things that comes to mind is, under the new regulations that we will have to work with beginning later this year, various agencies, federal and state agencies, are going to strongly encourage that areas such as the one Mr. Padget is bringing to your attention at this time, are left totally undisturbed. Because when the trees hang over the creek, Carpentier Creek in this instance, they help shade the water, keep the water temperature down, make the natural habitat more useable and friendly to wildlife. Mr. Padget is correct in pointing out that if this area was left totally untouched, the floodway were left totally untouched it would help, it works much better to filter out sediment and other pollutants that would come from a construction site than an erected erosion control fence, which would have to be maintained constantly, each time it's overtopped, or whatever. It also, when work gets real hectic inside a development area, the kind of erosion control measures that are required, and are monitored by Soil and Water Conservation District, work to keep that area that's being constantly disturbed, work to keep it under control, but even that little bit of sediment and other pollutants that leaves that area, because the erosion control measures might be overcome by a heavy storm, you still have this back up, you still have this buffer area that was undisturbed. I think a lot of us are looking towards having to work with the new concepts. I'm sure Mr. Padget is, he's expressed that many times. I think that's the basis of his concern here. If that area had been left totally undisturbed, it would have worked to help filter out pollutants that will most likely come from the dramatically disturbed area that occurs during commercial development. He is correct. The Corp of Engineers does have some jurisdiction in this area. I'm looking over his e-mail here, Soil and Water Conservation District does act on behalf of the Indiana Department of Natural Resources and Indiana Department of Environmental Management in this regard. So, their attention to this detail, to any detail of this is appropriate. If the original erosion control plan showed that area to be undisturbed, in fact, they will have to have a new erosion control plan that will be modified to show more intense erosion control in that area. In closing, I would simply say that I have seen instances similar to this where the Department of Natural Resources came down to the site, looked at what had been done, and issued a permit, after the fact, that included conditions to mitigate the damage that occurred in the floodway. One of them was right immediately adjacent to this site, where they, one of, some of the conditions were to dig out a large detention area in the creek, and seed several hundred new trees into that area. What they do is they issue a permit after the fact, because the permit doesn't reflect the original plan. Then they tell you so many of this kind of tree, so many of that kind of tree, and repair the channel in this regard and that regard. So, that's why I was saying when I first began, this is an item that falls under the jurisdiction of the Indiana Department of Natural Resources. Regardless of what action this board takes, whether as the Drainage Board or the County Commissioners, I simply wanted to make sure you understood that there is a definite state jurisdiction in this regard. They will be taking action very soon I understand. Is that correct, Mike?

Mike Wathen: Mike Wathen, Soil and Water Conservation District. I was out there Friday with Fred, and I got a hold of Lynn Miller this morning. We're going to meet out there at 1:30 today. My intentions are plain and simple, just ask for an amended erosion control plan for the floodway area. I don't feel comfortable making recommendations, unless I've got an erosion control plan. The erosion control plan I have in my hand doesn't reflect that area ever being disturbed in the first place. So, we approved it on the basis that the area that's now in question would have

never been touched. So, since he has touched it, I'm going to ask for a plan. I've spoke with Dave Schmenke at Morley. I just spoke with Jon Kipling, and they are going to have a representative out there. Lynn suggested we go ahead and just fill out an on-site evaluation, and send it up to him, which I'll get that done, you know, as soon as I can get out there and get it done. Short of that, I think it's important that the developer recognize that he's taken some steps that I think are being scrutinized pretty close by IDNR. I would like to meet with him out there today, but it's my understanding that he's not going to be able to make it. I'm still going to go ahead and meet. If he wants to meet at a later time this week, I'll be happy to do that as well. I don't think we should wait. I think we should go ahead and ask for an amended plan, and I think we should go ahead and fill out an on-site evaluation. So, that's my intended course of action at this time.

President Fanello: Are there any questions of Mike? Thanks, Mike.

Bill Jeffers: The County Surveyor doesn't have anything further, unless the Board has questions. Here is a copy of a summary of the narrative for that floodplain study that was done by Bernardin Lochmueller and Morley.

President Fanello: Can we take this back and make a copy?

Bill Jeffers: You can take that and make copies for whomever you wish.

President Fanello: Make copies of this. I'll have Patty make them. Do I have a motion to adjourn?

Commissioner Mosby: Motion to adjourn.

Commissioner Crouch: Second.

President Fanello: So ordered.

The meeting was adjourned at 9:50A.M.

Those in Attendance:

Catherine Fanello	David W. Mosby	Suzanne M. Crouch
Kevin Winternheimer	Bill Jeffers	Madelyn Grayson
Henry Schlensker	Fred Padget	Mike Wathen
Others Unidentified	Members of Media	

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
March 24, 2003**

The Vanderburgh County Drainage Board met in session this 24th day of March, 2003 at 6:08 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Drainage Board, March 24th.

Approval of February 18, 2003 Drainage Board Minutes

President Fanello: Do we have a motion to approve the minutes?

Commissioner Mosby: Motion to approve.

President Fanello: Second. So ordered.

**Hearing of petition
Ambrose/Asbestos Workers Union Petition (continued on page)**

Bill Jeffers: I believe the first item on the agenda is the hearing of the petition filed by Mr. Tom Ambrose, Vice President Asbestos Workers Local #37, which was advertised for 6:30 p.m., Monday, March 24, 2003, so you may wish to move to postpone that until 6:30 and take your next item of business.

Commissioner Mosby: Motion to move hearing to 6:30.

Catherine Fanello: Second. So ordered.

**Jones property, 2330 Sheridan Road
Open bids for removal of obstruction**

Bill Jeffers: The next item of business was a report on the Smith petition and the Jones...you all can pass these down and take one, please. The Smith petition to remove an obstruction along the rear lot line of 2330 Sheridan Road on property owned by Mr. & Mrs. Jones. The hearing was held on your July meeting, 2002. The Jones' were unable to attend at that time due to Mr. Jones' critical illness. The hearing was continued to August 26th, 2002 to give the respondent, the Jones', an opportunity to address your board. Both Mr. and Mrs. Jones were present at the August hearing but did not address the board at the microphone. Your board ordered the obstruction to be removed at that meeting, August 26th, 2002. That was your determination and your order. Mr. Jones, the respondent, spent the fall of 2002 in the hospital and passed away in December. At your December meeting the Surveyor recommended we wait until spring to act on the removal due to the death of the respondent and the fact that we were in the middle of a winter. The Surveyor met with three contractors at the site Tuesday, March 18, 2003 at or about 1:00 and asked each of the three contractors at the same time to submit a bid on the total cost to remove the obstruction, disposing the spoil, regrading the swale, and seeding and mulching the area upon completion and that's because the respondents have failed to remove the obstruction upon your order. So the County Surveyor, at this time, recommends you open the bids just for – I think I asked

them, on the front of the envelope to put Smith & Jones.

Kevin Winternheimer: I've got two of them.

Bill Jeffers: Apparently, one of the contractors did not submit a bid. The three contractors I asked were DG Contractors, Mark Naas from Naas Brothers, and Martin Woodward from Woodward Contractors. So right now I would recommend that you open the bids for this work and then subsequent to tonight's meeting, to send a new order to remove the obstruction to Mrs. Jones and/or the heirs to Mr. Jones' estate. When I was out there, some of the Jones' children were living with Mrs. Jones. I don't know what the particulars are in that regard, and give them the option to remove the obstruction within the next 30 days following the mailing of the notice. And if it's not complete, to direct the low bidder of these two bidders you are about to open, to perform the work if necessary after the 30 day notice, and to pay for the removal, pay the cost of these contractors from a general drain improvement fund per Indiana statute 36-9-27.4-21 and to collect from the respondents at a later date to repay that fund per the same statute -22, subsection 22. I've attached to this, those two subsections where you can see that in order to remove an obstruction, you could provide for the cost of removal to be paid by the general drain improvement fund and for that amount to be advanced and then reimbursed by the persons subject to the order.

Kevin Winternheimer: Are there any bids from the audience on any of the items, including this one? Seeing none, I have two bids. The first is from Naas & Sons, Inc. of Haubstadt, Indiana, and their price is \$495. The second and last bid is from Martin Woodward Backhoe Service of Poseyville, Indiana, and their price is \$1,850. That's the only bids I have.

Bill Jeffers: This is Mr. Naas who's just stepped in the door. Mr. Naas, the bids were \$495 by you and \$1,850 Martin Woodward. I'd like to say that's about 85 lineal feet and both bids represent a reasonable price and I would recommend that we, again, that we make a motion to send a new order to remove the obstruction to Mrs. Jones and the heirs of Mr. Jones, with their option to remove that obstruction 30 days following the mailing of notice. And otherwise, to allow the Surveyor to direct the low bidder, Mr. Naas, to perform the work 30 days after the mailing of the notice if the obstruction still remains.

Commissioner Mosby: I will make that motion so stated.

President Fanello: Second and so ordered.

Kevin Winternheimer: I just might add, you might want to check and make sure they haven't opened up an estate, call the probate office and just ask, give them his name and ask whether they opened an estate, because if they have, then you need to give notice to whoever the executor of the estate is.

Bill Jeffers: Opened an estate?

Kevin Winternheimer: Yeah, just give them his name and ask them if at any time after his date of death has an estate been opened and whatever Mr. Jones –

Bill Jeffers: And then he would notify the executor –

Kevin Winternheimer: – the executor of the estate, and they can tell you the name and address of that executor.

Bill Jeffers: What I did here is, I put under old business, I put opening all these other bids at this time so that Mr. Winternheimer has ample opportunity to open them all before under new business, you would read the bids into the record because there will be –

Kevin Winternheimer: I'd rather not do it that way. I'd rather just open them and read them because otherwise, they're going to be a mess –

Bill Jeffers: Okay, we'll skip that then.

Havenwood Meadows, Section One: Final Plans
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Bill Jeffers: The next item is Havenwood Meadows, Section One: Final Plans. About a month ago you approved the preliminary plans for the entire Havenwood Meadows. Subsequently, it went to Area Plan Commission and the primary plat was approved at that time. Now the developer is back with before you at this time asking for approval of the final plans on section one, which is about the north one third of the project. And if Mr. Keith Poff, who is the engineer for the developer would step to the microphone, I need to ask him a couple of questions. Keith, you were at the Area Plan Commission meeting and you saw that they were somewhat hesitant to add any conditions at that time regarding drainage, and so I just want to make sure we clean everything up at each drainage board meeting so that we don't burden the Area Plan Commission with extra conditions. At that time, I simply asked that any work that's in the flood way be preceded by a permit issue from DNR before the work is initiated in a flood way. And I believe on section one you have no work in the flood way.

Keith Poff: That's correct.

Bill Jeffers: And the flood way is that flood way that's designated by the Corps Of Engineers study of 1981, was it? Regardless of the date, it was by the Corps of Engineers.

Keith Poff: It's the Little Pigeon Creek and Locust Creek study, yes.

Bill Jeffers: And so that's by the Corps of Engineers which traditionally, DNR endorses that study limit.

Keith Poff: Yes.

Bill Jeffers: And we also asked that all final drainage plans have an approved erosion control plan attached to the final drainage plan prior to this board acting on it and you did submit one of those to our office and that is the erosion control plan you plan to use on section one?

Keith Poff: Yes, it is.

Bill Jeffers: The only other question I had at this time was, the old pipe that comes in for the right-of-way or the right of entry that the farm house enjoys next to

Cypress Creek or –

Keith Poff: It's built in the driveway immediately west of Cypress Creek –

Bill Jeffers: An old boiler pipe or something that's underneath there? Is that going to remain or when you reroute that channel, is that going to be new?

Keith Poff: We've advised the developer to leave that in place. It will become the rear lot for two building sites and we thought it would be just fine to leave it in. The driveway will be covered and will be filled since they can have vegetation grow over it, but that structure can remain in.

Bill Jeffers: And I noticed when I reviewed your plan that all the storm water generated by a 25 year storm would be carried by pipes or channels, anything from the 50 year storm would travel through the easements and anything from in a hundred year storm would not inundate the houses there.

Keith Poff: That's correct.

Bill Jeffers: Okay, and having reviewed the plan and found it to be sufficient, the Vanderburgh County Surveyor recommends approval of the final drainage plan for Havenwood Meadows, Section One.

Commissioner Mosby: Motion to approve Havenwood Meadows, Section One.

President Fanello: Second and so ordered.

Keith Poff: Thank you.

Bridlewood Subdivision, Section Six: Preliminary Plans

Bill Jeffers: The next item on your agenda is Bridlewood Subdivision, Section Six: Preliminary Plan. This plan is prepared by Morley & Associates, Incorporated, represented here tonight by Ron London. It was prepared for Bridlewood Development LLC, represented here tonight by Bruce & Mary Biggerstaff. And, Mr. London, I just had a couple of questions on that one, so that Area Plan Commission, when they see the (inaudible) field report understand that it has had preliminary review. Bridlewood, LLC also (inaudible) owns lots and has a standing drainage plan for Bridlewood Subdivision, Sections one through five?

Ron London: Yes.

Bill Jeffers: And they have a detention basin at the northeast end of that subdivision into which a very small percentage of the water from Bridlewood six, that's here in front of us tonight, will drain in to.

Ron London: Yes.

Bill Jeffers: And so the two corporations are the same. I mean, the owners of all the land involved are the same on both sides of the line, at this time.

Ron London: Yes.

Bill Jeffers: The only other thing I've noticed is on your preliminary drainage plan, there was a flood plain limit that was slightly different from the primary plat that's going to APC, that also came out of your office under the seal of Danny Leak, and I just want to make sure that the final drainage plan that tentatively will appear in front of us next month, a month from today, that the flood way and the flood plain limits that are shown on the final drainage plan, match exactly what's shown on the primary plat that was submitted to Area Plan Commission.

Ron London: They will. All I did was –

Bill Jeffers: I know there's been several studies out there and I just want everybody's plan to look the same.

Ron London: What I did was, I added the proposed flood plain line based off the new maps that will be coming out in the next few months, so I went ahead and added that line. And the line for the existing flood plain is also shown on there, so there's two of them.

Bill Jeffers: My main concern is that the primary plat is the one that's being reviewed by the subdivision review committee, and Mr. Lehman, as chairman of the flood plain management committee, is going to ask that any lot that has all or part of the lot in a flood plain, has a flood protection grade on it. So I just wanted to make sure that the drainage plan matches the primary plat in that regard.

Ron London: Yeah. It will.

Bill Jeffers: Okay. The County Surveyor has reviewed the preliminary plan for Bridlewood Subdivision: Section Six and recommends approval.

Commissioner Mosby: Motion to approve Bridlewood Subdivision: Section Six.

President Fanello: Second and so ordered.

<p>Jasper Minor Replat, 8824 N. Kentucky Avenue Mini-Storage: Final Plans</p>

Bill Jeffers: Jasper Minor Replat is the final plan, it's a one lot mini-sub, with storage barns on it. And it's done by Fred Kuester. I told him he didn't have to appear here. This went to site review, actually, but there were some items that required your drainage approval and it's been reviewed by the County Surveyor and sent back to Mr. Kuester, who made those corrections. At this time, the County Surveyor recommends approval of Jasper Minor Replat, the address, 8824 North Kentucky for mini-storage, it's a final plan.

Commissioner Mosby: Motion to approve 8824 North Kentucky.

President Fanello: Second. So ordered.

Bill Jeffers: I'm still waiting for 6:30 to roll around.

Commissioner Mosby: We've got lots of stuff to do. The problem is, you'll be opening those bids and then it'll be 6:30 –

Commissioner Mosby: Can't we stop and –

Bill Jeffers: Sure.

Commissioner Mosby: We can always stop, Bill.

Bill Jeffers: It's your pleasure. You can either ask Mr. Winternheimer to open the bids or –

Commissioner Mosby: I make the motion that we instruct the corporate counsel to open the bids at this time.

President Fanello: Second. So ordered.

Open bids for annual maintenance of regulated drains

Kevin Winternheimer: Do they have a tally sheet like this? Do they have one of these?

Teri Lukeman: Who?

Kevin Winternheimer: The Commissioners. I didn't know –

Bill Jeffers: Would you like me to run copies of it or are you all interested in a tally sheet in front of you?

Kevin Winternheimer: It's up to you –

Teri Lukeman: I can make a copy of it after the meeting if you'd like.

President Fanello: That will be fine.

Kevin Winternheimer: Okay, what I'm going to do is run down through like she's got it on the list here and then they may be for different projects, so I'm just going to read them as we go here. We're going to go right quick here. I moved down here so she could help me stuff them back in the envelopes.

BIDDER	DITCH	\$/FT	TOTAL BID
RR Rexing Farms	Pond Flat Lateral B	\$.14/ft	\$391.58
RR Rexing Farms	Pond Flat Lateral A	\$.14/ft.	\$743.54
RR Rexing Farms	Pond Flat Lateral D	\$.14/ft.	\$641.06
Rexing Enterprises	Singer Ditch	\$.15/ft.	\$367.50
John Maurer	Hoefling Ditch	\$.10/ft.	\$557.10
John Maurer	Baehl Ditch	\$.125/ft	\$861.25
Union Township Ditch Assn.	Barnett Ditch	\$.30/ft	\$2,507.40

Union Township Ditch Assn.	Happe/Helfrich Ditch	\$.03/ft.	\$380.94
Union Township Ditch Assn.	Edmond Ditch	\$.03/ft.	\$461.85
Union Township Ditch Assn.	Cypress Dale/Maddox Ditch	\$.30/ft.	\$7,166.10
Union Township Ditch Assn.	Kamp Ditch	\$.03/ft.	\$334.80
Big Creek Drainage Assn.	Maidlow Ditch *No check enclosed*	\$.14/ft.	\$2,613.94
Big Creek Drainage Assn.	Buente Upper Big Creek	\$.19/ft.	\$3,837.05
Big Creek Drainage Assn.	Rexing Creek	\$.12/ft.	\$2,051.52
Eldon Maasberg	Wallenmeyer Ditch	\$.15/ft.	\$1,253.25
Eldon Maasberg	Kneer Ditch	\$.115/ft.	\$349.14
Eldon Maasberg	Baehl Ditch	\$.15/ft.	\$1,033.50
Eldon Maasberg	Maasberg Ditch	\$.09/ft.	\$198.54
Eldon Maasberg	Kneer Ditch	\$.15/ft.	\$410.40
Jim Axton	Aiken Ditch	\$.34/ft.	\$799.00
Jim Axton	Sonntag Stevens	\$.42/ft.	\$1,293.60
Jim Axton	East Side Urban-South ½	\$.43/ft.	\$1,677.00

(Bid opening continued on page 13)

Kevin Winternheimer: How are we doing? Keep going?

Commissioner Mosby: Do you want to stop here?

Bill Jeffers: Yeah, we advertised the hearing for 6:30 and we've got pretty good weather outside. I guess everybody's had an opportunity to arrive.

Hearing: Ambrose/Asbestos Workers Union Petition

Bill Jeffers: This is a hearing on a petition to remove an obstruction. The petitioner's name is Mr. Tom Ambrose, Vice President of Asbestos Workers Union Local #37, on behalf of the union and the property they own on North Cullen Avenue. If you all would like to take one of these and pass a copy to your lawyer and your recording secretary. Anybody in the audience who would like a copy of this report, you can have one. The first page is the agenda request by Mr. Ambrose to be put on the agenda today for action. That was made to your office. The next two pages are the notice of hearing that was produced in our office and mailed by the Auditor to the petitioner, Mr. Ambrose, at the union's North Cullen Avenue address along with all the remonstrators that are listed here. You have the address

of the affected property followed by the name of the owner of record of that property and their mailing address as found in the tax records of the Vanderburgh County Treasurer. Each one of those persons was notified and then it was found that that last address, 2710 North Cullen Avenue, the owner of record had been Mr. William Earl Harp and it was found that that property had just been transferred to a new owner, and the new owner was also notified within ample time to be here at this meeting unless we're otherwise – I mean, I have a green card on it, but if that owner were to raise an objection, we would have to deal with that at the time the objection was raised. But I believe he's had at least a two week notice prior to this date. Basically, the purpose of this hearing is to hear Mr. Ambrose and any of the remonstrators who wish to comment. I have with me copies of the Indiana statute and basically I've taken out of that statute the parts that pertain to this hearing. The County Surveyor has, upon investigation of the property and properties the north of the petitioner, found an existing obstruction in the drain, and has reported the existence of that obstruction to the board at its last meeting and again at this meeting I'll report the existence of an obstruction. Basically, an obstruction is any materials, deposits, growth of trees or whatever that exists within or nearby a drain that either totally inhibits or significantly impedes the flow of water through the drain. And what was found to exist there was about a 20 year growth of vegetation, including large trees, small trees, brush, weeds plus debris that gathers on that because it's such a flat grade that any debris that might blow out of the neighboring properties, plastics, cardboard, things that maybe were thrown in there like pallets, other debris has floated and accumulated against the growth of the trees and brush and has significantly impeded the flow of water from the petitioner's property northward into the drainage basin serving East Side Industrial Park, which is the subdivision of which all these properties are a part. Basically, your next page after that, I show a site location with an orange dot marking the petitioner's property and a yellow line showing the other properties that were notified along the back line of those properties where that drain exists. Then on the following pages you have aerial photographs of the properties beginning with 2630 North Cullen which is the asbestos workers union hall and training center. Then each of the properties that received a notification, looks like Linda has included some that didn't, but up to 2710 North Cullen did receive notification. And then what Linda put together for you is a lot by lot series of aerial photographs showing the ditch along the left-hand side there. The first one you can see the one owned by the – these were taken in 2000. By the way, they were taken three years ago, March 2000. And you can see the asbestos union workers hall, the ditch is clean. They have since actually regraded that ditch and seeded it and mulched it so it's cleaner yet. Then you can see all the properties to the north, you can see the trees growing out of the ditch. Those are shadows of the tree because the photographs were taken after noon, about three in the afternoon, so the shadows of the tree are being cast across the back of the line. But you can see that some of those trees are in excess of 20 feet tall. This subdivision was built between 1980 and 1982 and some of those trees appear to be at least 15-20 years old. So each of those properties to the north, you continue to see trees and other debris until you get to 2630 North Cullen, and actually, the property is 2650 and 2700. I believe that's Concrete Pavers. In the photograph you see here, which as I say, was taken in 2000, there is some growth of trees and some evidence of debris, but when I checked that property one month ago today, they have dredged that property out so those last properties, 2650 and 2700, which I believe is Concrete Pavers, then another property to the north of that, I'd have to look it up, and 2710, those are fairly clear. The water is standing in the ditch because I believe they dredged it out too deep, but it will eventually fill back in with

silt. I don't believe there is any obstruction on 2710, 2700, and 2650, however, there remains approximately 850 foot – I had another series of photographs which show the 850 feet, right here, this is a reduced, these photographs aren't nearly as big because the scale is much smaller. You can take those and pass those down. I've highlighted an area that's approximately 850 feet long from the northwest corner of the asbestos workers training center north to the southwest corner of Concrete Pavers to show that 850 feet of ditch that still remains completely full of trees, brush and other debris. And at this time I would ask if the petitioner, Mr. Ambrose, would like to speak. I've made my report and following Mr. Ambrose, there may be other persons in the audience representing the remonstrators who may wish to speak.

President Fanello: We need for you to come to the microphone and state your name.

Tom Ambrose: Tom Ambrose. We're basically just wanting the ditch cleaned out to the north of us so our property will drain correctly. We've been working on it, oh, since '79, we bought the property, and it's starting to become a problem. Our parking lot floods every time it rains. So we just wanted the obstructions moved out of the way if we can.

Bill Jeffers: Do you agree that Concrete Pavers and the properties to the north of Concrete Pavers have cleared out the –

Tom Ambrose: He said he was going to clean it out. He had his own equipment.

Bill Jeffers: Right, he has a lot of equipment –

Tom Ambrose: And the man to the north of him that took over the vacant lots, those are cleaned out also. It would be what you said, it would be in between.

Bill Jeffers: Right, so since Mr. Ambrose first started pursuing this, Concrete Pavers and the properties to the north have cleared out that, so we're not targeting them for removing the obstruction at this time.

Tom Ambrose: No.

Bill Jeffers: Right. So we're left with 850 feet highlighted here. Let's see, is there any remonstrators representing any of those properties here? Come ahead and make your comments, sir, please.

Scott Silver: Scott Silver, I represent GAMI. We just purchased the two properties north of Jim and this was the first that we had heard about it. We just closed on them about three weeks ago, so this is all new to me.

Bill Jeffers: Basically, the ditch is on private property owned by you or whoever's property the ditch crosses.

Scott Silver: Right.

Bill Jeffers: It serves your property, it drains your parking lot and your buildings towards the back of your lot, and then all that water is carried north until it gets up near that wedding hall, – I'm not – at the end of the culdesac there's a hall where

they have weddings and receptions and so forth. It turns along their lot line and runs into a detention basin. And in order to get there it needs to be kept clean, so you probably will understand the necessity for that this spring when it starts raining hard. Being a new tenant, you'll begin to see water getting up into your sheds and your storage barns at the rear of your property.

Scott Silver: So far, I mean after the recent rains last week, I haven't witnessed any big waters coming up or anything. There's water standing back there but just from what I've seen, it's like you said, there's just debris that's washed up. Not putting the blame on anybody, but a lot of straw and stuff has washed up from, I believe, there's where they just redid it, which –

Bill Jeffers: Any time you excavate a ditch, you're required to reseed it and either straw mulch it with (Inaudible) straw or use an erosion control blanket. I think most of the straw that you see is accumulated right there at the very beginning of your property because it can't make it past that point. That's where I saw the straw. I'm sure that the asbestos workers union representative would see to it that that straw that has drifted to the point would be cleaned out of the ditch. His main concern is that the rest of the ditch have all the brush and trees removed.

Scott Silver: Okay, what kind of time frame are we –

Bill Jeffers: If you do it voluntarily, I mean, in other words, whoever you bought the property from received a letter from Mr. Ambrose months ago.

Scott Silver: That was never brought up when we purchased –

Bill Jeffers: That was not disclosed to you at the time of sale?

Scott Silver: No.

Bill Jeffers: This board can do several things. Right now, after hearing you, is there anyone else that's going to speak? So we're hearing from the next two properties and we haven't heard anything from Cullen Avenue Enterprises, I guess, is what they're calling it...Cullen Avenue Business Group. Did you buy this from Mr. & Mrs. James & Linda Miller?

Scott Silver: Yes, we did.

Bill Jeffers: So you bought two pieces of property from them. The next two up are Cullen Avenue Business Group and then Donald Martin and some others, but anyway, that doesn't make any difference. What this board needs to do at this time is have a finding that an obstruction of a drain as alleged by the petitioner does exist and that the removal of the obstruction will promote better drainage of the petitioner's land and not cause unreasonable damage to lands of the respondent. In other words, the clearing of it, if done properly, wouldn't damage it, it would actually benefit everyone involved. And so that's what the board needs to find at this time if they decide that the evidence that's been presented to tonight supports that finding.

Teri Lukeman: Mr. Jeffers, excuse me, may I change the tape? I'm sorry.

Bill Jeffers: Sure.

Teri Lukeman: Thanks.

(Tape Changed)

Bill Jeffers: You can sit down if you'd like and we'll make sure that it's fair. So is it the board's pleasure that you've heard enough evidence to make a finding that an obstruction exists in a drain as alleged by the petitioner and that the removal will promote better drainage of the petitioner's land and not cause unreasonable damage to the land of the respondents and the County Surveyor assures you that that's the case?

Commissioner Mosby: Yes.

President Fanello: Before I send, just to make sure there are no other remonstrators? Second and so ordered.

Bill Jeffers: Okay, so at this time you've found on behalf of the petitioner and you need to determine based upon a preponderance of the evidence whether the obstruction of the drain was created intentionally by any of the respondents. And the County Surveyor is telling you that he witnessed no acts that would indicate that this was done intentionally. It was a natural progression of the growth of the brush and trees, so I would advise you to find that the obstruction was not created intentionally.

Commissioner Mosby: I make a motion that the obstruction was not intentional.

President Fanello: Second and so ordered.

Bill Jeffers: And then upon finding that it was not intentional, you have found that it was unintentional, you still have found for the petitioner under section 14A of this chapter, and so now you have to enter an order under section 18 or 19. Section 18 covers natural surface water courses and this is actually a mutual drain so section 19 applies. You have found for the petitioner, you have found that it was unintentional and so therefore you can either authorize the petitioner to remove the obstruction which would require he go on to other people's private property, you may authorize the respondents who are the people upon who's property the obstruction exists to remove it themselves, or you may direct the County Surveyor to remove the obstruction, that's your third choice, your fourth choice is to direct that the obstruction be removed through a joint effort of at least two or possibly more of the persons referred to in this subsection. So you may either tell the petitioner to do it himself, which I would not advise you to ask someone to go onto private property and do so, although you have that choice. You can order the respondents to do it or you can tell the County Surveyor to make arrangements to do it or you can ask that it be a joint effort by two of those persons, or at least two of those persons. Now there is a third thing you can do, if you think that it's a matter of fairness to continue this and I'll read that part, for any reason, whether it's because someone might not have been notified, or because in the interest of fairness otherwise compels you to make a postponement of this hearing, you may postpone it to a later date. If you feel that this respondent, because he just purchased the ground should be given a postponement for 30 days to do the work himself, you may postpone the hearing at this time and reconvene at a later date of your

choosing to continue the hearing. Before I did that, I would ask is the petitioner had any objection to that. I would say that construction season is getting very close to commencing. It will commence for us April 7th when we award these bids and the weather is getting conducive towards construction activity. I'm just trying to make sure everything's fair.

Commissioner Mosby: Does it say how much time we give them?

Bill Jeffers: No, you hold a meeting once a month and generally postpone it unless you want to have a special meeting or 30 days –

Commissioner Mosby: No, I'm not talking about postponing, I'm talking about time to clean the ditch.

Bill Jeffers: Clean the ditch?

Commissioner Mosby: How much time do you think is realistic?

Scott Silver: (Inaudible)

Bill Jeffers: Could you make your comments on the record please, sir?

Scott Silver: I mean, you know, we're in the process of moving in so I have to keep my business going plus get everything going. I mean, I'm pretty busy at the time.

Commissioner Mosby: Mr. Ambrose, 90 days, does that seem realistic? That will give you three months. So...I would say that we give the remonstrators 90 days to clear their ditch.

Bill Jeffers: So you don't want to – do you want to order them to do that? Give them an order to have it done in 90 days and then reconvene and see if its been done?

Commissioner Mosby: Yeah, and then reconvene the hearing.

Bill Jeffers: Okay, so basically, then you're going with subsection 19, you're directing the obstruction to be removed by the respondents within the next 90 days and then reconvene.

Commissioner Mosby: Is that what you recommend?

Bill Jeffers: I would be happy to recommend that. I think that's very fair and so you need to order the County Surveyor to prepare an order on behalf of the drainage board staff because you actually don't have a (inaudible) and to mail that order to each of the respondents.

Commissioner Mosby: Do we have to make a motion to have you oversee this?

Bill Jeffers: Please don't. I'm just kidding. You can direct that the obstruction be removed through a joint effort of the County Surveyor and the remonstrators.

Commissioner Mosby: I wasn't going to have the Surveyor actually, you know, removing –

Bill Jeffers: Go out and pull the roots up?

Commissioner Mosby: No, but I was just –

Bill Jeffers: Just kind of coordinate the effort?

Commissioner Mosby: Right, to oversee and coordinate the effort.

Bill Jeffers: And to direct me to prepare the order for your signature to go out to each of the remonstrators.

Commissioner Mosby: Exactly.

Bill Jeffers: Okay.

Commissioner Mosby: I make that in the form of a motion.

President Fanello: Second and so ordered.

Bill Jeffers: That takes care of our hearing and for the next 90 days, and, Mr. Ambrose, I will also send you ample notification of our next, hopefully, windup hearing.

Scott Silver: So what, June or July?

Commissioner Mosby: March, April, May – toward the end of June.

Bill Jeffers: It will be the fourth Monday in June, most likely, unless that's a holiday.

Commissioner Mosby: I'll make the motion that the counsel start opening bids.

Bill Jeffers: Thank you for your time.

Scott Silver: Thank you.

<p align="center">(Continued from page 7) Open bids for annual maintenance of regulated drains</p>
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Kevin Winternheimer: Okay, recommencing the bid opening.

Shideler Spray Service	East Side Urban-South ½ Sterilization	\$.058/ft.	\$1,255.70
Shideler Spray Service	Harper Ditch- Sterilization	\$.058/ft.	\$171.10
Shideler Spray Service	Aiken Ditch-Broadleaf Brush	\$.088/ft.	\$872.17
Shideler Spray Service	Kolb Ditch- Sterilization	\$.058/ft.	\$259.55
Shideler Spray Service	Eagle Slough- Broadleaf Brush	\$.17/ft.	\$5,106.80

Shideler Spray Service	East Side Urban-North ½ Broadleaf Brush	\$.088/ft.	\$1,859.18
Shideler Spray Service	East Side Urban-South ½ Broadleaf Brush	\$.088/ft.	\$2,559.48
Shideler Spray Service	Harper Ditch- Broadleaf Brush	\$.088/ft.	\$259.60
Shideler Spray Service	Keil Ditch-Broadleaf Brush	\$.088/ft.	\$265.06
Shideler Spray Service	Kolb Ditch-Broadleaf Brush	\$.088/ft.	\$393.80
Shideler Spray Service	Sonntag Stevens- Broadleaf Brush	\$.088/ft.	\$607.64
Shideler Spray Service	Aiken Ditch-Dormant Spray	\$.088/ft.	\$352.00
Shideler Spray Service	Eagle Slough-Dormant Spray	\$.218/ft.	\$6,548.72
Shideler Spray Service	East Side Urban-South ½ Dormant Spray	\$.088/ft.	\$2,559.48
Shideler Spray Service	Henry Ditch- Dormant Spray	\$.12/ft.	\$381.48
Shideler Spray Service	Keil Ditch- Dormant Spray	\$.088/ft.	\$265.06
Shideler Spray Service	Sonntag Stevens- Dormant Spray	\$.088/ft.	\$607.64

Kevin Winterheimer: Okay, the next one is for chemical labels for brush and broadleaf from Shideler Spray. Is that...

Teri Lukeman: I don't think it's an actual bid, I think it's –

Kevin Winterheimer: Oh, I don't know what this – I'll open it up and find out what this is. Oh, these are product labels, I assume. I don't see any prices, I assume to go with what they bid, additional information.

President Fanello: Do you have a – he's with you? Do you have a bid you want to put in?

Eldon Maasberg: No, my bids already been in. But I do have a question.

Kevin Winterheimer: You need to go to the microphone there.

Eldon Maasberg: The lawyer has done left, hasn't he?

Kevin Winterheimer: That would be me.

Eldon Maasberg: Okay. I need to know where this has to go.

Kevin Winternheimer: It says right at the bottom, you file one with the board, you file one with the County Clerk and you send it off to the –

Eldon Maasberg: Do I really need it?

Kevin Winternheimer: I don't know, I can't advise you on that. Right here at the bottom it tells you, you send it to the State Board of Accounts, Indiana Government Center South, Indianapolis. There's the address right there.

Eldon Maasberg: I was down here at the courts and they wouldn't accept it this morning.

Kevin Winternheimer: Oh really? I don't know why they wouldn't, I –

Eldon Maasberg: That's why I'm asking you.

Kevin Winternheimer: Well, I don't know. I can't give you an answer one way or another.

Eldon Maasberg: (Inaudible) other than –

Kevin Winternheimer: You might want to talk to Marsha Abell, she's the County Clerk and I don't know who handles that for them. I just filed one myself a couple of weeks ago. I didn't think I needed to, but just cover all the bases, I did. And they accepted mine. They stamped it and they put it wherever they put them and then you have to send it off to Indianapolis. The address is on the bottom of that sheet there. So I don't know what to tell you. You might go talk to them again. You might have talked to the wrong person in the office, there's about 30 - 40 people that work up there.

President Fanello: They should take it in the Clerk's Office.

Kevin Winternheimer: Yeah. County Clerk on the second floor, about halfway down the hall on the left.

Eldon Maasberg: That's where I was this morning.

Kevin Winternheimer: I'd go try it again. I don't know why they didn't take it.

Bill Jeffers: Eldon, give it another shot and tell them this time you want to buy a fishing license, a hunting license and might throw in a bird stamp, and maybe they'll –

Eldon Maasberg: She said I had to go get a – file something and get a number and then – which will cost me 30 bucks – and then –

Kevin Winternheimer: No, you don't have to get a number for anything. The girl you talked to didn't know what she was doing. Give it another try over there.

Teri Lukeman: I sent him over there.

Kevin Winternheimer: I mean the one over there didn't know what she was doing. She wanted to charge him \$40. They receive it, they stamp it and you might want to take you a copy so that when you send it off to the State Board of Accounts, it shows that you did file it with the Clerk. That's what I did. I took it, one to give them and a copy, and then you can send the copy off. Try it again.

Eldon Maasberg: I tried it this morning and didn't have no luck.

Kevin Winternheimer: I don't know why they wouldn't take it. Okay, where were we?

Teri Lukeman: Terry Johnson, Aiken.

Kevin Winternheimer: Yeah, I'll make sure here I've got the right one. Broke my thought here. This is Terry Johnson and let's see, what's it for. Oh, it says Kolb, I assume. Did I get one out of order? Is it on your list there? Oh, he put a bunch of them in there together. He put a bunch of them in the same envelope. Okay, there's several in this one envelope. These are all from Terry Johnson Construction.

Terry Johnson	Aiken	\$437/ft.	\$1,026.95
Terry Johnson	Kolb	\$.399/ft.	\$1,789.96
Terry Johnson	Sonntag-Stevens	\$.61/ft.	\$6,530.05
Terry Johnson	East Side Urban South Half	\$.6095/ft.	\$792.35
Terry Johnson	Harper	\$.5795/ft.	\$1,709.53
Darrick Construction	Aiken	\$.366/ft.	\$860.10
Darrick Construction	Kolb	\$.258/ft.	\$1,154.55
Darrick Construction	Sonntag-Stevens	\$.55/ft.	\$5,887.75
Darrick Construction	Sonntag-Stevens Spring Mowing	\$.50/ft.	\$1,540.00
Darrick Construction	East Side Urban South ½ mowing	\$.53/ft.	\$689.00
Darrick Construction	Harper	\$.55/ft.	\$1,622.50
Naas & Sons	Cypress Dale/Maddox Ditch-silt dipping	\$.53/ft.	\$12,660.11
Naas & Sons	Rexing Ditch		\$5,340.00
Naas & Sons	Barnett Ditch-silt dipping	\$.53/ft.	\$4,429.74
Naas & Sons	Barr's Creek		\$21,475.00

Kevin Winternheimer: And that's all the bids I have.

Bill Jeffers: That last one is – I need to tell you in the record that that one is under

the Engineer's estimate of \$25,000 for that particular project.

Commissioner Mosby: Motion to take the bids under advisement.

President Fanello: Second and so ordered.

**Scheduling of Special Meeting: April 7, 2003
Award Annual Ditch Maintenance Contract**

Bill Jeffers: And a good day, if it's good for you, to set the (inaudible - microphone not turned on) Surveyor review (inaudible) would be Monday, April 7.

Commissioner Mosby: Is that next week? Two weeks, that's fine. I'll make a motion that we accept bids or award bids on April 7th.

President Fanello: Second and so ordered.

Ditch Maintenance Claims

Bill Jeffers: I have here a small folder of blue claims for ditch maintenance (inaudible) and the claims are in order, along with the attached paperwork and the County Surveyor recommends you pay these ditch maintenance claims.

Commissioner Mosby: Motion to approve and sign the claims.

President Fanello: Second and so ordered.

Encroachment Agreements/Obstruction Petitions

Bill Jeffers: I don't know of any encroachment requests or agreements unless the Auditor has brought those to us, and I'm not aware of any petitions to remove an obstruction unless those came through your office.

Other Persons Wishing to Address the Board

Bill Jeffers: Are there any persons wishing to address the board at this time? Seeing none.

Surveyor Comments: Stockwell Road Railroad Crossing

Bill Jeffers: The County Surveyor has only one comment to make. Under Indiana Code 36-9-27-71, when the Drainage Board finds that in the construction, reconstruction or maintenance of a regulated drain, it is necessary to alter, enlarge, repair or replace a crossing, or construct a new crossing where none exists before...and then it goes on to explain how that applies to your bridge, your roadway, your railroad right-of-way that's there at Stockwell Road, etc., and I'll just pass this to your attorney at this time and say that in any way that the County Surveyor can help the Drainage Board or the County Commissioners facilitate the installation of the new bridge at Stockwell Road, it is true that that has been identified as an obstruction, that if that new pipe were put in it would lower the flood

plain elevation at that point, up to four feet. Mr. Mosby was in that meeting and heard the consultants describe that. That pipe was part of a plan in 1979 to be put in 1980 and '81, a joint project between your board and the Board of Works and negotiations with the railroad failed. One of those railroad spurs has since been removed and the other one experiences a couple of trains a week, but I think with new technology, we might be able to bore underneath that one without interrupting rail traffic. It will require a new section of ditch for a short distance either side of Stockwell Road and, again, the County Surveyor is at your service in that regard and if we can – because we're on a time line and we only meet once every 30 days if you would just have the County Engineer let me know what I can do to help you move that along, I'll be happy to. Some funds can be used out of the drainage fund to help that project. Some out of the bridge fund, etc., and then your attorney may have some other ideas after reading this section of the drainage law. Other than that, I guess we've got to get ready to go get packed and become road scholars.

Commissioner Mosby: Motion adjourn the county road scholars.

President Fanello: Second and so ordered.

(Meeting adjourned at 7:28 p.m.)

Those in Attendance:

Catherine Fanello	David W. Mosby	Bill Jeffers
Kevin Winternheimer	Teri Lukeman	Keith Poff
Ron London	Scott Silver	Tom Ambrose
Eldon Maasberg	Others Unidentified	Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Absent

Suzanne M. Crouch, Member

Recorded and transcribed by Teri Lukeman

**VANDERBURGH COUNTY
DRAINAGE BOARD
SPECIAL MEETING
APRIL 7, 2003**

The Vanderburgh County Drainage Board met in special session this 7th day of April, 2007 at 6:28 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Drainage Board meeting. This is a special hearing, and I'll turn it over to the Surveyor right now.

Awarding of 2003 Annual Ditch Maintenance Contracts

Bill Jeffers: Last week you opened a boatload of bids, and your attorney read them into the record, and referred them to the County Surveyor's office for review and recommendation. We've completed that. The County Surveyor, at this time, recommends the awards of the contracts for maintenance to the regulated drains to the lowest, responsive and responsible bidder on each particular project. I have some other handouts. Okay, let's see what Linda has me prepared to say. The first handout is a two page 8 ½" by 14" spreadsheet showing all the bids received on March 24, 2003, for all the projects advertised. The second handout is a six page 8 ½" by 11" list of the low bidders, to whom the County Surveyor recommends awarding the 2003 maintenance contracts. All recommended bids were found to be in good order. Every recommendation for an award of a contract is based on the lowest bid from a responsive and responsible bidder. In every case the recommended bidder previously has performed satisfactory work on regulated drains in Vanderburgh County, Indiana. The Vanderburgh County Surveyor recommends that the Vanderburgh County Drainage Board waive the requirement for a performance bond on each of these projects, and instead hold the 5% bid bond checks submitted with the bids until such time the Surveyor finds the work is complete. The only exception is for Shideler Spray Service, who submitted a bid bond with their bid, and prefers to submit a performance bond with their contract. The Surveyor also recommends that the board release the bid bonds of the unsuccessful bidders, and return them to those unsuccessful bidders. So, we're looking for a motion to award contracts as recommended on your spreadsheet.

President Fanello: Do I have a motion?

Commissioner Mosby: Motion to award the contracts as recommended by the County Surveyor.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: The only other item...oh, and we will enter into contracts. Supposedly you have five days to enter into a contract with each of these bidders. We'll do our best to attempt to enter into a contract within five days, and bring those contracts to you at the end of the month.

Order to Remove Obstruction from 2330 Sheridan Road (Jones)

Bill Jeffers: The only other item of business involves two other bids that we received last, or two weeks ago, with regard to the petition of Richard E. Smith on Sheridan Road. As you'll remember, Mr. Smith filed a petition on June 24, 2002, asking you to order the removal of obstruction alleged to exist at 2330 Sheridan Road on property owned by Kenneth R. and Ruth H. Jones, respondents. The board duly notified all interested parties, held a hearing on June 22, 2002, at which time a representative for the respondent asked for a continuation, so that the respondent could fairly represent his and her case. You granted that continuation until August 26th, at which time the County Surveyor confirmed the existence of the obstruction. The respondent agreed, away from the microphone, but was heard on the recording to agree to accomplish whatever may be required to remove the obstruction. The board then, at that meeting, ordered the removal of the obstruction. The County Auditor forwarded, in writing, the order to remove the obstruction, via certified mail, and the respondent refused delivery of the item, without, for reasons we're not sure of, may not have been at home. Whereas, let's see, the board and the Surveyor, out of respect for the respondent postponed direct action to remove the obstruction while the respondent, Mr. Jones, was critically ill. The obstruction remains in place, as it did last year, so your board received, opened, and read into the record two weeks ago, on March 24, 2003, two bids from contractors for work to remove the obstruction. I'm asking the board, at this time, to find that the lowest responsive and responsible bidder is Naas and Sons, Incorporated, for a sum of \$495. They will remove and dispose of the material constituting the said obstruction, and will perform other associated work on the....I think on the third page of your handout I show their bid. No, I show the law. Okay, but the bid is on the last two pages. Naas and Sons at \$495, and the other bid, Martin Woodward, \$1,850. The County Surveyor, at this time, recommends you accept the bid for \$495.

President Mosby: So moved.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: Now, therefore, the board, I hope, again will order the respondent, Ruth H. Jones and others, whether they be heirs or assigns, or otherwise hold an interest in the property located at 2330 Sheridan Road, Evansville, Indiana, to promptly, fully, and satisfactorily remove the obstruction. If said obstruction is not removed before April 28th, the date of your next meeting, 2003, that the board will act to remove the obstruction by instructing Naas and Sons to accomplish the work necessary to remove the obstruction, and that the respondents in according with the law, which I've attached to your handout, the portions that apply, shall pay the contractor directly for the cost of removing the obstruction, \$495. Or, in the event that the respondent does not pay the contractor upon completion of the work, that the board shall pay the cost and recover the same from the respondent in according with the law cited there. So, what I've basically done is prepared another order, and also called it a notice that the obstruction will be removed. I gave all the information necessary to give you a history of the case. You have ordered this obstruction removed last year, but the respondent was critically ill, and subsequently passed away. Out of respect for him and his widow, and his family, we have postponed action until this time. Yet, the obstruction is still there ten months after it was first petitioned to be removed. So, I'm respectfully asking the board to allow the Auditor, to sign this notice, and allow the Auditor to mail it to the respondent one last time, and then if we don't see that the obstruction has been removed by your next meeting

date, April 28, 2003, that, at that time you can instruct the Surveyor, if you wish, to call Mr. Naas and have him remove it. Now, the law I've attached says that either the respondent, in this case, in this particular case, either the respondent will pay the cost of the removal, or if the respondent fails to pay it, under subsection 22, the Drainage Board, as custodian of the General Drainage Fund, can advance the payment from there, and then recover it from the respondent through an action of the court. So, at this time I would ask, if you would make a motion to authorize and mail this order to remove the obstruction.

Commissioner Mosby: Motion to notify.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: I have an original copy here that I will sign and then pass to your board. That concludes any information that the County Surveyor, or business that the County Surveyor has to bring before your board at this time.

Kevin Winternheimer: Madam President, can I ask a question?

Bill Jeffers: Yes, sir.

Kevin Winternheimer: Bill, did, was this property held by a husband and a wife?

Bill Jeffers: Yes, sir.

Kevin Winternheimer: Okay.

Bill Jeffers: It was held, husband/wife—

Kevin Winternheimer: Or joint tenants? One or the other?

Bill Jeffers: It's either—

Kevin Winternheimer: Tenants by the entirety? Something like that?

Bill Jeffers: I think it was joint tenants, I believe.

Kevin Winternheimer: Okay.

Bill Jeffers: I would have to look it up.

Kevin Winternheimer: So, then it became hers. So, Ruth, I believe is who it was, wasn't it?

Bill Jeffers: Yes, sir.

Kevin Winternheimer: You're going to notify her then, correct?

Bill Jeffers: At the current time some of her family is living with her. Apparently, sons and daughters.

Kevin Winternheimer: Okay.

Bill Jeffers: I just, I have no idea...I couldn't find, or discover how anything that has happened since Mr. Jones passed away, but I do know that there is someone there taking care of her, and I will hand deliver a copy of this as well as have it mailed, so, that whoever is there with her can help her to understand what the situation is.

Kevin Winternheimer: Okay. Thank you.

Commissioner Crouch: Motion to adjourn.

Commissioner Mosby: Second.

President Fanello: So ordered.

(The meeting was adjourned at 6:40 p.m.)

Those in Attendance:

Catherine Fanello	David W. Mosby
Kevin Winternheimer	Bill Jeffers
Others Unidentified	Members of Media

Suzanne M. Crouch
Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
APRIL 28, 2003**

The Vanderburgh County Drainage Board met in session this 28th day of April, 2003 at 6:33 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Drainage Board meeting, April 28th.

Approval of March 24, 2003 & April 7, 2003 Minutes

President Fanello: First item on the agenda is to approve the board meeting minutes from March 24th and from April 7th.

Commissioner Crouch: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

Report on Jones Obstruction Removal

President Fanello: Mr. Jeffers, Old Business.

Bill Jeffers: Under Old Business we have a report on the Jones obstruction removal on Sheridan Drive. As you know we took bids on that in case the Jones family did not start the removal of that on their own. The bid was for \$500. The Jones family was notified if they didn't start by today that we would let the contract. They started last week, and have dug out a trench, and are finishing the side banks of that trench to turn it into a nice swale. Since they took a good, or have made a good faith effort for it's completion, the County Surveyor recommends that we not let the contract unless it's necessary, and give them the opportunity to finish the job along with the other neighbors.

Commissioner Mosby: I'll make a motion that we accept the Surveyor's recommendation.

Commissioner Crouch: Second.

President Fanello: So ordered.

Stonecrest Subdivision, Section Six: Final Drainage Plan

Bill Jeffers: Under drainage plans, the first one is Bridlewood, Section Six, final drainage plan. It has been reviewed by the County Surveyor, found to be compliant with the requirements of the drainage ordinance. It does have an erosion control plan attached, which was forwarded to SWCD for their review and approval. The County Surveyor would ask are there any persons in the audience wishing to speak to Stonecrest, Section Six, final drainage plans. Seeing none. I would recommend the approval of the final drainage plan for Stonecrest, Section Six.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bridlewood Subdivision, Section Six: Final Drainage Plan

Bill Jeffers: Oh, I must have took them backwards. Let's see, Bridlewood, Section Six, same comments. The Surveyor recommends approval of Bridlewood, Section Six, as well. Actually, it's a combined subdivision. It's two pieces that were put together.

President Fanello: (Inaudible. Mike not on.)

Bill Jeffers: Seeing none. I would recommend approval of Bridlewood Subdivision, Section Six, final drainage plan.

Commissioner Crouch: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

Windham Hill, Section Two: Final Plan

Bill Jeffers: The next one is Windham Hill. The plan is here for viewing, if anyone wishes to view it. Windham Hill, Section Two, it's a final plan. Again, it was reviewed by the County Surveyor, found to be compliant with the ordinance. There is an erosion control plan incorporated into it. The erosion control plan has been made available to SWCD for their review and approval. Are there any persons wishing to speak to Windham Hill Subdivision, Section Two? Seeing none, the County Surveyor recommends approval of the final drainage plan for Windham Hill Subdivision, Section Two.

Commissioner Crouch: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

3H Investment, LLC: Final Plan

Bill Jeffers: The next drainage plan is titled 3H Investments, LLC. It's a final plan located on Highway 41 up near the 4H Center. It's a small parcel development into a commercial site. The engineer for the project is in the audience, Mr. Nicholson. The County Surveyor has reviewed the plan, found it to be compliant with the drainage ordinance, and would ask are there any persons wishing to speak to 3H Investments, LLC, final plan? Seeing none, the County Surveyor recommends approval of 3H Investments, LLC, final plan.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Cross Pointe, Section 1-A: Preliminary Plan

Bill Jeffers: Next item is Cross Pointe, Section 1-A. It's a preliminary plan. It's actually a modification of a plan that was already approved for Builder's Square, located in Cross Pointe. There is some modifications being made to allow another commercial venture to go in there. Basically, the modifications are the elimination of some detention basins, and their replacement with a large detention basin behind the old Builder's Square building. The County Surveyor has reviewed the drainage plan and found it to be compliant with the drainage ordinance, and recommends approval of Cross Pointe, Section 1-A.

President Fanello: Anyone in the audience? Is there a motion?

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Windemere Farms, Section Five: Preliminary Plan

Bill Jeffers: Windemere Farms, Section Five is a residential subdivision south of and adjacent to Windemere Farms, Section Four. It's a preliminary plan. That's out on Highway 57, south of Kansas Road, north of Oak Hill Road. For those in the audience that are not familiar with our process, a preliminary plan is a conceptual plan, and allows the developer to present his conceptual lay out with regard to drainage before he goes to Area Plan Commission. That way after the Area Plan Commission hearing, if there are any conditions added to the plat, or if there are any folks who come in with comments that should be addressed, those are incorporated into the review of the final plan. Which you may anticipate to come back to us 30 days from now on Tuesday, May 25th, I believe, the day after Memorial Day at 4:30 in the afternoon. The County Surveyor has reviewed Windemere Farms, Section Five, preliminary plan and found it to be compliant with the ordinance requirements, and would ask if anybody has a comment to make on that project at this time. Seeing none, the County Surveyor recommends approval of Windemere Farms, Section Five, preliminary plan.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Spring Lake Valley Subdivision: Preliminary Drainage Plan

Bill Jeffers: The next project is Spring Lake Valley. It's a preliminary drainage plan. For those who are not familiar with it, it's the same parcel that came to us as Highland Pointe some months ago. It's been scaled down to, I believe, 190—

Unidentified: 149.

Bill Jeffers: —149 lots. It had been 300 and—

Unidentified: 270.

Bill Jeffers: —270, excuse me. Had been 270, it's been scaled down to 149 lots. The critical grades that we had been very concerned about in the last review, around the hillsides that surround the valley, the developer has laid back off of those hillsides, and set them aside as un-buildable out lots to remain in their current topographic condition. He's indicated to the County Surveyor that he intends to grow, most likely, grass crops, such as wheat and other grass crops that would produce grain and straw to stabilize those slopes. He has a large creek running through the middle of it. He would like that to remain, or be converted to as natural a creek as possible. Those are the, essentially the major differences between this and the Highland Pointe proposal is the reduction to 149 lots, the low impact on drainage, the low impact development with regard to drainage by setting aside out lots that will remain un-buildable, and will be stabilized by grass crops, and the fact that he's enlarged the basin and laid it along the railroad track rather than in the interior of the subdivision. He's gone along the railroad track with a very elongated, wide basin to provide a buffer between the railroad tracks and the lots. Calculations show it's around 7 ½ times the size that would be required to attain his required detention. He's actually accomplishing about 7 ½ times the required detention. It also, some of the issues that came up in the previous submittal was the floodway, and the proximity of the homes to the floodway, some of the homes. That's now not an issue, because of the way he's aligned the detention basin. Those are some of the high points that I'd wanted to touch on before I opened for discussion. The lowered impact that this development has on the drainage by the more reasonable, not more reasonable, the more effective placement of the detention basin, and the establishment of cover crop on the periphery of the subdivision on the high grades that we were the most concerned about, building houses on those steep grades. That's all been eliminated. Generally the way we take this is that the developer or his representatives present the plan, and then the remonstrators make their comments. The developer and his representative are available to answer your questions. Or would you rather take the remonstrators first, and have the—

Commissioner Mosby: Just see what the remonstrators—

Bill Jeffers: Take the remonstrators first and have the developer answer the questions? Might be briefer. Okay.

President Fanello: Are there any remonstrators in the audience? Okay. I don't know who wants to go first, but if you would please come to the microphone and state your name and address.

Michael Thomas: Good afternoon, Commission. Thank you for allowing us to be here. My name is Michael Thomas. My wife and I own 70 acres to the west of the

proposed housing development on Mohr Road. This is immediately across the railroad track. I don't see a plat of it at this moment, but we're to the west, okay, downstream. My primary income is growing grain, livestock, and hay for the many people that farmers now feed. I'm one of the farmers, thank goodness, and, hopefully, our food supply is stable. Teddy, I'll have to say, has come a long way on my thoughts and views of our previous engagement. Teddy, I commend you for pulling the number of houses down, pulling down off of the highly erodible melvin type soils, hosmer clays, and getting off the limestone. I commend you. My number one concern is naturally drainage and flooding. The plans call for a major fill, and the good news here tonight is that I have not got a copy of the retention reservoir. So, that's a good feeling on my part. The plans call for a major fill-in of the flood plain. I'm the guy on the other side of the ditch. I'm the guy on the other side of the creek. One guy on one side fills his side in, what happens to you. Mr. Mosby knows, related to the river bottoms maybe that one man's fill can be another man's just major problem. So, if that's developed on that side, I'm very concerned about that. Now, my concern is how much deeper will the water get on my side than on Teddy's side, if he fills his side in. But, again, in the last few minutes, the news I've heard is eight times as large retention reservoir? Not a bad plan. I'm feeling better already. Okay. My long range question is, if I would get flooded out, just like if you built a home, the other guy fills in, and the water runs through your back door and out the front door, who's responsible? So, as a neighbor that farms for a living, my land that's all I have, you know. I'm very concerned about that. The second concern, I see no provisions for a terrace system between, thank goodness Teddy has come down off the hills. I see no provisions on the copy I received of a terrace system, or a swale, as we could call it, between the hill the slope and the homes that are being built. Now, why would I want this? Why would I want that for somebody else? Well, imagine if you live below a major watershed, and it rained a 5" rain, and I've seen it out here. Haven't we, Teddy? We've seen 5" rains. Water everywhere. You got up in the morning, and your wife goes to the back kitchen door, and says, "Oh my God, there's water coming in our kitchen." Well, with a swale, or a contoured terrace around the hills, this might prevent water coming in your back door and flowing out your front door. It can happen. We've seen it happen. Alright, enough of that. Now, remember that we've got, what, 250 acres in this valley? About total, Teddy? That's taking in all the whole, Mohr Road, Darmstadt Road, and Laubscher Road basin. That's a lot of water. A lot of water. My third concern, drainage and flooding. I see no provision for major sediment retention reservoir. Thank goodness I can almost eliminate this concern, because of the eight times as big retention reservoir. Very important to someone that lives in a low lying area. For the neighbor, let's say the creek came up, which I have pictures of. May I?

Bill Jeffers: If you, if you present them to the Board, the Board—

Michael Thomas: Do they keep them?

Bill Jeffers: —keeps them. Keeps the pictures.

Michael Thomas: Alright, can I select them then?

Bill Jeffers: Yes, sir.

Michael Thomas: Alright, that's not a problem.

Bill Jeffers: They can make them available for you to get copies at a later date.

Michael Thomas: I had copies last time, but this time (Inaudible. Away from mike.) Here we go, now, I was talking about the sediment retention reservoir. Why it is so important. A while ago when I opened, I started about saying, hey, if this guy fills in on this side, this guy doesn't, the guy that doesn't suffers. How? Well, it all depends on how much it rains. That's a shot off of Mohr Road looking south over and parallel with the railroad track. Okay, sediment retention reservoir, very, very critical for anyone. In this case, if Teddy's group does not build a levy around this, I'll be thrilled, because it will also catch the water that comes off of the subdivision, but it will also, as it permeates down into the soil in the summertime, it will act as a catch basin and a reservoir. Now, that's very important, because if the creek does come up, it adds all this capacity to the flood plain that we've eliminated by building houses. So, there's compensation there is what I'm trying...this is how important this sediment retention reservoir is. As a farmer I use them all the time. I have to, to control run off, for sediment retention. I farm, well, I farmed the farm that Teddy owns, for years. I have other farms like it, and I have to construct sediment retention basins to hold any run off from going into our stream. So, I'm very much in favor of that. Alright, now, on this sediment retention reservoir we also have to remember that there is only a 48" sewer pipe at the railroad? You've got to remember, this whole subdivision depends on that 48". A whole 140 families living in a house, according to how much rain we get. It's gotta go through a 48" tile. If the creek's full below that, let's say it's backed up from the landfill up, which I've seen it, that's what those pictures are of, then the water has to spread and go someplace. Of course, that's one of my concerns. Now, this 48" sewer pipe, if it can't take it...let's say the creek is full below it, and it's holding it back, then the water is going to be coming down from Darmstadt, which this watershed north on East Locust goes all the way to Darmstadt. This water is going to be flowing south, southwest, and it just hammers this spot right in here that we're talking about. It hammers me, it hammers Teddy's place, and it hammers Richard Moll's, and Doc Bazal's, four farms. I mean, it hammers us. What I mean by hammering, "Oh, my God!" It's deep as the running board on the car type. So, very, very important the sediment retention reservoir. For Teddy, the most important thing about it, it's his soil source. It's a two way win-win. It's a win for the developer, it's a win for anybody around, because it's a place for the extra water to go. It's also a filtration sediment dropping area for anything that runs off, and goes into this sediment retention basin, fine, that's what it's for. Now, also I'm concerned about some water quality that this place, in particular, Teddy and I can relate to this, there's a lot of springs on it. This is one of the problems with it when I was farming it. But, there's some beautiful artesian springs. I mean, I didn't really want to bring this up, Teddy, I thought you might go into the bottled water business, which would be good. I'd even go with you in on that. There's artesian springs on here, and they'll have to be addressed, because, you know, these waters are coming out of the limestone rock and going to the creek. So, anyway, there's several, like six springs that need to be tiled. Several of them are, but they can't just be capped, because, believe it or not, barometric pressure affects how a natural spring works. That doesn't sound right, but let's face it, today barometric pressure went down, a lot of these springs started running water this morning or last night. I can prove that to you. I can take you to five of them, even on my place. Beautiful days, sun's out, barometric pressure up, the springs dry up, except a couple, because they are coming out of the direct limestone. Okay, now, I'm going to get to the last one, the fifth and last most drainage concern to me is, will, what are we going to do with the extra ground around it? Part of that was addressed maybe by our Surveyor. When Teddy pulled down off the hills, what's he going to do? I think I was answered previously by some type of grass and recreation. Or is it going to be used for food production? Whatever the use, I hope it will be managed with conservation compliance. Okay? Again, I'll take questions. I'm the farmer in the

group. I sent a couple of kids to Purdue off of some of the meager proceeds from Teddy's farm. They didn't live in very good housing though, Ted. That's my concern as a neighbor, as a farmer, as a conservationist. I'll entertain any questions.

Bill Jeffers: You got one?

Commissioner Fanello: No, I don't. I was going to see if anybody else did.

Bill Jeffers: I will just say, Mr. Thomas, on the terrace system, I believe you're talking about protective grading around the homes where the water comes down the back slope—

Michael Thomas: See, that's it.

Bill Jeffers: —that's been where we bench into—

Michael Thomas: Right.

Bill Jeffers: —okay, we use HUD, Housing and Urban Development, protective details, it's a part of our drainage ordinance.

Michael Thomas: Okay.

Bill Jeffers: It shows exactly how a hillside home has to be graded, so that the water coming down the back slope is intercepted in mid-yard and taken like a horse shoe shape—

Michael Thomas: Diverted around.

Bill Jeffers: —around and between the homes and out to the street. So, that terrace system is not shown on the original drainage plan here. It will be shown on the final drainage plan, both in detail, and the HUD housing details, federal housing details, those will be referred to. Those are what's used by the industry to make sure that the lot's insurable.

Michael Thomas: So, there is provisions for a contour to protect the homes?

Bill Jeffers: Yes, sir, absolutely.

Michael Thomas: Okay.

Bill Jeffers: In the drainage ordinance they have to—

Michael Thomas: Well, this farm can look like Niagra Falls in a 5" rain.

Bill Jeffers: Right.

Michael Thomas: I've been there, done that. I mean, it's just overwhelming. The poor unsuspecting homeowner—

Bill Jeffers: These have been used to real good effect. Keystone was a good example, they used those out there to a very good effect, but they have to be used on every drainage plan that we pass. The sediment retention reservoir, that large,

where you show the pictures where the water is standing, that's where their sediment retention reservoir will be.

Michael Thomas: That's my scare. That's been my worry for two years.

Bill Jeffers: Mr. Teddy Stucki will have to, it appears to me since he's not moving dirt off those hillsides for fill, that's why that retention basin has gotten so large is he needs the fill. Is that correct? You've done your cut, some of your preliminary cuts and fills, and determined that they need to oversize that reservoir. So, even any amount of silt that might go into that reservoir could be re-excavated at a later date—

Michael Thomas: Reclaimed.

Bill Jeffers: —and reclaimed. That's large enough that it should suffice.

Michael Thomas: Eight times?

Bill Jeffers: That's what the calculations show. Eight times more detention than what's required.

Michael Thomas: (Inaudible. Not at mike.)

Bill Jeffers: We also feel that's more than enough compensatory retention for what's being displaced in the flood plain.

Michael Thomas: The first one was 2 ½, so we might get 16 acres out of this. (Inaudible. Away from mike.) I'm playing with them.

Jim Morley, Jr.: You're talking on the square footage?

Bill Jeffers: Between now and our final drainage plan, we'll take a very close look at it.

Michael Thomas: Alright.

Bill Jeffers: Because I hope that we'll all be able to take a field trip together; Mr. Thomas. Mr. Stucki and his engineers and myself, because these six springs must be identified on the final drainage plan, and they must be addressed in such a way that they will not adversely affect crawl spaces, street foundations, etcetera. So, I would ask that Mr. Stucki allow Mr. Thomas and myself and his representatives to all take a field trip and identify these six springs, so that the final drainage plan will address them. The extra ground around the lots, this is where Mr. Stucki has pulled back off the steep grades. I have encouraged him privately, and I'll make it public at this time, what I'm asking Mr. Stucki to do is to agree to talk to Darrell Reis from Natural Resource Conservation Service, which is a USDA branch. The representative here in town is Darrell Reis, talk to him about conservation tilling, which is a method of leaving organic material on the surface of the ground as you develop your wheat or your grass crop. Rotate your grass crop so that you're not growing wheat after wheat and developing fungus problems. Grow some other recommended grains. Mr. Reis will talk to you about that. I agree with Mr. Mike Thomas that conservation tilling methods should be used to your benefit, and the rotation of grass crops would also be to your benefit. I think what Mr. Stucki is after here is to continue to grow a food crop. At the same time he can realize straw for his landscaping business—

Michael Thomas: I would agree.

Bill Jeffers: –and the other–

Michael Thomas: Good management.

Bill Jeffers: –silt retention, you know, using straw bales on the site for silt retention, and that type of thing. The only thing I didn't touch on, Mr. Thomas, is the 48" pipe capacity, and I'll let the civil engineers talk about that.

Michael Thomas: Questions? Thank you.

President Fanello: Thank you.

Bill Jeffers: Let me know when you're ready to take that field trip.

Michael Thomas: Bring your cup.

President Fanello: Is there anyone else wishing to speak?

Kevin Snodgrass: Good evening. My name is Kevin Snodgrass. I live right up side, right up the road just beside Mr. Thomas' property. I just have a couple quick questions. I believe you, Mr. Jeffers already answered one of them. The fill coming off the property, since we're not excavating the hillside, we're obviously going to get it from this retention area. Is there enough fill there, enough good fill to build up the height we need out of that retention area? If there's not enough fill there, or enough quality of fill there, is there another source to get the fill from to fill the property without having to touch that hillside? Is there more than enough there? If they get into it, and they find out the fill quality isn't there, is there another source of fill so that we know we've got enough ground to build this up? My second question, the, I guess, we're going to farm the hillside. Who's responsible for farming that hillside? Is that property actually part of the development? Is Mr. Stucki going to retain that as personal property? How is that hillside going to be maintained for longevity? Obviously, the people buying these houses aren't farmers. So, they aren't going to be able to farm their backyard to preserve this hillside. So, what guarantees do they have that for the duration of the 30 years, or whatever they own their homes, that this is going to be farmed? Which my understanding it's going to be necessary to maintain that grade to farm it with a grass crop or have something permanent planted there. What do they do when someone stops farming it? The other question is, the retention area, who is ultimately responsible for maintaining that retention area? You know, I've heard a lot about fill and sediment in it, who's going to be responsible to go back and clean that sediment out periodically, as it needs done? Maintain, we're talking a large body of water that's going to vary in depth that's going to become a mosquito breeding ground, who's going to actually maintain that area for cleanliness and the upkeep? Are the few people who live along side of it going to be financially responsible for it? That's (Inaudible).

Bill Jeffers: Mr. Snodgrass, on the fill source, it's the owner, Mr. Stucki, and his engineers responsibility to do the soil testing and the soil boring to determine how much of that dirt is actually suitable for fill.

Kevin Snodgrass: Okay.

Bill Jeffers: They will have to do that responsibly. If they run into fill dirt that's not suitable to build a home on as fill dirt, they will have to waste that dirt somewhere, and, yes, they will have to go to another source, and import dirt from another source. When that occurs, if it occurs after this fall, under the new phase II storm water control, they will have to identify that source. In other words, what I'm saying here is I anticipate he'll do this in phases. I don't think he'll do the whole 68 acres in one chunk. You can probably anticipate the first phase to be the sewer pump station out on Mohr Road, and say the first 50, whatever, lots back in that section that abuts Mohr Road. I know there's enough suitable fill on that site to do that. That will probably take him the better part of the next year. Then when he phases in to the back portion along the creek channel, he will be under the new phase II regulations, and he will have to identify any sources of fill, whether they be on the site, or imported. When he goes to imported fill, he will have to identify who's in control of that, and what quality it is, etcetera, under new phase II guidelines. So, I wouldn't worry too much about that. I doubt that he will use any unstable or unsuitable fill for any road work, because the County Highway Engineer and his inspectors will be watching that very closely to make sure any fill that's put in a road bed is also suitable. Farming the hillsides, this is what Mr. Stucki told me he wants to do. But, let's look at reality, that's an un-buildable lot. It can't have any homes, or any structures built on it. So, really it's only available as background vegetation, which, at this point, is row crops. We're encouraging conservation tilling and grass crops. In reality that land is available for purchase by adjacent lot owners, whether they be in Mr. Stucki's subdivision, or whether they be in the adjacent, larger estate size subdivisions, who originally raised a considerable remonstrance about having these smaller lots butting up against them. Now they have the opportunity to buy that ground. The ground is for sale. I would not turn down a reasonable offer for any of that ground if I were a developer. Generally speaking, the people that surround that proposed development maintain their yards very nice, tight lawns, or wooded, park-like setting. That's what I would anticipate if they bought it, they would stop farming, and convert that to sod, or park land, wood land type maintenance. So, that would be even more stable than grass crop or a row crop. Otherwise, and like I said, I have recommended to Mr. Stucki, and he has agreed to meet with Darrell Reis and look into some of the conservation tilling methods, some of the grass crops or pasture crops that would benefit that hillside. I would anticipate seeing it someday as a hay field or individual parcels bought and attached to adjacent properties, and maintained as yards. So, that would address that ownership issue there.

Kevin Snodgrass: So, right now it's not actually part of the subdivision?

Bill Jeffers: It's part of the subdivision as an out lot.

Kevin Snodgrass: As an out lot.

Bill Jeffers: Un-buildable out lots. Individual, un-buildable out lots. It has, he's shown a subdivision plat that has a boundary, and anything in there that's not divided up into a building lot has to be shown as something else.

Kevin Snodgrass: Un-buildable ground.

Bill Jeffers: So, it's un-buildable out lots at this time, which means it remains available for use by the property owner of record, Mr. Stucki, and his business partners can use it. They've indicated they want to use it as agricultural ground, but being a business person you would probably understand that if there's a reasonable

offer made for that land, by adjacent landowners, the, I mean, it's probably going to sell.

Kevin Snodgrass: Oh, okay.

Bill Jeffers: It would be attached to a, you know, adjacent lots.

Kevin Snodgrass: Okay. My concern is the ground is going to be, the integrity of the slope is going to be protected.

Bill Jeffers: I understand that—

Kevin Snodgrass: That the crop on it is going to be—

Bill Jeffers: —and under our local erosion control ordinance, each landowner is responsible for preventing erosion or addressing erosion on their individual lots, so that the erosion doesn't cause siltation on an adjacent lot.

Kevin Snodgrass: Okay.

Bill Jeffers: So, anytime you would have erosion on one of these lots, whether it's a large out lot owned by Mr. Stucki and his partners, or whether it was an individual parcel that may be chopped up out of an out lot and owned by an adjacent landowner, whether over in the large estate lots, or one of these lots wanting to expand their ground. Each individual lot owner, property owner is responsible, under the local erosion control ordinance to prevent erosion, arrest erosion, and clean up the effects of erosion if it goes on to someone else's property. So, that goes with the ownership of the property. Long term maintenance on the retention area remains the responsibility of the individual lot owners who's lot lines cross that detention basin. That detention basin is owned by a couple of handful of lots along the detention basin. Their property line crosses the basin. That's expressed on the plat. It's also expressed in the covenants and restrictions that will be recorded for this subdivision. Each lot owner is responsible for the shore line condition, whether that be arresting erosion, promoting grass growth, mowing weeds, anything associated with the maintenance of that lake, collecting floatable debris. Everything up to repairing the outlets. The county will receive funds from Mr. Stucki, \$2 a lineal foot, from the pipe structures, and if one of those pipe structures fails, the county will replace it. Other than that, the mowing, picking up litter, etcetera, is the responsibility of the individual lot owners. If they wish, and many of them do, they form a lake owners association that is composed of each of the people who has a shore line, and shares the use of that lake, and then they collect annual dues, and say they don't want to go out and mow it or pick up the trash, they hire a maintenance crew, or a contractor.

Kevin Snodgrass: How deep is this retention going to be? Average.

Bill Jeffers: Well, it's going to be surely greater than 6' deep, and up to...have you all done your cuts and fills yet?

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

Bill Jeffers: Yeah, at least six to prevent cat tails and promote water quality.

Kevin Snodgrass: Okay.

Bill Jeffers: You know, so algae can't grow up from the bottom of the lake, and so cat tails don't, but I would imagine, you know, whatever it requires until they hit the type of soil that they can't use. But, I would say at least 6', probably 8' to 10'.

Kevin Snodgrass: Okay.

Bill Jeffers: I believe, if I'm not mistaken, that covers the questions you had. Unless you have one for one of the engineers.

Kevin Snodgrass: No, that covered them all. Thank you.

Bill Jeffers: Thank you, Kevin.

President Fanello: We have someone else over here needing to speak. Please, go ahead.

Dixie Wagner: My name is Dixie Wagner. I live at 8444 Kneer, and that's north and west of this proposal. I've lived in that area for 40 years, except for a couple of years, when I was first married, and I moved to town. I've pretty well spent my whole life in that area, and I have to say, number one, I'm just so surprised that anyone is even going to try to develop this land. Because it's just wet, mostly all the time. I mean, when the creek comes out of it's bank, a lot of this property is under water from the area I can see on Mohr Road. For probably the first time in my life, about two years ago, St. Joe Avenue was closed out in the area where I live because of flooding. Every year the flooding in that area gets worse. We were told when the landfill was expanded that there would be no increase in flooding in the area, and there has been. I mean, there is no doubt that there has been. For years, well, I own 2 ½ acres that my house sits on. My mother passed away, and I now own 13 acres that she had. She had six beautiful Colorado blue spruces. It has become so wet out there, they can't survive anymore. If a spruce has wet feet, it dies. We've lost all of those spruce trees. I have other ones that luckily I planted on high ground. Another example, my neighbor, who lives just right across Kneer from me has not yet been able to mow his grass, because his yard is too wet. Now, when I was a child and grew up, that was never the case. My mother's yard is probably, oh, 1/4 of an acre, her front yard. It's wet the majority of the year now. Even last year when we had pretty much of a drought year, late, late into that drought it was still wet. So, my concern is the amount of fill, how high they are going to fill in? Because, you know, we already have this increased elevation of the landfill, we have all of that extra run off. If he's going to fill in what basically now is a water storage area to a higher level, that's going to be more water that goes somewhere else. If you figure the majority of that 70 acres is going to be paved, then you also have that increase in run off. Locust Creek also runs, an unnamed tributary of Locust Creek, runs very near my property. Years ago that section of Locust Creek never got out of it's banks. It does now. For anyone to tell you there isn't already a flooding problem in the area is not telling you the truth, because there is. So, my question is, I would like to know how much they are going to raise the elevation? How deep the retention pond is going to be? Because I don't know how you can calculate that it's adequate for this development if you don't know how deep it's going to be. If they don't have enough fill from that area to get to whatever elevation they plan to go to, I have another concern about what kind of material they are going to use. Because a lot of areas are now using coal combustion waste. If that's the case, I would definitely have a problem with that, because there are still people in the area that depend on a well. My mother's property is on a well, and depending on the kind of fill material, there's going to be an impact to the ground water, and it would impact people's wells in that

area. So, I think it's mandatory to know if they can't get enough adequate fill from this site, what type of fill material they are going to have. Also, on the retention pond, on this site map I got, I really can't, even with my glasses on it's too small to really make any sense out of it. I really can't tell where the retention pond is going to start and stop. I just see an area here that, you know, I can't tell the boundaries of that, so I would like to know that too. Like I said, it's hard for me to comment, because the site plan, if it's possible, I would like to have one that's maybe a little more readable than this one. I would ask you to look at the cumulative impacts that this subdivision will have, in conjunction with what has already gone on there. One thing is the landfill. There has been other developments that are in higher ground. This area is kind of like a bowl, and this is the low part of the bowl. I'm also a part of the low part of the bowl. I know I'm wetter than I have ever been in my life in that area. My mother's property is. Everyone I know out there is. I don't want to see that increase. So, keep in mind that this is, you can't look at this in a vacuum. You know, were these calculations figured on the elevation that the landfill property is now? Because it's going to increasingly go up. They are permitted to go 200', and I would guess they're probably not at half that yet. Now, when you talk about, I don't know if you've been out to the landfill, but it's fairly steep slopes, and there's a lot of run off. That run off also goes into Locust Creek. This pond that they are talking about, when it runs over, it will also go into Locust Creek. The retention pond at the landfill, in a heavy rain, already runs over and goes into Locust Creek. So, you're looking at the possibility of just overloading Locust Creek. It already is at times. It floods the area...I know the area that sits directly on the other side of Mohr Road, that area, which at one time never was flooded, is flooded often now. Okay, my last point is, when they, if they build this retention pond in this area, and depending on what the depth is, are these properties that abut this lake, are they, do they have to form an association to take care of this lake? I'm thinking what if, what if they don't want to take care of this retention pond? What if they don't want that responsibility? Then is there going to be someone who will, who will take responsibility? There's nothing to say that, you know, if I bought one of these lots, maybe I don't want the hassle of caring for a lake. Now, what do you do if these people don't want to take control of that? Is there going to be anybody there to do the maintenance that's required? Thank you.

Commissioner Fanello: Thank you, Dixie. Is there anyone, are there any other—

Bill Jeffers: Ms. Wagner? I can get another copy, if you would like my copy of the full size plat that shows you exactly the lay out.

Dixie Wagner: Okay. Thanks.

Bill Jeffers: Is your property located at (Tape flipped to other side.) Your mom's was?

Dixie Wagner: Yes.

Bill Jeffers: And so the (Tape change due to malfunction.)

Dixie Wagner: If you, if you traveled west on Mohr Road, you would go up, you would go up a hill, and then you would go down that hill. You turn on Kneer, you go flat, and then you go downhill again.

Bill Jeffers: It was my memory that your mom lived at the north end of the road, and there was a hill behind her house with a ball field on it. I was thinking that you were substantially higher in elevation than this development.

Dixie Wagner: No, the property that is to the north of my mother's property is a higher elevation.

Bill Jeffers: Okay. How many homes have been built on Kneer Road since, in the 40 years you've lived there?

Dixie Wagner: One, two, three, four, six, I think.

Bill Jeffers: With or without drainage plans?

Dixie Wagner: Well, I know we had a drainage plan, but, and we went above and beyond our drainage plan. In order, in order for us to be guaranteed that we're dry, which we aren't now, we have all of our down spouts connected to black, perforated pipe. We were required by the Surveyor, I think, to put in a swale. The back of our property is terraced.

Bill Jeffers: When was that built?

Dixie Wagner: '94.

Bill Jeffers: I don't remember reviewing any drainage plans for any house on Kneer Road. The volume of detention in a detention basin is not based on the depth of the basin. It's based on, from the pool elevation to the top of the dam. Whatever is sitting in the basin, that's not detention volume at all. That's just a pool of water. The detention is from wherever the normal pool is before it starts raining, then the water starts coming into the basin, and it rises, and rises, and rises. It's got a controlled outlet. Only so much water can go out this bottleneck. Like when you're pouring water out of a bottle, only so much water can come out the neck of that bottle, depending on how tight it's squeezed. The detention volume is calculated from the surface of the water to the top of the dam. If you'll look there, that detention basin is nearly 1/4 mile long, and it's got, I mean, it's in the report, but it's several hundred thousand cubic feet of detention. Almost a million cubic feet of detention. It's based not on the depth of the pond, but the volume that's held in detention from the pool level to the top of the dam. Now, that landfill over there has more than an adequate waterway. That waterway, as you know, was constructed, due to many of your remonstrations you were very adamant about. It was created using a design by Christopher Burke Associates, which is the premiere drainage designer in the Midwest. The absolute premiere drainage designer in the Midwest.

Dixie Wagner: The landfill, except for the retention pond, their property doesn't flood. But, the property around it does.

Bill Jeffers: And there's an annual report that the county gets, that the county helps pay for, because of all the remonstrance out there, there's an annual report done by Christopher Burke to guarantee the condition of that, of Locust Creek, through the landfill. It was all done completely in accordance with the most advanced technology available.

Dixie Wagner: Yeah, and that's what I'm saying is that, they engineered that, and the landfill, the landfill property doesn't have a flooding problem. The property around it has become increasingly wet.

Bill Jeffers: I can assure you that while they may not share the reputation of Christopher Burke, that Morley and Associates has a very good track record when it comes to designing detention basins and water conveyances here locally.

Dixie Wagner: I understand that, but I know, like you said, a premiere company designed the one at Laubscher Meadows landfill, and I have seen that one overflow on to Wimberg Road any number of times in a rain.

Bill Jeffers: That's right, because it can only convey so much water. We're here to receive, we don't give. You know, that comes from somewhere else. What falls out of the sky, but we're only here to receive it and deal with it the best we can. What Christopher Burke has created there works very sufficiently up to and including the 100 year storm. That's what it was designed for, and that's what it's maintained for.

Dixie Wagner: And I understand that, but what I want you to understand is that it was designed to be adequate. That retention pond isn't adequate. I'm sure whoever designed the Lloyd Expressway, it wasn't going to flood, but we all know better.

Bill Jeffers: That's why they raised it 4', because they built it 2' below flood plain. That's what they didn't tell you.

Dixie Wagner: I know, but my problem is—

Bill Jeffers: And now that it's 4' above flood plain, it won't flood. That's correct.

Dixie Wagner: —I can't, you know, if this engineering is flawed like that engineering, I can't raise my home.

Bill Jeffers: No, that was the state. This is the county. We're superior. We told them that they were 2' below flood plain, and they will not tell you this, but they hit bodies out there at the state hospital, and they stopped important fill from that because they couldn't gather anymore fill. They went out there and they lowered the grade on that in front of the ice rink 2' below old Division Street. As you know, Division Street had water right up to the surface, and anybody that knows that area new that Lloyd would flood regardless of all the glorious statements that were made out there—

Dixie Wagner: And the only point—

Bill Jeffers: —that's what happened.

Dixie Wagner: —I was trying to make is that engineers are not—

Bill Jeffers: Not infallible. That's correct.

Dixie Wagner: —perfect.

Bill Jeffers: You're very correct. The responsibility is conveyed with the deed. The responsibility to the maintenance of the detention basin is conveyed with the deed. There will be a statement in his covenants and restrictions, as is standard, by

accepting the deed to this land, I hereby accept the responsibility to maintain the drainage basin in accordance with the plat restrictions and covenants and restrictions that I share with the adjoining property owners. If you don't want the responsibility to maintain a lake, then that person needs to buy one that doesn't share the lake with the other persons he's entering into that covenant with. If a person next door doesn't like the way that this person is maintaining his portion of the lake, and, in fact, it's in violation of the covenants and restrictions, he can bring a restraining, I mean, he can...the powers inured to the other property owners that they can take legal actions against those persons that don't responsibly abide by the covenants and restrictions.

Dixie Wagner: So, right off hand do you know how many people would share responsibility for that?

Bill Jeffers: I've given you my copy, or I would count them for you, but the lake is clearly shown on that copy, and you can count the lot lines across it. The lots are—

Dixie Wagner: Like about 15, it looks like.

Bill Jeffers: Oh, maybe 15 or so.

Dixie Wagner: Okay.

Bill Jeffers: It's on there. It's nice to see you, Dixie.

Dixie Wagner: Thanks for the copy.

Bill Jeffers: Yes.

Dixie Wagner: The pizza at Rounder's is not as good as it was either.

Bill Jeffers: And the north side girls ball league will never be the same.

Dixie Wagner: That's right.

President Fanello: Are there any other remonstrators?

Tim Adler: My name is Tim Adler. I live directly across the property, or the north side of Mohr Road right by the train tracks. I feel like I'm going to be affected probably as much as anybody. Most of the points were touched upon already, so I want to say a few things about the flooding, in particular. If this property is raised, I would have to agree with Dixie, I mean who in the world would want to build in a flood plain. The majority of this is flood plain property. It's natural retention for Locust Creek. If this is built up, even with this big basin, where's the water going to go when it's full and it's raining 4", and 5", and 6", which it has done. My property, the front by the road has been flooded within 20' of my driveway. So, where is it going to go. I mean, it's going to have nowhere to go. It all goes through the ditch underneath the train tracks, and that's a natural levy there, them tracks. I mean, it make no sense. It's in a hole, you know. Then it's going to be coming over the road, and it's going to be a serious problem. That's why it's coming around a second time, because, you know, it didn't fly before. Being in a flood plain, it makes no sense. I mean, there's so much development around there, it's gaining more and more water coming down Locust Creek. It's not just from what's coming off this subdivision. It's all the

properties from out to the north towards Darmstadt, east towards Kuebler, it all is going to be coming down this way. So, I think there's some serious flooding issues that are there now, and they are going to be intensified, you know, tremendously. A flood plain is just no place for development. So, I just think there needs to be a serious, serious look at it.

Bill Jeffers: The DNR Division of Water has reviewed and approved the flood way study for this particular piece of property. Mr. Adler's concerns are valid and well founded, but the review by the DNR Division of Water showed that the lines had been established past which this development cannot fill. If the development is restricted to those lines, it will not raise the elevation of the 100 year flood in this valley greater than 1/10 of a foot. That's the demarcation line right there. So, while it's possible, but I don't envision it, that the water could get an inch or an inch and a half deeper in this valley, that is the limitation set by Indiana state law, and they have set a line of demarcation past which this project cannot fill.

Unidentified: (Inaudible. Not at mike.)

Bill Jeffers: No, thank goodness. INDOT did the Lloyd.

Tom Norton: Good evening. My name is Tom Norton, and I live east of this property, and uphill, and, I guess, I'm the guy they are all going to gripe about dumping water on them when things start getting wet down there. I am a practicing attorney, but I'm not here representing anybody tonight. So, I have a fool for a client. What, my first question, I guess, that I would have is, and you all are aware, it was addressed earlier this evening, and this question is probably directed to Kevin more than anybody else. I would like to get kind of an answer on this one. About a year ago this body approved another drainage plan for a more aggressive subdivision attempt, 272 lots I guess it was, and there was a different plan with that one. That particular plan crashed and burned at Area Plan, and was turned down. That is, to my knowledge, is not weaving it's way through the court system. My concern that I have, probably addressed here this evening, is any action taken by you guys this evening on this particular plan have the effect of superceding that prior plan, or vacating that plan? Or do we potentially have two drainage plans here that we need to address? In my limited research, I can't find a good answer to that question. I don't know that there is one, but I thought I would at least, if this has come up before the board, it might at least be worth addressing at some point. Because I could see two, if this comes back from the court of appeals mandating approval of that prior subdivision plan, now we've got two competing interests. Which one is going to get their approval, I guess, is the question I ask.

Commissioner Mosby: Did you ever sell the property to the other people?

Teddy Stucki: No.

Commissioner Mosby: Sounds to me like that man right there owns it.

Tom Norton: Okay, but I want to let the Commission know I attended a hearing about less than a week ago that was arguing that case on appeal before Judge Heldt, and Judge Heldt will probably rule sometime in mid-May, I believe, as to perhaps mandating that prior plan coming back on effect. Now, I understand, maybe he...I don't know all the ins and outs of the legalities of who's obligated. I'm saying from the standpoint that we do know, you know, is does this have the effect of superceding that plan? I guess, that's the question I have.

Teddy Stucki: (Inaudible. Not at mike.)

Madelyn Grayson: Mr. Stucki, can you please come to the microphone so we can get your comments on record.

Teddy Stucki: I just said I've got a letter from Highland Pointe where they gave up their rights to the ground, when they got turned down by Area Plan.

Tom Norton: Okay.

Bill Jeffers: I think Mr. Stucki could bring the same plan that Highland Pointe brought to the drainage board last year, and I would make the same recommendation that it be passed, and this board would act upon that recommendation. Again, thank goodness he's brought back a plan that has much lower impact on drainage, and I'm getting ready to make a recommendation for it at this time.

Tom Norton: I just want to know which one we're going to get here tonight. That's why I raise the question. Just so that we're on board that we know which direction we're headed, if this, but, I want to know, if possible, there was a legal conclusion as to the impact of the finding for this one upon the other one. I don't know that anybody's willing to stand up and challenge that issue at this point.

Commissioner Mosby: I would probably ask you that question.

Bill Jeffers: Well, I'm not a lawyer, and you've already got me confused.

Tom Norton: Good. Just looking for experience out there that I haven't had, and I appreciate any input you might have, or that the County Attorney could have on that subject. Watershed area, I think we've talked about this detention basin, I will be very quickly about it. I know that you have a plan in front of you, and what I would really be asking Mr. Morley to elaborate on, I think we have two different standards here in the county, if I understand this correctly. We look at the 68 acres, which this is being subdivided on, which I kind of call the little bowl here, and we take how much water is going to come out of this thing and get down into this area, and, basically, I guess, the theory is he's got to hold that water back, and not allow it out on anybody else's property at the same rate it currently discharges. I guess that's a fair statement. That's probably what we have to look at first. The second question, I think the global issue that was touched on by everybody else, is how big is this watershed. I guess, and that I would call the big bowl theory. Maybe we can address that too by their presentation in how they came to these determinations, how much cubic feet this detention basin is going to hold? How much it needed to hold, and some of those questions. Because, I think what gets into the theory here, is at least between the little bowl and the big bowl, we know the little bowl is going to be developed. So, we can take co-efficients that come off run off, off of rooftops, driveways, roadways, those kind of things. What we don't know is the big bowl is did we count that developed, or did we count it undeveloped? Because that's going to affect run off rate it gets down here. It's going to affect how much water ends up at this detention basin, I think, any stretch of the imagination we put to it. That becomes an important question to me, because Mohr Road is sitting there at that very low point, right at the tone. Everything is going to come focusing there, as far as I can tell. The detention basin is gonna take water off of that 48" pipe up there under the railroad right-of-way, and it's going to handle it until it gets filled. It's going to dump it back into the detention basin, it's going to fill, and it's going to head north until it gets to the spillway up there. If it's got to go over that, then it's going to feed

into Locust Creek once again, or that tributary that leads to it. But, that's where the impact is, because we have all these headwaters coming southwest, meeting up with any of that overage out of the detention basin, we're going to have a flood at Mohr Road like it or not. I think the other thing that needs to be looked at from the drainage plan is very carefully how they pile up that dam or that berm that's going to be down at that end, and what impact that may have on just those immediate waters that come out of the flood way and splash up against it. That being said, I think that needs to be addressed before you this evening, and to get very certain we have sufficient quantities in that detention basin to handle this stuff. I probably agree that, I think somebody threw around the term tonight seven times on the little bowl, but I'm not sure we've addressed the big bowl, and whether it's going to have an impact there. The other thing, the slopes we talked about maintenance for those and that's a very good question. I think it was commented that that's un-buildable property, and I hope if that's what it's going to be it be designated as such. What I know about real estate development is that I'm not certain that that is un-buildable property, even though it's inside this subdivision. I look at this thing maybe eight years down the road when all those lots get sold and developed, and somebody says, why, we've got, you know, three acres back up here I bought. I would like to sell that off, and cut an easement through my land, and allow somebody to build up here. Is there going to be any restraint there? You're very correct, that can be bought, sold, traded by anybody, it doesn't matter who it is. We can talk about maintaining that here tonight, but, I mean, it could be a grass field, or it could be a house. I mean, that comes the question. Just because it's inside this subdivision, and it's not called a lot, doesn't mean it doesn't have some future building potential. Maybe as the drainage plan we need to address the question of whether that has to be regulated. In other words there cannot be, as part of this drainage plan, any construction in that area. This is one I throw out for food for thought. Down to the detention basin itself, this was another one that there was some discussion here this evening about maintenance of that, and what I know about real estate has been fairly well covered here this evening. I guess, probably the question that was being asked by the neighbors is there any outside enforcement to make sure that that detention is kept and maintained, and would that be a county prerogative, or is it the neighboring owners? I guess, if they're getting too much water, they could probably come in and raise that question. One thing I saw about the maintenance issue on the detention basin was the lots extend out west, and they're subordinated to a drainage easement, and the lake maintenance, or the lake easement and all that, but they don't have any rights in there beyond, I don't think they could fill it is what I'm trying to say. They have to maintain drainage in there. To get to the other side of the lake, they would have a maintenance obligation on the other side over there, because the lots do come out of the water over there. There is no way that I can see on the current plan that allows or provides for any kind of easement for them to get back and maintain that area. I don't know if they are going to have to get over there by canoe or what to mow those sides of the lots. So, that might be one question, and if that would impact on drainage, it would probably be something that might want to be considered. I've already touched on the concern I had about Mohr Road about those headwaters all meeting there, but I think that's probably, from the standpoint of where I sit, as the citizen up the street, I'm uphill, I'm not going to get any of this water. It doesn't bother me, I don't stand in Mr. Thomas' position, I'm not going to be flooded, I'm going to just sit up here and watch all this calamity take place. I do have one concern about getting in and out of my home, and westward through Mohr Road may be one. That's principally my concern here this evening. Thank you.

Bill Jeffers: The only issue I wish to address, or respond to from Mr. Norton is the access to the backsides of those lots is of concern to me as well. Generally we

require that the lot lines be configured in such a way that two lots meet in the back, and those two lots have the responsibility for half the shoreline, because they're the end two lots, and they meet in the back. But, this is such a long detention basin, and I hate to make them shrink it down to the size that that would be the case, and that is an issue that we're going to have to work out legally, and with cross easement language. We're going to have to work out a system whereby anyone that owns a lot in this lake could go down to the pump station, and there would be a cross easement from that point. They could take their mowing machine or whatever down there, and attain a cross easement all the way across the backside of this lake. Other than that, I think the city has a 9" weed ordinance now. I'm not sure what the county's weed height ordinance is, but those could be built into the covenants and restrictions. You're asking for is there an outside enforcement power. I'll have to look through the drainage code. I think there is to some extent, but we've depended upon the covenants and restrictions, the fact that it's clearly stated on the plat exactly what the mowing, maintenance, litter control, and all that is, is on the plat. Generally it's been enforced between the property owners. There's at least a majority of property owners that will enforce those covenants on those that don't wish to comply voluntarily.

Tom Norton: I mean, I know this has happened. I'm involved in a case that's in Boonville, and you and I have had this discussion, they don't try to enforce anything up there, but we've actually had, I'm in a case where they actually filled in one of these drainage easements, and the neighbors upstream are all, you know, sitting there in standing water. Trying to force that issue is very difficult. That's one of the reasons I raised it. Thank you.

Bill Jeffers: (Inaudible. Mike not on.) I will just say at this time, the other issues that Mr. Norton raised, I would prefer the engineers to respond to. Whenever the remonstrators are finished.

President Fanello: Are there any other remonstrators? Seeing none, I guess, it's the engineer's turn.

Jim Morley, Jr.: Jim Morley, Jr., Morley and Associates. I took some notes, I tried to address things as they were brought up. Starting with Mr. Thomas' comments. Bill touched briefly on this property is clipped by flood way in the corner for Locust Creek. That flood way study was done January 11, 2001. So, it's a current study that reflects current conditions out there. I'm unaware of any major developments in that area in the last two years. So, it's an up-to-date, current study. The flood way depicts the line in which anything you fill outside the flood way will not raise water substantially. Like Bill said, 1/10 of a foot, about an inch and a quarter upon any of the other neighbors. For that reason the water outside of this project, and that existing ditch should not get any deeper for anyone. The max by law can go up is an inch and a quarter, but because of the fact that our retention basin holds about a million gallons of water, I would guess that it doesn't go up any at all. So, therein lies the idea of water raising up to hurt other people. That's just not going to happen. He touched briefly on the terracing system. Bill mentioned the HUD grading plans. I would also like to mention that all of these lots have a perimeter ditch that run around them, and we placed the ditch on the lots, verus on the area that is to remain farmed. That way there is no danger of the farmer plowing under that ditch line, or whatever. They are on the lots. So, the lots themselves are self-sufficient. If the guy planted wheat, or if he planted row crops, or whatever he planted would not affect the lots and how the drainage system works. The lake has two outlets. The 48" pipe underneath the CSX railroad tracks, which was mentioned earlier, and I think

somebody was concerned about it possibly being blocked, the other outlet is at the Locust Creek end, in which it is an overland weir, which is basically a channel leaving the lake, which is, I don't know how you would block that. Let's see, we touched base on something Kevin Snodgrass asked, he wanted to know where the dirt would be, and where it comes from. The intent is that this project will be balanced. Nobody likes to truck in dirt, because it's real expensive. Teddy owns an additional 20 acres in the immediate area, that if he needed to he could go to get dirt from, but it is our intent that this project will balance within itself. It's a very large basin, and a lot of dirt can come out of there. Let's see, Dixie was concerned about the flooding. As you all know, the local drainage ordinance prevents us from flooding people out. That's why we're here today to make sure that we don't flood anybody else out. The ordinance makes it so we can't discharge anymore than the existing ground does on the 10 year storm. In truth of it, because of the size of our basin, we're going to choke that down as much as we can to help out the area as much as we can, and provide as much storage as possible. She was concerned about the 100 year flood elevations. Those are set off that January 11th study, 2001. So, the current flood elevations, so, there should not be a concern about people being flooded out. Let's see, Mr. Norton was curious how large the watershed is. Including the, I'll just call it 70 acres, because it's like 68 or something, including the 70 acres it's a 239 acre watershed. So, to use his terms, the big bowl is 239 acres. How does that relate to this retention basin? If we develop this exact same project over the entire 239 acres, our retention basin would still be oversized. For the off-site ground, we took into account all the houses, all the rooftops, all the driveways, all the existing terrain. We used existing county contour maps to get elevations. All of that stuff to make sure it comes through. Like I said, they could develop the whole thing and our retention basin would be big enough. However, if they do develop upstream from us, they also will be required to come before you with a drainage plan, and put their own retention lakes in. The lake maintenance and storm detention easement, I'll be honest with you, I would have to read that language. I think though that it allows for ingress/egress across other lots. So, if you own the middle 80' of that dam, you can cross across the other people's properties to get to your area to maintain. If it doesn't, I don't...I'm pretty sure that's the way it reads. If it does not, that way, I believe, that's something we can modify. The drainage basin, a lot has been made as to the maintenance of this drainage basin. There's not a whole lot to maintain on a drainage basin. Once you get it built, and you get it planted and established, which will happen prior to people moving in to this development, grass grows on it, and that's about it. I mean, you know, you've got to mow the grass, but other than that, you know, there's not a lot of maintenance that happens on one of these things. They are built to be "idiot proof", if you will. So, there's nothing people can do to go mess them up, and especially with an overland weir, there's not a whole lot, I can't imagine there's anything that could happen. The majority of the people that came forward to speak with you today all live much higher than what these houses are. So, if there are any flooding problems in this area, I assure you it will be people that live in this subdivision that come complaining first, and they can only complain to themselves, because they all will sit underneath a covenant that says they have to maintain it. People within that subdivision, anyone within that subdivision can call them onto the carpet, so to speak, and bring them to court and legally force them to do what they said they would do voluntarily. I believe this is a good project. I believe it helps drainage in the area. The retention basin, Mr. Stucki has generously oversized it. I think it's 4 ½ times what the 100 year storm requires. Seven and a half or eight times what the 25 year requires. I think it's a good project, and by all means it will work nicely from a drainage standpoint, and I ask for your approval.

President Fanello: Are there any other questions?

Bill Jeffers: Here's the checklist that shows the items required on a preliminary drainage plan, and I reviewed the plan, the County Surveyor reviewed the plan with staff from Morley, and found that the checklist was complete. I look at this as an opportunity, this is actually the first subdivision I have ever reviewed, other than Cambridge Golf Village, and Eagle Crossing Golf area, where....this has nothing to do with recreation, yet this man brought in what I consider a low impact drainage subdivision, where there is a lot of open space around the outside of the subdivision on the critical slopes, and a very large interior drainage easement for the creek, and then an even larger one for the drainage basin. All I am going to ask Mr. Stucki to do is to tell me tonight that he will let me, and Mike Thomas and his company and with his engineers go out and look at these springs and identify them in an expedient manner, so that he doesn't have to pay Morley and Associates a lot of hours to go hunt them up themselves. Okay, I would ask Mr. Stucki to go to Darrel Reis and ask him about conservation tillage on the hillsides, and I would ask you to look into the grass filter strip program along that interior creek, because that will be, in a future phase that you're going to develop, that you won't be developing that for a year or two, I would like for you to go talk to Mr. Reis at Natural Resource Conservation Service. They have, while you're still farming that they have a farm set aside program to establish grass filter strips, which are far better than silt fencing. So, when you do get back there in that phase, you won't have to erect expensive silt fencing, you'll already have a grass filter strip established back there along that creek. I would ask you to look, to talk to the urban forester, and to, or horticulturalist, Larry Caplan, about things you might do to beautify the basin over a period of time. Or that you might put into your restrictions, so that those people will observe those practices when you turn over ownership to them. I may in Area Plan Commission add a condition to the approval of the plat, if we haven't worked out something between now and next week on a cross easement, that would be added to the plat to make it absolutely certain that each of those property owners, that their acceptance of the deed is based upon each of the other property owners ability to cross their land and maintain the back side of that dam. Okay? If we can work that out before next week I'm not going to bring it up in Area Plan Commission, but that's essential. In closing I would say that at the bottom of this checklist the board itself shall decide the sufficiency of the preliminary drainage plan, and any conditions or additional requirements that the board would apply to the preliminary plan. So, if the board has any other comments to make at this time, you do reserve the right to add conditions to the approval, and with that the County Surveyor recommends approval of the preliminary drainage plan for Spring Lake Valley.

President Fanello: Are you recommending approval of that, any additional conditions?

Bill Jeffers: Without any conditions. Based on the sufficiency shown by the completed checklist, but I'm just making the board aware that if they've heard something tonight they're concerned enough about that they want to add conditions, they may. Or you may simply say, work all this out before the final plan, and if you don't work it out before the final plan, we'll add them at that time.

President Fanello: Anybody have any questions?

Commissioner Mosby: I don't have any questions. I'll make a motion to accept the Surveyor's recommendation. I really do want to thank the developers here. I remember sitting here a year ago voting on this, and I'm not sure that I felt as

comfortable then as I do today, but from what I've heard, and the size of the detention pond, and cutting back from about 280 houses, to 150, I feel a whole lot more comfortable today. I'll make a motion to accept.

Commissioner Crouch: Second.

President Fanello: And I'll just remind everyone, this is preliminary approval. So, we have plenty of time to address everybody's concerns. That's what this meeting is for. So, hopefully, everybody will get all their concerns worked out.

Unidentified: Can I ask one question?

President Fanello: Uh-huh.

Unidentified: You talked about doing things—

Madelyn Grayson: Could you please come to the microphone, sir.

President Fanello: Yes, we need you to come to the microphone.

Richard Moll: My name is Richard Moll, and I live directly north of the development that is coming on. You talked about doing things in phases, and what happens in between the phases if all this drainage isn't in effect? That's the one question I have. You said they are going to build higher ground first, and is this retention pond in place? If we get another 25 or 50 year storm that we had spoke of, and we had heard about before, which, again, was sitting up on the hill like Tom does, we've witnessed that this whole area was a lake. So, what I'm looking at is what happens, or in the phases, and how we direct it there? Then what happens when that 25 or 50 year storm hits, and that whole dam is flooded? Because from what I have seen, we probably would have flooded whatever retention area that we had, and we had two of those storms in the last eight years.

Bill Jeffers: Mr. Moll, the phasing of construction for a major subdivision is very common. Each phase has to provide it's sufficient detention before they move on to the next phase. They have certain critical elevations shown on this plan and on the previous plan as to the depth of the 100 year flood. The berm they are raising is above that elevation. The 100 year flood would not come into this (Inaudible), except through the overflow pipe. If they exceed the 25 year storm, they still have plenty of (Inaudible) the 25 year storm. I believe, if I'm not mistaken, and we can verify that in the final plan, that there will not be any water leaving this overflow weir (Inaudible. Mike not on.), but as they move back through their phases, they will have to make excavations (Inaudible) to acquire the fill to build the home. I would think each phase would be (Inaudible) out of the detention basin to build homes on to accomplish the detention required (Inaudible). (Inaudible) verify that with the design engineer (Inaudible) cuts and fills maybe. If that's not the case, we can make it (Inaudible). (Inaudible) explicitly explain in black and white who has (Inaudible) cuts and fills (Inaudible) 30 days (Inaudible). Is that your plan? (Inaudible) APC approval, they will be starting their cuts and fills (Inaudible). If that still remains a concern, that should be incorporated (Inaudible) phase one (Inaudible). I encourage (Inaudible).

President Fanello: Thank you. So, I'll say, we had a motion and a second, so I'll say so ordered.

Roth Road Bridge Plans/ Barnett Ditch

Bill Jeffers: Your next drainage plan is actually the Roth Road Bridge plan (Inaudible) Barnett Ditch. Because Barnett Ditch is a regulated drain in Vanderburgh County, it requires approval of the County Surveyor. Today our Deputy Surveyor, Doug McDonald, who is a licensed (Inaudible. Mike not on.) conferred with Valerie Harry, who is a (Inaudible. Mike not on.) Verified the sufficiency of the Roth Road Bridge plans, and recommend approval at this time.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

**Receive Petition to Remove Obstruction:
Paul & Rose Stofleth**

Bill Jeffers: Okay, under New Business, your Recording Secretary holds a copy of a petition from Paul and Rose Stofleth to remove an obstruction. I would ask that you receive that at this time, and order the County Surveyor to promptly investigate whether the obstruction exists. Then set a date for a hearing that is not, that must be greater than 30 days from tonight, and not less than 90 days from tonight.

Commissioner Mosby: I make a motion that we receive the petition, and have the Surveyor look at the obstruction. We can set a date for our meeting in June.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: So, Mr. Stofleth, what just happened is they received your petition. I must come out and promptly investigate and make a report to them at their next monthly meeting. Then at their meeting in June they will have a hearing where you and the lady who you filed the petition against will each give your sides of the story, and they will refer to the Vanderburgh County Surveyor's report, and they will make determinations and findings at that time, and act upon your request that they order the removal of the obstruction. So, I will stay in contact with you, and you will get a copy of the report the same time the County Commissioners do. Thank you.

Paul Stofleth: Thank you.

**Accept Check for \$3,000 Grant from Big Creek Drainage Association:
Barr Creek Embankment Repair**

Bill Jeffers: Your Recording Secretary holds a check for \$3,000 which represents a grant, or a gift—

President Fanello: Do you want to go shopping?

Commissioner Mosby: It says that I accept.

Bill Jeffers: –from Big Creek Drainage Association with the specific caveat that it be used on the Barr Creek embankment repair, to offset some of the cost on the Barr Creek embankment repair for which you let a contract for \$25,000 this year.

Commissioner Mosby: Do you need a motion?

Bill Jeffers: Just a motion to accept the \$3,000 grant.

Commissioner Mosby: Motion to accept the check for \$3,000 to be used on Barr Creek drainage.

Commissioner Crouch: Second.

President Fanello: So ordered.

<p style="text-align: center;">Approval of 5/3 Branch Bank's Drainage Easement Encroachment Agreement</p>
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Bill Jeffers: 5/3 bank is encroaching a drainage easement in Eagle Plaza Subdivision out on the west side, and asks that you enter an easement encroachment agreement with them. Am I holding a copy or the original, Madelyn?

Madelyn Grayson: I have the original here.

Bill Jeffers: Okay, your Recording Secretary has the original, which the County Surveyor recommends you sign, however, the owners are asking that they be allowed to record this after they assume ownership of the property for 5/3, on behalf of 5/3 Bank. I don't find any problem with that.

Commissioner Mosby: Upon the recommendation of the Surveyor, I will make a motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

<p style="text-align: center;">Approve Regency Club Location Within Right-of-Entry for Williams Ditch</p>
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Bill Jeffers: Now comes Regency Club Consolidated Residential, LP, requesting the relaxation of the legal drain right-of-entry for Williams Ditch, which is located on the county line, between Lincoln Avenue and I-164. The parcel affected by the legal drain right-of-entry is Regency Club Apartments located at 8300 Lincoln Avenue. At the time of construction, at or about 1980, and as currently exists, there are encroachments into the legal drain right-of-entry by the apartments to reduce the extent of the existing encroachments. Regency Consolidation Residential LP is requesting that the legal drain right-of-entry on the west side of Williams Ditch be reduced from 75' to 25'. I brought copies of the statute, which I'll pass to your attorney and let him pass you copies. IC-36-9-27-33 (Tape flipped to other side) titled right-of-entry over private lands. Subsection (e) applies to urban drains. The board may reduce the 75' requirement to any distance of not less than 25' from the top of a bank of an open ditch. The County Surveyor recommends at this time that the west, that the right-of-entry along the west bank of Williams Ditch, as it crosses

the property of Regency Consolidated Residential LP, commonly known as Regency Club Apartments, be reduced from 75' to 25' as measured from the top of the west bank. That you sign this so that they have a document acknowledging that.

Commissioner Mosby: Motion to approve drainage encroachment.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: They just want this for their records.

Questions and Comments by Board Members

Bill Jeffers: Questions and comments by board members, or your lawyer at this time.

Kevin Winternheimer: No, I just want to get out of here.

Bill Jeffers: Well–

Approval of Contracts for 2003 Regulated Drain Maintenance

Madelyn Grayson: Just one quick thing, can we have approval to stamp these contracts for the regulated–

Bill Jeffers: Right, contracts came back today all signed....this is for the maintenance of regulated drains, all the contracts for this year. If you would, is there a motion that they can make, Kevin, whereby they, on recommendation of the County Surveyor they approve all these contracts and have them signed at their leisure.

Kevin Winternheimer: Yes.

Commissioner Crouch: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered.

Other Persons Wishing to Address the Board

Bill Jeffers: We're at the last bullet, next to last.

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

Commissioner Mosby: Motion to adjourn.

Commissioner Crouch: Second.

President Fanello: So ordered.

(The meeting was adjourned at 8:08 p.m.)

Those in Attendance:

Catherine Fanello	David W. Mosby	Suzanne M. Crouch
Kevin Winternheimer	Bill Jeffers	Madelyn Grayson
Michael Thomas	Kevin Snodgrass	Dixie Wagner
Tim Adler	Tom Norton	Teddy Stucki
Jim Morley, Jr.	Richard Moll	Others Unidentified
Members of Media		

**VANDEBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
MAY 27, 2003**

The Vanderburgh County Drainage Board met in session this 27th day of May, 2003 at 4:34 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Drainage Board meeting, May 27th. Do I have approval of the minutes of the previous meeting?

Commissioner Mosby: So moved.

Commissioner Crouch: Second.

President Fanello: So ordered.

Report on Stofleth Petition to Remove Obstruction

President Fanello: Old Business.

Bill Jeffers: I'm supposed to give you a report on Rose and Paul Stofleth's petition to remove an obstruction. The petition was filed last month, and I believe you've set a hearing date for June 23rd, if I'm not mistaken. I'll have to check the minutes to make sure on that. There's a drawing with this report, the basic complaint by Mr. and Mrs. Stofleth was that their neighbor had placed some dirt fill from a swimming pool, and other materials including a new board fence into a depression along the respondent's land, and it resulted in forcing water across the property line, and on to the Stofleth's property. On Monday, May 25th, there's a typo there, that was yesterday, May 25th, at about 4:00 p.m., the County Surveyor visited the site and viewed it with Mr. Stofleth. There's some more detailed observations there. Then today, which should say May 26th, the County Surveyor investigated public records, and found that Maxwell Place, and the petitioner owns lot six at 3816 Maxwell Court, that Maxwell Place is inside the corporate boundaries of Evansville, and the City Engineer holds a file on the project that was completed in 1983. The file does not contain a drainage plan. Files at the Area Plan Commission also do not indicate a drainage plan was submitted. The recorded plat, of which you have a copy in front of you, shows the petitioner is lot six, surrounded by a 10' wide drainage easement labeled "easement for drainage swale", indicating a clear intent that the storm water from the individual lots be carried through a system of open water ways, or possibly pipes, specifically designed for Maxwell Place. The plat carries the seal and signature of Sam Biggerstaff. Morley and Associates now own Mr. Biggerstaff's records. In their record room there is a drawing, which I have a copy of in our office, completed by Mr. Biggerstaff for Maxwell Place, that shows the storm water and the sanitary sewer layout, and the plan indicates that the ground along the south line could be graded so that the surface water would flow from where it now stands on the Stofleth's property, hence due west to a bee hive inlet at the southwest corner of lot nine in the same subdivision. I have that drawn in squiggly lines on the handout. So, there is some possible solutions I'm offering to the petitioner; number one, that he abandon his petition and pursue a private action with other affected landowners, his neighbors in Maxwell Place, in accordance with their covenants and restrictions, which prohibit fencing or filling of that swale, and restore it to its apparent planned course to carry storm water along the south line of the subdivision to that bee hive inlet. Solution number two, the petitioner abandon his petition and

pursue a remedy in conjunction with the City Engineer and the Board of Works to restore that drainage pattern. I talked with the City Engineer since I wrote this, and that's, they have the same policy you do, that property owners maintain their drainage easements as designed. Mr. Winternheimer might have a greater insight into that, having been the City Attorney at one time. We'll leave that, I suppose, unless he wants to make a comment to the hearing. Solution number three, that the petitioner amend his petition to remove the complaint against 1820 North Colony Road, and direct the complaint against property owners to the west of him, or to the south of him, whichever is applicable, to accomplish surface water drainage through the swales that were apparently intended to take the surface water drainage away from his property. In other words there are obstructions in these swales to the south in Cinnamon Place, and to the west in Maxwell Court, or Maxwell Place. There's obstructions in both directions in the swales that were apparently intended to carry this water. The obstruction is not on the remonstrators property. She simply built a swimming pool, and took the dirt from that and filled in a depression, which Mr. Stofleth agreed when I was out at his house, the water didn't go all the way out to the front of her house, it just stood in her yard, and as it drained down it came back from her yard into his. So, the watercourse is not through the respondent that he named. Solution number four, the petitioner hire a consultant, whether he be an engineer or a landscape architect to design a drainage plan utilizing the drainage easements that do surround the petitioners property. As you can see, there is a drainage easement on every side of the petitioners property, expressly for an open swale. Then hire another company, like a landscaper or an excavator to install the plan so that surface water drains from where it stands in his backyard and out to the street called Maxwell Court, where it will be picked up by some inlets. Recommended board action, the County Surveyor recommends that you do continue the hearing on June 23, 2003, and authorize the County Surveyor and the County Auditor to notify the affected parties of the hearing, should the petitioner choose to continue his petition, regardless of these proposed solutions. The reason I say that is, if he doesn't withdraw it, I'm going to go ahead and notify everybody that owns lot six, seven, eight and nine in Maxwell Court. I don't show it on this handout, but lots five, six and seven down in Cinnamon Trail PUD also have a swale that's obstructed, and I would notify them and let the chips fall where they may.

President Fanello: Do I have a motion to that affect?

Commissioner Mosby: Motion to (Inaudible. Mike not on.)

Commissioner Crouch: Second.

President Fanello: So ordered.

Charlene Timmons: Can I ask a question?

Bill Jeffers: You certainly may.

Charlene Timmons: Do we have a notice for the newspaper?

Bill Jeffers: I don't have a notice prepared right now, but I will just take a notice from the previous hearing that we had last month or so ago, and redraft it to apply to this one, bring it down to Madelyn or to you, and you guys can...along with the property owners names and addresses and you can certify mail it to them.

Charlene Timmons: Okay, because Madelyn's on vacation this week.

Bill Jeffers: It wouldn't be until the middle of June, let's say about the 10th.

Charlene Timmons: Because she had written down here to advertise it on June the 6th.

Bill Jeffers: The 6th?

Charlene Timmons: Is that what it would take?

Bill Jeffers: I'll have them ready by the 6th.

Charlene Timmons: I have to have it to the newspaper before that.

Bill Jeffers: I'll do it as quick as I can.

Charlene Timmons: Okay. Thank you.

Bill Jeffers: Yes, ma'am.

<p>Green River Road Soccer Field Complex Evansville Parks Department: Final Plan</p>

Bill Jeffers: Under drainage plans, your first plan tonight is the Green River Road Soccer Field Complex being constructed by the Evansville Parks Department. This is a final plan, and before you hear from Mr. Madriaga, the Parks Department Director, and Mr. Farney who drew the plan, I had sent a letter to Mr. Madriaga asking him to confer with the city's urban forester and with some other folks about conservation practices, and I found out today from Mr. Farney that he had done that prior to my letter, and that the urban forester, Shawn Dickerson, has been involved with this plan from the very beginning, and they are preserving as many trees as possible, and planting suggested trees and so forth. So, this is a large, green project that probably doesn't need much detention, but there is plenty of detention in the design, loads of it, plus an extra borrow pit that they are routing it through for a settlement basin before it goes into Furlich Creek. It's a good plan, and I believe John Stoll, your County Engineer, recommended the road plans last week. I think you all approved the road plans. John and I have been in close contact on this, and the County Surveyor's recommendation is to approve the plan. If you have any questions about it, Mr. Madriaga and Mr. Farney are here to explain it. The only concern I had about anything at this point in time was the possibility of the guard rail along Green River Road between the shoulder of Green River Road and the borrow pit that will be excavated to acquire fill dirt. If there's a perceived liability for traffic safety there. Mr. Farney said that was in there as an alternate bid, should the County Commissioners find that it's a necessary protection for the public, the design is there, and it's an alternate bid item that would be implemented if the County Commissioners found it necessary. Like I said Mr. Madriaga and Mr. Farney are here if you have any questions.

President Fanello: Does the Board have any questions?

Commissioner Mosby: No.

President Fanello: Do you have a presentation that you want to make or anything?
Mike's like, no.

Mike Madriaga: (Inaudible. Not at mike.)

Bill Jeffers: Right. They even have green parking. Seriously, they have areas that they are parking on the grass. It's almost all green except for the new road ways and some concession stands here and there.

Mike Madriaga: (Inaudible. Not at mike.)

Jim Farney: Jim Farney with Bernardin Lochmueller. The project was preliminarily awarded last Friday at a Parks Board meeting, and there was a list of the alternates that were read out that were selected, and the last alternate, alternate number 12, was to install guard rail along Green River Road. So, there is a guard rail in the project.

Commissioner Mosby: So, did they utilize that alternate? You are putting the guard rail in? Or is it just an alternate?

Jim Farney: Yes. No, we are. It was awarded.

Commissioner Mosby: What about the road going out to Heckel?

Jim Farney: That was not awarded Friday. I'll let Mike speak to that.

Mike Madriaga: Mike Madriaga, Parks, the project came in high. Construction cost was high. We had three alternates that we had to pull out, and I really think all three are temporary. The lighting, the synthetic field, and the road to Heckel. I think, as indicated in the paper Saturday morning, very accurately by Mr. Marynell that the road, we hope, will be put in in 2004 from monies that the Mayor will indicate will be a city project. This is a city park, although we're city/county. The road is important to us. We really think that a Heckel Road access is imperative to our project. So, we think that's a 2004 project. We don't need that now, because we're not going to play soccer this fall in there. The lights and the synthetic turf, that's another question. We're trying to solicit monies to make sure they happen. Hopefully, the community will step to the plate and help us with that.

President Fanello: Any further questions?

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Westcreek Leisure Living; Allens Lane: Preliminary Drainage Plan

Bill Jeffers: Your next drainage plan is called Westcreek Leisure Living. It's on Allens Lane just a little bit west of St. Joe Avenue. This is a preliminary plan. It's another big, green plan. It's got a huge amount of green area being set aside. As a matter of fact, it's got so much green space that we may ask them to experiment with a vegetative filtration strip, as opposed to a filter fabric silt fence to see which one would perform better. That's just an aside on the erosion control plan. We're

trying to figure out whether a 60' filter strip would do more than a fabric fence. I believe it would, and so it's something we're trying. In this case, Mr. McCullough, Bill McCullough and Mr. Easley. I'm sorry.

Unidentified: Peter. That's my brother.

Bill Jeffers: That's your brother. Mr. McCullough's the builder, and Mr. Easley is the design engineer, if you have any questions. This is a preliminary plan. It's an apartment project on Allens Lane. The County Surveyor is going to ask that the Board waive the requirement for detention, because of it's close proximity to Locust Creek, which is a major tributary in Vanderburgh County. There is no detention required here because it discharges directly into the floodplain and the floodway for Pigeon Creek. You don't have to do that waiver at this time. You may wait until the final plan to waive that requirement. At this time the County Surveyor recommends the preliminary drainage plan for Leisure Living Westcreek, and points out that both the design engineer and the developer are here in case you have questions.

President Fanello: Questions?

Commissioner Mosby: Motion to approve preliminary plan.

Commissioner Crouch: Second.

President Fanello: So ordered.

Unidentified: Thank you all very much.

Bill Jeffers: Thank you, Pete.

YMCA at Burkhardt Crossing: Preliminary Drainage Plan

Bill Jeffers: YMCA at Burkhardt Crossing is a large lot next to Lowe's. The detention for this facility is located on the other side of I-164 in the large borrow pit that has the detention for the entire Burkhardt Crossing subdivision. This also is a preliminary plan. It also has a huge amount of green space, because there's athletic fields involved. The County Surveyor has reviewed the plans with both the design engineer and the tenant and his representatives, YMCA, and recommends approval of the preliminary drainage plan. There are two gentlemen in the audience who represent the YMCA plan, if you have any questions about it. But, basically, it's an office building and associated athletic fields.

President Fanello: Questions?

Commissioner Mosby: Motion to approve preliminary plan for YMCA.

Commissioner Crouch: Second.

President Fanello: So ordered.

Persimmon Ridge Subdivision: Nurrenbern Road: Preliminary Plan

Bill Jeffers: Next item is Persimmon Ridge Subdivision on Nurrenbern Road. It's a preliminary plan. This particular plan has been withdrawn by the design engineer,

Billy Nicholson for one month, and set back on the Area Plan Commission, therefore by one month. So, you'll be looking at this, most likely, June 23rd.

Other Drainage Plans: Lot 65 Carrington Estates

Bill Jeffers: Under other drainage plans, I did have a plan come in today, this afternoon, and it's lot 65, Carrington Estates Subdivision, from Mr. Tim Gerhardt, the owner of lot 65. The address is 2901 Charleston Court. Here's a copy of the lot. As you know the new plats for a subdivision since 1994 carry a notice that says any pipe, fence, wall, building, swimming pool, patio, planting, stored material, excavation, fill, or other construction, improvement, addition to, or alteration of the land within a drainage easement in this subdivision, requires the prior written approval of the county Drainage Board. You may base your approval of a plan on a recommendation from a technical advisor to your board, or at your discretion you may approve a plan without that recommendation. Right now the plan consists of a cover letter from Matt Wallace, Civil Staff Engineer at Morley and Associates, who says that the amount of water that must be conveyed through the open ditch behind this property can be conveyed in a 12" smooth wall plastic pipe laid on a slope of .18 percent. And that the pipe would be installed according to specifications of the manufacturer, and in accordance with your ordinance, which says that all pipe has to be covered by 2' of fill. We have waived that particular requirement, so long as it's installed in accordance with the manufacturer's recommendation for the particular pipe that's used. In some cases 2' of cover cannot be accomplished without causing drainage problems. It's also accompanied by a sheet that shows calculations that that size pipe laid on that grade will work. I had spoken with another engineer who potentially was going to represent Mr. Gerhardt on this, and said for something of this nature, if you'll look at that drawing, the reason that the drainage easement is located 13' north of the south line of the subdivision is because the developer and potential buyers had indicated that they wanted to preserve a tree line along the south line of Carrington Estates. They didn't want to disrupt the trees or kill the roots, because they wanted those trees there. So, they moved the drainage easement into that lot, along with all the other lots as you see, some places greater than 13'. Some cases up to 20', 25'. The drainage easement is only 10' wide, and that's because very little water does in fact flow down in the direction of Mr. Gerhardt's property. Then there's a 5' adjacent public utility easement. It's my understanding, and Mr. Gerhardt is here in the audience and could answer your questions, or more fully explain, that his desire is to construct a swimming pool in his back yard. His swimming pool contractor has indicated a lack of space. Mr. Gerhardt has indicated a desire to utilize the drainage easement by piping it, and fencing over top of it. I'm assuming as close to his rear line as he can install a fence. I will say that when you go out there, it's my understanding that there are no fences in this drainage easement, on any other lot nearby. This would be the first, and because of that, I had indicated to one of the engineers who had said he was possibly going to submit a plan, that we would have to have a very detailed plan to make sure that a fence or any other landscaping would not represent an obstruction to that drainage easement, and that there would be an emergency overflow where if we had a hundred year storm, or even a, according to our ordinance, a 50 year storm, would still be carried through that easement over the top of the ground as if that pipe were plugged. I don't have that detailed of a design here in front of me. I am reluctant to give a positive recommendation without a detailed design, but your ordinance does allow for an applicant or a petitioner to come before you, at any time, with or without a recommendation and plead his case and speak to you. Like I say, the gentleman is here in the audience, and may wish to do that.

Unidentified: I don't know what to tell you about it—

President Fanello: You have to come to the microphone and state your name and address.

Tim Gerhardt: Tim Gerhardt, 2901 Charlestown. I don't really know enough about this. I was going to hire somebody that would comply with everything that needs to be done to do the adequate drainage for it, and build the fence to the proper height that whatever, you know, so that it wouldn't retain any type of water. You know if that needs to be 12", I don't know if there's a guideline for that. I know it says not to obstruct the ditch, but it doesn't have a height requirement. I mean, I would assume if you put a, I don't know anything about engineering, but if you would put a 12" pipe in, I guess, if your fence was 12" off the ground, if the pipe's adequate to handle it, I would think, if the fence is that high up off, it would handle that volume of water. As he said, there is very little water in this situation, even under a storm condition, because 80' west of me is a pipe that takes off all the surface water from the back of the subdivision, and takes it back out to the main sewers, I guess. So, I've got 80' of water in front of me that is really no more than standing water, and more of a health hazard than anything, probably. Because it's a mosquito pit. My wife has got in her mind that's she's going to end up with West Nile Virus because of this federal stuff she's been pulling up on the Internet and everything else so. I'll be shot if I don't get this thing done. That's my case.

President Fanello: Does anybody have any questions?

Tim Gerhardt: I mean, I would be glad, whatever has to be done, you know, if it has to, you know, put the pipe in, and get an inspection, and then put a fence in and get an inspection. Whatever it takes to comply. I'm not trying to sneak nothing in. That's why I went to the trouble to pay, and go through all the right channels to get this done.

President Fanello: We understand that. It's very, I can't think of a time since I've been sitting here that we've really gone this route. Mr. Jeffers, do you?

Bill Jeffers: It's rare. We do give people the opportunity because the ordinance does say that if a registered engineer submits a plan that shows there's an alternative way to accomplish the requirements of the drainage ordinance, other than what you've already approved as the final drainage plan, as you have here, that they may submit a modified plan. As I said, this plan is not as detailed as what the ordinance indicates, and it does not carry, as far as I know, Mr. Wallace is not a registered engineer at this time.

President Fanello: The Board's feelings?

Commissioner Mosby: Is this preliminary approval? Is this what they are asking for?

President Fanello: Can we give him some—

Bill Jeffers: I would imagine that Mr. Gerhardt wants as quick a final approval as he can, because he's dealing with a swimming pool contractor who is saying that it is going to cost "x" amount of dollars to haul all that dirt fill away, and he has an opportunity to dispose of it on-site by putting a pipe in the ground, and using the dirt to cover the pipe up, and acquiring greater use of his yard. Is that a correct—

Tim Gerhardt: The greater use of the yard, financially it costs more to put the pipe in and landscape it to receive it around the fence, and make everything look nice, far more than what it would cost to have several tracts of loads of dirt hauled off. It's not an issue with the excavating situation, because my father-in-law owns an excavating company. So, you know, to get the pool at a decent grade in relationship with this back yard that slopes off radically to this ditch, it's just, I guess, I'm just trying to make it look nice, and be a functional, you know, back yard. I own 20' behind this ditch that I could incorporate in my back yard.

Bill Jeffers: You also realize that you need the letters from six other utilities about covering that easement up?

Tim Gerhardt: With the—

Bill Jeffers: You're only going to fence the easement? You're not covering it with a pool deck or anything?

Tim Gerhardt: No, no, no, no. I'm, we're 25, we're 20 plus feet away from... the pool deck's not an issue.

Bill Jeffers: The pool deck is how far away from the easement?

Tim Gerhardt: Oh, probably 20' at least. Maybe 25'. It's way up in the yard, but it drops down so radically, and I can flatten it out somewhat, and get, you know, something workable, manageable.

Bill Jeffers: Could you build a retaining wall along the edge of the 10' drainage easement?

Tim Gerhardt: Could I build one?

Bill Jeffers: Build a retaining wall there, and leave the ditch open?

Tim Gerhardt: That's a possibility. That's, that gets into a considerable more amount of money. I priced the tonnage on the stone, and the labor to do it, and that's a bunch of money. It doesn't solve the problem with the standing water. There is never, an amount of surface water isn't the issue here, it's just the standing water. You can't mow the ditch, my neighbor can't mow his ditch...he gets out there and the weeds are this tall, because the standing water, you try to walk through it, it's mud, it's just a...it's not a good situation. I guess, when the builder did this subdivision that's a cheap way to do it. I don't know. I'm not an engineer. I don't know anything about this. But, I would assume it was cheaper.

Bill Jeffers: Where did you find out that it was more expensive to pipe it?

Tim Gerhardt: Well, probably—

Bill Jeffers: \$5,000.

Tim Gerhardt: To pipe it?

Bill Jeffers: Probably.

Tim Gerhardt: Oh, no. Uh-uh.

Bill Jeffers: Regardless of the money, it's...if, in fact, that ditch grade is less than .8 percent, it should of had a paved bottom in it anyway. That cures the standing water problem.

Tim Gerhardt: Well, you know, I know the utilities aren't in the actual ditch itself, so, I guess, something could be placed in there to stop the standing water, I don't know. I'm just thinking of a way that's going to kill two birds with one stone. Stop the mosquito deal, the standing water, and give me somewhat of a useable, or at least the appearance of a useable back yard. And at the same time comply with whatever codes and restrictions need to be met to satisfy it.

Commissioner Crouch: While I appreciate your need for haste, I think it would be a little, at least I personally feel it would be a little premature for us to approve a preliminary plan without the recommendation of the technical advisor. Since he said at this point in time he's reluctant to make that recommendation, I think it would be premature for us to go ahead and pass on this preliminary plan. I'm not sure there's really a plan.

Tim Gerhardt: Well, the first company that reviewed this and looked at it, well, they new the deadline was going to be on the 27th to meet with you guys. Well, all the way up until Thursday of last week, no one would return phone calls, and, I guess, it's too small a job for Sitecon to do. Not worth their time. So, I paid Morley to get something done for me, at a last minute situation, you know.

President Fanello: We understand that, but usually we don't...it's very, very rare that we don't take the Surveyor's recommendation. You know, if he doesn't have all of the complete information, so.

Tim Gerhardt: Well, what do I need to do to satisfy--

Bill Jeffers: You need a detailed drainage plan that shows the exact location of the pipe on a drawing, and all the other details that Morley and Associates are aware of for...the last one we did like this Dave Schmenke from Morley and Associates turned it in for a subdivision off of Bergdolt Road. I don't recall the exact address or anything, but it was a very similar situation. Almost identical situation. The first one he turned in, if the water had gone over the top of the pipe, because a soccer ball, for example, got stuck in the pipe, the water would have gone through this person's yard and down into his window wells into his basement. Now, you don't have a basement.

Tim Gerhardt: Well, I mean, elevation-wise--

Bill Jeffers: I mean, those are the kind of the things that even an engineer sometimes did not catch, and when I reviewed the plans, and when I looked at the site, came back, and he agreed with me, if the water went over the top of the pipe, because it was stopped up, it would have gone through the vents in the window wells.

Tim Gerhardt: Right, well, I know you don't know without looking at anything. I can tell you it would take about 8'--

Bill Jeffers: It's a really tricky situation, and it became exasperated in 1996 when we had a huge amount of rainfall at this time of year, and a lot of people's pipes got stopped up, and a lot of houses, especially basements and garages were flooded because of alterations that were made in drainage easements.

Tim Gerhardt: Right.

Bill Jeffers: So, we're kind of gun shy.

Tim Gerhardt: Oh, I know, I understand what you're saying. I know that we need to incorporate a back up system that would run over and carry down to my—

Bill Jeffers: Exactly.

Tim Gerhardt: —next lowest lot next to me, which would be my neighbor to the east of me.

Bill Jeffers: That's right.

Tim Gerhardt: Yeah, I'm aware of that. I mean, that would be a situation where if it came up that high—

Bill Jeffers: I feel like in order to protect this Board from repercussions or to preserve the professional way that we look at drainage issues that we really need a detailed site plan—

Tim Gerhardt: Alright.

Bill Jeffers: —that shows exactly what's entailed in installing this, so that when they approve a plan, someone can take that picture, and those drawings and go out and install that plan exactly as it was approved.

Tim Gerhardt: Well, apparently I've come here unprepared. I didn't realize that Morley and Associates...they've done work for us in the past on our buildings. I would assume that he would have known what you needed. Especially for the amount of money we pay them. So, I guess, I need to go back and pay more money, basically.

Bill Jeffers: It's going to take an on-site survey, I think, and he may not have had time to go out and do that for you today, or over the weekend.

Tim Gerhardt: Well, he knew what my direction was to get down here, you know, and meet with you guys to get this done. Or try to do whatever I could do. If I can get him to do that, is there anyway we can get it, you know, whatever he's got to do to meet whatever...is there something we can do to still get it okay'd?

Bill Jeffers: If the Board wishes to have a special drainage hearing for one issue.

Tim Gerhardt: Yeah, I'm sure that's going to happen.

Bill Jeffers: Our next meeting will be June 23rd.

Tim Gerhardt: Yeah, that's what I was afraid of. Okay.

President Fanello: Sorry.

Tim Gerhardt: So, that's it.

President Fanello: Thank you.

Bill Jeffers: Thank you for coming.

Commissioner Mosby: Do we want a motion to hold this?

Bill Jeffers: Pardon me?

President Fanello: I don't know that we need a motion to hold it. I mean, he just dropped it off to Bill today, didn't he?

Bill Jeffers: I was just giving him the opportunity to speak, because he seemed set on talking to you.

President Fanello: It really wasn't an agenda item, I don't know that we need a motion.

Bill Jeffers: You could table this plan, and revisit at your next meeting with additional information.

Commissioner Mosby: Motion to table and continue until June 23rd.

Commissioner Crouch: Second.

President Fanello: So moved. So ordered, I mean.

Ditch Maintenance Claims

Bill Jeffers: Okay, you have one ditch maintenance claim. This is a case out around Summit Place Subdivision where the residents have experienced discomfort due to extremely rapid growing grass, tall types of grass like Johnson grass, etcetera, and we've upped the mowing to three times a month, because they've experienced a lot of just...there's people with asthma, there's elderly people there with breathing problems, and other related things. Anyway, we're mowing three times a month, or three times a year, which is the reason that came to you so early this year.

President Fanello: Do I have a motion to approve?

Bill Jeffers: To approve ditch maintenance claim for Bonnie View extension, and Bonnie View, I believe it is, whatever is on that claim there. Crawford Brandeis.

President Fanello: Crawford Brandeis.

Bill Jeffers: And Bonnie View extension.

Commissioner Mosby: Motion to approve ditch claim for Bonnie View, Crawford Brandeis.

Commissioner Crouch: Second.

President Fanello: So ordered.

Encroachment and/or Relaxation Agreements
--

Bill Jeffers: I'm not aware of any encroachment agreements or relaxation requests that have come to you, unless the Auditor has one.

Petitions for Obstructions

Bill Jeffers: Or petitions, or any other reports .

Correspondence

Bill Jeffers: On correspondence, this is one of the reasons that I'm particularly shy about modifying plans, on May 1st I sent Mr. Kunkel a letter, because I had gone out at the request of Mr. Rich and looked at the situation, and while we were out there I realized that the emergency overflow behind his house was not put in. When I really got to looking close, I saw that a pipe which he had put in the ditch were it to be stopped up or overtopped, the water would run across his property line, and run down through Mr. Rich's property. Mind you this was May 1st, and I was very alarmed, so I ran back to the office, wrote out this thing demanding that Mr. Kunkel supply a schedule of construction activities, along with immediately removing all of these trees and other stuff that he had left in the street, which is a public accepted street. I thought that was a danger to motorists. You can read it at your leisure, it's a rather long letter. You all have copies of it though. Well, your staff can make copies of it. It wasn't but a few days later that the rain occurred, went over the top of the pipe, flooded Mr. Rich's two garages. He has one garage where he keeps his race car and stuff. Got mud all over the floor of those two garages, went down took all the straw, and the hay, and all the silt fence off of Mr. Kunkel's lot. Crammed it into your pipe under Oak Gate Road. Water went over top of the pipe, went down to the next guy's garage, flooded three garages. Consequently Mr. Kunkel got up off of dead center and completed quite a few things in the last week, but I still just want to bring it to your attention that if he does not follow the schedule, and stay on it, and stay with it until this is complete, I will come to your Commissioners meeting and ask you to put a stop work order through the county Building Commission office, and stop all the work on his house until he completes the drainage plan. Because, I just feel very strongly about it. So, I'm letting you know, we can't do that on this Board. In other words, you can't issue a stop work order through the Drainage Board, it has to be issued through the County Commissioners. Because I was dealing with some other issues after 3:00 today, I was not able to write a full report, but I do have a copy here of what I sent Mr. Kunkel. I do have a copy of his response, and I can tell you he did clean everything out of the street. He did put in the emergency overflow. He did, last week, I think, you got Mike Wathen in here saying that he got his erosion control under control. But, I just feel like we can't let these things happen. The plan that was drawn by Morley and Associates for this site was fully capable of operating and protecting all houses involved in this flooding, if it had been in place. This is just one of those issues where we've got to have detailed plans, and they have to be followed to the "t". So, other than that, it doesn't require a motion, I'm just informing you of some correspondence, and I feel very badly about what happened out there. I hope it will never happen again. I'm going to stay on top of it. I may be back if something like this comes up on any site, I may come to the County Commissioners meeting and ask for a stop work order, because that does get people's attention.

President Fanello: Thank you, Bill.

Bill Jeffers: Unless there's any questions or comments from the Board to staff, I have nothing further.

President Fanello: Do I have a motion to adjourn.

Commissioner Mosby: Motion to adjourn.

Commissioner Crouch: Second.

President Fanello: So ordered.

(The meeting was adjourned at 5:15p.m.)

Those in Attendance:

Catherine Fanello	David W. Mosby	Suzanne M. Crouch
Kevin Winternheimer	Bill Jeffers	Charlene Timmons
Tim Gerhardt	Mike Madriaga	Jim Farney
Others Unidentified	Members of Media	

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Suzanne M. Crouch, Member

Recorded by Charlene Timmons. Transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
JUNE 23, 2003**

The Vanderburgh County Drainage Board met in session this 23rd day of June, 2003 at 6:21 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Ready? Call to order Vanderburgh County Drainage Board meeting, June 23rd.

Approval of May 27, 2003 Minutes

President Fanello: Do I have a motion to approve the minutes of the previous meeting?

Commissioner Mosby: So moved.

Commissioner Crouch: Second.

President Fanello: So ordered.

Old Business

President Fanello: Drainage, or old business.

Bill Jeffers: Did you all approve the minutes?

Kevin Winternheimer: Yes.

Bill Jeffers: Pardon me. Bill Jeffers, County Surveyor. I was out of town last week on an emergency to take care of my parents who had an accident. So, I wasn't able to fully communicate with various applicants and petitioners tonight. However, and I apologize to the applicants and petitioners for that, but I believe that staff, Linda Freeman and others, were able to get everyone on the agenda. So, I do have comments to read into the minutes as I go down through here to address items that I was not able to communicate directly with the various applicants.

Paul & Rose Stofleth's Petition to Remove Obstruction

President Mosby: East Pointe Business Park, Section Two, oh, excuse me, let's start with Paul and Rose Stofleth. I'm sorry. Mr. Stofleth called me on Friday before I left, and asked that his petition be postponed until further notice from Mr. Stofleth, because he would like to approach one particular neighbor, and ask that neighbor if he can connect up to his underground drainage pipe, and avoid having to pursue this petition against several other neighbors to route the water to the other available outlet. Because it would require the removal of so much landscaping, plants, and fences, that he didn't want to disturb the neighborhood to that extent. This neighbor that he is going to try to work with currently is in Florida for an extended vacation, and Mr. Stofleth and I will get back together with you at some future time.

Commissioner Mosby: Motion to hold.

Commissioner Crouch: Second.

President Fanello: So ordered.

East Pointe Business Park, Section Two: Final Plan

Bill Jeffers: Okay, on your drainage plans, East Pointe Business Park, Section Two. The engineer is Jim Farney, who's available for any questions you may have. My comments are that all, excuse me, the County Surveyor's comments that all storm water run off from paved areas and roof tops must be routed through an interior system to the detention basin that's show on the plan. Run off from the grass areas west of the buildings must be conveyed over land and into the existing ditch along the west line of the subdivision, and include a gated supply feed line to the adjoining neighbor, Mr. Lannert's, lake. Temporary silt control and sediment basin located approximately where the designed detention basin is shown must be in place before construction begins. Storm water from the construction area must be routed through this basin. All erosion control and sediment control measures, including, but not necessarily limited, the sediment basin, silt fence, inlet control, and a stable construction entrance must be in place before construction activities commence. The proceeding requirements must be shown on the individual site plans that will be submitted for the two projects that will be on the two lots in section two. If that's agreeable with the petitioner and his engineer, the County Surveyor recommends the final drainage plan for East Pointe Business Park, Section Two.

Jim Farney: My name is Jim Farney, I'm with Bernardin Lochmueller, yes, we agree to that.

President Fanello: Looking for a motion.

Commissioner Mosby: Is there any remonstrators? Seeing none, I will make a motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

West Creek Leisure Living: Final Plan

Bill Jeffers: Second drainage plan is West Creek Leisure Living on St., on Allens Lane west of St. Joe Avenue. You have already approved the preliminary plan. It has been to site review as a final plan now. The County Surveyor comments that the detention requirement has been waived by this board due to the project's direct discharge as located adjacent to a major receiving stream with no obstructions identified between this project and the Ohio River. The condition that all erosion and sediment control measures shown on the erosion control plan must be in place before land disturbing activities commence. Mr. Easley is the representative for the developer. If that's agreeable, the County Surveyor recommends approval of the final drainage plan for Westcreek Leisure Living.

Andy Easley: That's agreeable.

Bill Jeffers: Thank you, Andy.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Cross Pointe, Section 1-A: Final Plan

Bill Jeffers: Cross Pointe, Section 1-A is a final drainage plan. In your previous Commissioners meeting you just approved the road plans for the extension of Indiana Street, and the revision of Division Street service road. Second comment, all erosion and sediment control measures must be in place and adequately protecting the county right-of-way, Nurrenbern Ditch, and the existing drainage and detention facilities before construction commences. If that's agreeable with Mr. Nathan Waggnner, who represents the developer, the County Surveyor recommends approval of the final drainage plan for Cross Pointe, Section 1-A.

Nathan Waggnner: That's agreeable.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Grant Hills: Final Plan

Bill Jeffers: The next one is Grant Hill, or Grants Hill? Am I saying that right? Grant Hills. It's on Highway 41 north of Boonville-New Harmony Road. It's a final drainage plan for an on-going project that is nearing completion of the land grading, street construction, and drainage facilities, which have previous approval from this body, as well as the State Highway and County Highway Engineer. The project operators passed and continued diligence to establish and maintain all necessary erosion and sediment control measures during the on-going construction is appreciated. We encourage him to continue. The County Surveyor recommends the final drainage plan for Grant Hills, Highway 41 north.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Krispy Kreme: Final Plan

Bill Jeffers: Krispy Kreme is located on lot one, Glass Subdivision. The erosion and sediment control measures, including, but not necessarily limited to the stable construction entrance, inlet protection and perimeter silt fencing must be installed before construction commences. I have conveyed that to the design engineer, who is not present tonight, because he lives in Illinois, so, and before occupancy permit is granted, the property owner must record an encroachment agreement indemnifying the county for losses, damages, etcetera that may arise from paving

or otherwise establishing permanent structures in a planted drainage easement. The developer is also aware of that and has, is in the process of sending those documents to the County Auditor for recording. The County Surveyor recommends Krispy Kreme, lot one, Glass Subdivision for approval.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Panther Park Center: Final Plan

Bill Jeffers: Next one is Panther Park Center located on St. Joe Avenue at Allens Lane, where the Casey's fuel station is. Temporary silt and sediment control basin must be installed at the appropriate location where the detention basin is shown on the plan, and serve as a temporary control measure during construction. Erosion and sediment control measures, including, but not limited to the silt control basin, stable construction entrance, perimeter silt fencing, and inlet control must be in place before construction commences. Mr. Farney, are you representing John on this one.

Jim Farney: Yes.

Bill Jeffers: Okay, and I'm sure that's okay with him. That's part of the site plan.

Jim Farney: Yes.

Bill Jeffers: County Surveyor recommends approval of the final drainage plan for Panther Park Center as submitted.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Replat of Lot 6, Crossroads Commercial Center, Lot 6-A: Final Plan

Bill Jeffers: Next one is replat of lot six, Crossroads Commercial Center. This is out there near the Town and Country Ford dealership for those who are not familiar with that particular subdivision. This is a new medical center going in. All interior drainage must be routed to the appropriate detention pond as shown on the plan. The detention basin can be, must be constructed prior to the installation of the hard surface. The basin may serve as a temporary silt and sediment basin during construction. All erosion and sediment control measures, including, but not limited to, silt fence, construction entrance, inlet protection must be installed before construction commences. Mr. Farney, this is the only one that I want to make sure that we're clear on. All permanent drainage easements required to convey common storm water from the east side of this development across over to the detention basins located on the west side, crossing that lot that you don't have a plan for yet. That must be shown on the plat before you record the plat. Unless you have some alternate way to revise the plat after it's been recorded. That's the only thing I caught on this one. You don't have a site plan for that second lot yet–

Jim Farney: No.

Bill Jeffers: –but the water has to come across that lot somewhere

Jim Farney: Yes. (Inaudible. Not at mike.)

Madelyn Grayson: Mr. Farney, will you please come to the mike?

Jim Farney: The plat that's been turned in is being reviewed currently by Area Plan shows a permanent easement on lots 6A-1, which is the south lot, for which we have a site plan.

Bill Jeffers: Okay.

Jim Farney: The plat still shows on the north lot, however, a temporary easement that says it will remain in effect as an easement until such time a permanent easement is filed with that development plan.

Bill Jeffers: Okay.

Jim Farney: We can change that wording if you would prefer.

Bill Jeffers: No, just as long as that easement goes away when that lot's occupied with permanent structures.

Jim Farney: Yeah.

Bill Jeffers: You have an alternate easement that's recorded for that same facility.

Jim Farney: Right. The only thing that will need to take place is that whoever files that development plan for that next lot will need to present to you at that time a final easement, which will have to be recorded as a meets and bounds, or something, because the plat will already have been recorded.

Bill Jeffers: Okay. That will work.

Jim Farney: Okay.

Bill Jeffers: The County Surveyor recommends approval for the plan as submitted for the replat of lot six, Crossroads Commercial Center.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Vintage Park: Preliminary Plan

Bill Jeffers: The next one is Vintage Park located on St. Joe Avenue immediately north of Locust Creek and adjacent to Locust Creek. Mr. Easley is the design engineer. This is a preliminary plan, the final plan must clearly depict all the control measures designed to slow the velocity of the storm water run off from the hard

surface parking areas. The final plan must also clearly depict all the best management practices intended to improve the quality of the storm water run off that's leaving those hard surfaces. We're doing this in lieu of detention. All areas within the flood way must remain undisturbed except as needed to improve the natural vegetative cover, according to recommendations from the Natural Resource Conservation Service. The fill areas between the pavement and the flood way area should be sodded to stabilize.

Andy Easley: Repeat that, the fill areas?

Bill Jeffers: The fill areas that will occur between the edge of pavement and slope down to the flood way should be sodded. I'm not saying must be. They should be. If you can get your permanent stabilization 70% germinated grass established before winter that will be suitable. But, if that doesn't happen, they should be stabilized with sod over the winter. The County Surveyor recommends approval of the preliminary plan for Vintage Park.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Wal-Mart Super Center West: Preliminary Plan

Bill Jeffers: Wal-Mart Super Center west is part in the county, most in the city. The final drainage plan, we're looking at a preliminary today. So, the final drainage plan must be compliant with the county drainage ordinance to the extent that it exists in the county. The final drainage plan must reflect the required content with regard to erosion and sediment control measures. The final drainage plan must meet the requirement of the City Engineer's office before the County Surveyor will recommend a final approval to this board. At this time the County Surveyor does recommend the preliminary plan for Wal-Mart Super Center west.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Matrix Expansion: Highway 41 N: Preliminary Plan

Bill Jeffers: The next one is Matrix expansion of their central warehouse. This is a preliminary plan. The final plan must be compliant with the county drainage ordinance. The final plan must reflect locally required content with regard to the 10:100 detention requirement, piped inlets, outlets, and pertinent land grading details. The final plan must also show erosion and sediment control measures applicable to Rule Five regulations. The County Surveyor recommends the preliminary plan for Matrix expansion of their central warehouse.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Other Drainage Plans: Ameriquel Foods: Modified Plan

Bill Jeffers: Okay, last drainage plan, Ameriquel Foods, modification of a previous plan that this board approved. What we're looking for in the final version of this modified plan must be compliant with the county drainage ordinance. It must reflect the locally required content with regard to 10:100 detention. It must reflect the details required for piped inlet and outlet construction and pertinent land grading details. The final plan must include an erosion and control measures applicable with Rule Five regulations. The County Surveyor will recommend preliminary approval of Ameriquel's modification to their previous plan.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Ditch Maintenance Claims

Bill Jeffers: Okay, ditch maintenance claims. Or, excuse me, are there any other drainage plans that may come from the floor that didn't appear on the agenda? Seeing none. The ditch maintenance claims are in order. You have two claims. We are mowing a few days earlier this year due to the heavy rainfall and intense growing that we're experiencing. To stay in compliance with some of the local weed regulations, we have started a little early this year, but the County Surveyor recommends payment of these two mowing claims.

Commissioner Mosby: Motion to pay the claims.

Commissioner Crouch: Second.

President Fanello: So ordered.

**Encroachment/Relaxation Requests and Agreements:
Fifth Third & Executive Manor**

Bill Jeffers: Encroachment and relaxation requests and agreements. Ms. Grayson has repeatedly notified me that the County Auditor is still holding the drainage encroachment, drainage easement encroachment agreement with Fifth Third Bank and awaiting a \$17.00 check to be delivered to the Auditor's office for the recording of that agreement. The representative for Fifth Third Bank informed me just now that they are still awaiting the deal closing before the new owner can cut that check. So, that's what's going on, Madelyn. The second encroachment request, or relaxation request comes from...thank you, Andy. Executive Manor Apartments, 200 Kimber Lane. Apparently is going through some financing and their financier noticed that the buildings are inside the 75' drainage right-of-entry. State statute allows you to relax the right-of-entry on an urban drain to no less than 25' from the top of the bank. Morley and Associates has prepared this land title survey for you, and attached to that is a request from the apartment project owners to relax the legal drain right-of-entry along Stofleth Ditch, which is an urban drain, and therefore you are able to, by

statute, relax it to 25' from the top of the bank, which is what they are asking for. It's signed by Bret Sermersheim, who was the land surveyor who completed the alta survey. It's accompanied by a petition asking you to relax the legal drain right-of-entry to 25'. It has the required wordage, if so deemed by your County Attorney, has the signature spaces for the County Auditor, the County Surveyor, and the Drainage Board. The County Surveyor does recommend that the County Drainage Board relax the right-of-entry along the east bank of Stofleth Ditch between the Lloyd Expressway and all along the property as shown on this survey for Executive Manor Apartments, 200 Kimber Lane to 25' from the top of the bank. We've done it on the west side of the ditch for the land owners on the west side that are in the commercial part. This still allows us ample room to do our annual maintenance.

Commissioner Mosby: Motion to relax to 25'.

Commissioner Crouch: Second.

President Fanello: So ordered.

Petitions

Bill Jeffers: Are there any other petitions, relaxations requests or encroachment requests that anyone is aware of, that may have come to the Auditor's office rather than our office?

Reports & Correspondence

Bill Jeffers: I have no reports to give you at this time, nor correspondence.

Other Persons Wishing to Address the Board

Bill Jeffers: There may be other persons wishing to address the board at this time.

Commissioner Crouch: Bill, there was a gentleman here earlier, Kevin Flittner. He was inquiring about the naming of those tributaries of Bayou Creek out there by Schutte Road. I think you had mentioned at one meeting—

Bill Jeffers: Oh, naming them, correct, yes.

Commissioner Crouch: Right. So, he wanted to know where you were in that process.

Bill Jeffers: Oh, I tell you what we wanted to do, and you tell me what you would like us to do. At some point in time we have to name all the tributaries that your board or the County Commissioners may maintain as municipal drains or what have you. MS4's, whatever you want to call them. That way they're all, they all have a name as a receiving stream when a development comes before you. So, during the permitting process the developer can say that his storm water run off is going to that tributary and it has a name. We thought it would be kind of cute, and stimulate some public interest in our storm water program if we had a name the stream contest. Kind of for kids, you know, or other interested people who might want their grandfather or grandmother's name appearing as a creek, who may at one time have owned all the land along there. That's what Mr. Flittner is referring to. His

grandmother owned a chunk of ground out there, and he takes a great interest in that particular creek, and I think he loved his Grandma. So, we're asking the public to participate in our name the creek contest. Or, it's not really a contest, it's just a way to stimulate some interest in the storm water program. Get people interested, you know, we would like to go forward at some point and have an adopt a stream program where people actually adopt a stretch of stream and keep it clean. If it's named after someone in their family, we think they would take more interest in it.

Commissioner Crouch: Should I just tell him to call you, Bill?

Bill Jeffers: As the drainage board you guys can go ahead and start taking suggestions from the public. I mean, you guys are running the show. It was just an idea that came out of our office. Somebody in our office thought that would be a great idea. The West Side Improvement Association is excited about it.

Commissioner Crouch: How many streams are there?

Commissioner Mosby: That's what I was getting ready to say. How many creeks are we talking about?

Bill Jeffers: We don't have to name every little trickle, but all these things that are on there as like, "a tributary of Bayou Creek", need a name. People are always saying what's the name of that creek?

Commissioner Crouch: Are there hundreds?

Bill Jeffers: I'm sure there are dozens.

Commissioner Crouch: Dozens.

Bill Jeffers: I hope there's not hundreds that will have to be named.

Commissioner Crouch: Those names could be in great demand.

Bill Jeffers: They could be. They should be selected with some, not just willy nilly. They should be selected like...in other words, like a little form filled out or an essay or something, my grandmother and grandfather established this farm in 1888, you know, and they homesteaded here and blah, blah, blah. I mean, it should, most creeks are named after people. Most roads are named after people who more or less established residency and circulated petitions for the upgrading and maintenance of that roadway to the County Commissioners.

Commissioner Crouch: I would like to move that you come up with some criteria, recommend some criteria to the drainage board to move forward with that project.

Bill Jeffers: Right. It's kind of a public outreach deal, where you're asking the public to become involved in the naming, and, ultimately, in the long term maintenance and care for these creeks. At least help you detect illicit discharges into the creek from people that might be dumping, or otherwise discharging pollutants into the creek. I think they would take a greater interest if it was named after somebody that was kind of a figure head in that area of the county.

Commissioner Mosby: I will second. I will second her motion. Can we get, I guess, or can you make—

Bill Jeffers: I guess, we should come up with a map of which tributaries we think need to bear a name in the next year or so.

Commissioner Mosby: You might want to number them or letter them or something so people will know what they are submitting the slip on.

Bill Jeffers: Okay.

Commissioner Mosby: Or we can show them what's available—

Bill Jeffers: Right.

Commissioner Mosby: —and if they have a particular tributary.

President Fanello: So ordered on the motion. Anything else?

Bill Jeffers: Oh, comments or questions from the board. That's where we are.

President Fanello: Any comments or questions?

Madelyn Grayson: I've just got one question. Did the encroachment agreement for the Executive Manor, is that passed? Is that signed?

Bill Jeffers: I passed it down that way, didn't I? I'm sorry. Did I not pass it down that way?

President Fanello: Is that what this is?

Bill Jeffers: I'm still in Alexandria, Virginia trying to figure out what to do with my mom. I need to sign it first, I suppose.

President Fanello: Well, if there's no other comments or questions—

Commissioner Mosby: Yeah, motion to adjourn.

Commissioner Crouch: Second.

President Fanello: So ordered.

(The meeting was adjourned at 6:45 p.m.)

Those in Attendance:

Catherine Fanello	David W. Mosby	Suzanne M. Crouch
Bill Jeffers	Kevin Winternheimer	Madelyn Grayson
Jim Farney	Andy Easley	Nathan Waggner
Others Unidentified	Members of Media	

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY
DRAINAGE BOARD
JULY 28, 2003**

The Vanderburgh County Drainage Board met in session this 28th day of July, 2003 at 6:22 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh Drainage Board meeting, July 28th.

Approval of June 23, 2003 Drainage Board Minutes

President Fanello: Do I have approval of the minutes from the June 23rd meeting?

Commissioner Mosby: So moved.

Commissioner Crouch: Second.

President Fanello: So ordered. Old business.

**Report on Order to Remove Obstruction at 2330 Sheridan Rd:
Richard Smith Petition**

Bill Jeffers: First order of old business is to report on your previous order to remove an obstruction at 2330 Sheridan Drive, Richard Smith, petitioner. This is the one where you held a hearing and Mr. and Mrs. Jones were unable to attend. You postponed the hearing, the first hearing was on July 22, 2002, you postponed the hearing until August 26, 2002. At the hearing the County Surveyor confirmed the existence of an obstruction. You found in favor of the petitioner, and ordered the respondent to remove the obstruction. The County Auditor sent an order via certified mail. The respondent refused delivery. We postponed direct action to remove the obstruction because the respondent, Kenneth R. Jones, was critically ill. The obstruction remained in place until March 24th when the board opened and read aloud a bid to remove the obstruction from Naas and Sons in the amount of \$495. I sent a notice to the respondent, Ruth Jones, and she plead that we not send the contractor out to accomplish that, that one of her relatives would do it. I met with the relative and staked out the proper remedy. He partially accomplished it. Now the petitioners are again complaining that because the respondent did not fully implement the removal of the obstruction they are experiencing water backing up on their property. So, I've prepared another order and a notice that the obstruction will be removed, and that the board will instruct Naas and Sons, the contractor, to accomplish the work necessary to promptly, fully, and satisfactorily remove the obstruction in accordance with IC36-9-27.4-21, and pay the contractor directly for the cost of removing the obstruction, and recover the response from the respondent. That we will accomplish this beginning no sooner than 10 days from the mailing of this order. We will deploy the contractor no later than August 15, 2003 to accomplish it. So, in other words it's a 10 day notice, and then we go ahead. I'm asking you to sign that. I apologize on the previous order that was dated April 2003 we had David Mosby as President, and I still have it that way, but if you would like to scratch through that, and apply the correct title, this is the order that the County Surveyor recommends we mail immediately.

President Fanello: Any comments from the audience?

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Madelyn Grayson: Bill, can you provide me with a list of who needs to receive that letter?

Bill Jeffers: Just Mrs. Ruth Jones at 2330 Sheridan.

Madelyn Grayson: Also, I have the contract for Naas and Sons down in my office. Can they sign that at a later date? Or does that need to be signed?

Bill Jeffers: I would sign it ten days from the day of mailing.

Kevin Winternheimer: Bill, have they approved that contract?

Bill Jeffers: Yes, sir.

Kevin Winternheimer: Okay.

Bill Jeffers: That was approved with the opening of all the bids on the same date when we opened every bid for this year, which I believe is the April date.

**Report on Order to Remove Obstructions along West Line:
East Side Industrial Park: Tom Ambrose, Petitioner**

Bill Jeffers: Okay, second order of business, on another obstruction order to remove the obstruction existing on the west line of East Side Industrial Park, Tom Ambrose is the petitioner. On January 21, 2003, the board received the petition from Mr. Ambrose, Vice President of Local 37 Asbestos Workers. The complete text of this is available on the notice, I'm just paraphrasing. Vanderburgh County Surveyor investigated the alleged obstruction and discovered it's existence and reported it to the board on March 24, 2003. The board duly notified all interested parties and held a hearing on March 24, 2003, in accordance with IC36-9-27.4, and found that the obstructions, as alleged by the petitioner, do exist along the west line of the following properties. I list them individually, but in a whole they are from 2400 North Cullen to 2630 North Cullen. The board, after hearing the petitioner and the respondents who attended the hearing, determined that the removal of the obstruction would promote better drainage, and not cause an unreasonable damage to the land of the respondents, instructed the County Surveyor to notify the respondents listed above. County Surveyor delayed sending the notice in order not to cause undue damage to land during an unusually extended rainy spring and early summer. Subsequently the County Surveyor was notified that one or more remonstrators were working to accomplish the work. I think one has finished. Then I have a now, therefore, and the reason I have this is because there's some respondents who say they bought land since, before, or weren't notified, blah, blah, blah, got lawyers and everything calling me. The board on this day signs this notice and directs the Vanderburgh County Surveyor to immediately send a notice by certified mail to the current owners of the affected properties, notifying them that they have no later than October 31, 2003 to completely remove all of the obstructions from the above described drain and recede, and otherwise repair the drain effective to convey storm water flow

northward along the west line of East Side Industrial Park, as intended by the original drainage plan, and as intended by the findings of the board on March 24, 2003. Apparently there have been some properties sold. Whoever sold the properties was either unaware of or did not disclose certain facts to the purchasers, and it's getting late in the year, and this should be done by October 31st. You originally wanted the notice to give them 90 days, if you sign it today, that gives them 90 days. I'll continue to work with them, but it must be done. Again, I have Mr. Mosby as President, the County Surveyor recommends that you strike the titles, correct the titles in pen, and sign this and direct your Recording Secretary to mail it. I'll provide her with the names of the current owners of title. The addresses are on the notice.

Commissioner Mosby: (Inaudible. Mike not on.)

President Fanello: Is there anybody in the audience who wishes to speak?

Commissioner Mosby: Motion to send the letter.

Commissioner Crouch: Second.

President Fanello: So ordered.

<p>Ameriquel Foods, Inc. Final Plan U.S. 41 North at Volkman Road</p>
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Bill Jeffers: First drainage plan is Ameriquel Foods, Incorporated. It's a final drainage plan. Ameriquel Foods is located on U.S. 41 North at Volkman Road. The nature of the project is an expansion of the parking lot, and a small expansion of the facility itself to accommodate the production of meals ready-to-eat on a round the clock production basis. The County Surveyor has reviewed the plans, recommended the preliminary plan last month, and tonight recommends the final plan for approval of Ameriquel Foods, Incorporated expansion.

President Fanello: Anyone wishing to speak?

Commissioner Mosby: Motion to approve final plan for Ameriquel, U.S. 41 North and Volkman Road.

Commissioner Crouch: Second.

President Fanello: So ordered.

<p>Market Subdivision: Final Plan McCutchan Road, north of Schlensker Road</p>

Bill Jeffers: Second drainage plan is market subdivision. It's a final drainage plan. It's a four acre subdivision that was originally filed as a minor, but for small, technical reasons had to be refiled as a major. It only represents the addition of one lot for the construction of one single family dwelling on McCutchan Road north of Schlensker Road. It does have an existing pond into which all the drainage from the new construction will be routed. The plan is here for anyone who would like to see it. If there are persons wanting to view it. The Vanderburgh County Surveyor

recommends approval of the final plan for Market Subdivision, McCutchan Road north of Schlensker.

President Fanello: Anyone in the audience have any comments?

Commissioner Mosby: Motion to approve final plan for Market Subdivision, McCutchan Road north of Schlensker.

Commissioner Crouch: Second.

Bill Jeffers: Is that a so ordered?

President Fanello: Oh, so ordered. I'm sorry.

**Windemere Subdivision, Section Five
State Road 57, south of Kansas Road
(Deferred)**

Bill Jeffers: Windemere, Section Five has been withdrawn until next month for some modifications to the street plan.

**First Christian Church: Preliminary Plan
State Road 57, south of Kansas Road**

Bill Jeffers: The next one is First Christian Church. It's a preliminary plan located on State Road 57, south of Kansas Road and immediately adjacent to Windemere, Section Five. It's about a 17 acre lot that the church wishes to occupy. At this time they are showing the entire extent of construction on their plans, along with erosion control and detention. Their first intent this summer is only to pave the back portion of the parking lot and erect an activities building for activities over the next several months until next spring when they may proceed with their church construction. I'm working with the engineer on anything that might be necessary to temporarily stabilize their area over the winter to prevent erosion, etcetera, and at this time the County Surveyor recommends approval of the preliminary plan for the First Christian Church, located on State Road 57, south of Kansas.

President Fanello: Anyone in the audience have any comments on this one? Seeing none.

Commissioner Mosby: Motion to approve preliminary plans for First Christian Church.

Commissioner Crouch: Second.

President Fanello: So ordered.

**Heartland Crossing Subdivision: Preliminary Plan
Hogue Road, east of Eickhoff Road**

Bill Jeffers: I have a mistake on the agenda. It's my error. I put Heartland Ridge. In fact this is Heartland Crossing. It's a preliminary plan for Heartland Crossing

located on Hogue Road, east of Eickhoff. It's an extension of the Heartland project by Haas Sons, Incorporated. I'm sure you're familiar with all of their other work on both sides of Hogue Road, and east of Eickhoff. The preliminary plan has been reviewed by the County Surveyor, and with two comments; one regarding the use of a salvage piece of pipe, which we would prefer it be a new piece of pipe, and with regard to preserving the repairing habitat along a natural stream, which has been incorporated into the preliminary plan to our satisfaction. The County Surveyor recommends approval of the preliminary plan for Heartland Crossing Subdivision on Hogue Road, east of Eickhoff.

President Fanello: Anybody in the audience have any comments?

Unidentified: Is there a copy of the plan I could view?

Bill Jeffers: Yes. The design engineer, Keith Poff, is behind you with a copy. This is our office copy here. For those who are interested, abutting neighbors, or someone in the neighborhood who may interested in this project, our regular course of action is to ask for a preliminary plan, and get a plan that could reasonably be implemented at the site, but not asking for all the final details of the plan pending it's approval at Area Plan Commission and other review processes that are sometimes rather lengthy and expensive. Once it receives those approvals, it comes back to our office as a final plan in a month or two, and it should incorporate all measures and practices that would make it a final plan, and address the concerns of the neighboring properties. Hopefully, to their satisfaction before it receives the approval as a final plan. It cannot be recorded as a final plat, and no building permit can be issued...well, actually one building permit can be issued on any single parcel of land as an agricultural parcel, but no permits can be issued for more than one house unit on that entire property until it has been recorded. It can't be recorded until this body approves the final plan. That will not occur any sooner than one month from today, or possibly longer. Having said that, the microphone is available for anybody who would like to make a public comment.

Cecil West: My name is Cecil West. I live at 202 Barbara Drive, which is at the very end, which would be right up against where this subdivision will be starting. The only thing that concerns me, and I'm not against the project or anything like that. That they take everything into consideration, because water comes off of Peerless Road, down Huckleberry, in through Barbara, we get a lot of water, particularly at the end of a heavy rain. Anything that would at all impede the drainage past, we're going to have a lot of water either in our yard or in our house, and that's what scares me the most about anything that might impede it. Just as long as the Commissioners and the engineers take everything into consideration and look at where it's coming from, and where it's going. Thank you.

President Fanello: Thank you. Are there any other comments?

Mike Crandall: I'm Mike Crandall, property owner right behind the subdivision. I own the southeast corner lot, which is right behind the watershed. As Mr. West said, there is a large amount of water that runs there, and there's a drainage ditch, which is an easement on my property that runs right through there. Our Village Acre Subdivision, my property contains the primary drainage ditch for the whole subdivision. My concern is, is that the main culvert is behind our property, and there's a holding pond, I guess you could call it there, that during heavy rains does retain water, and sometimes will back up, in extremely heavy rains. As I know, the topography of the area has a natural grade to this ditch, and if the property is graded

for a house, which would be grated up to the house, of course, to me it seems it could cause actually a man made dam in a way that could back up the drainage. My concern is that I don't want to be on a lake on my property. I didn't buy lake front property yet.

Commissioner Mosby: I understand that.

Mike Crandall: Thank you.

President Fanello: Thank you, sir.

Bill Jeffers: I want to thank those two men for coming forward with their public comment. We have considered this particular valley. It has been studied with an engineering study that shows the exact extent of the flood way for the 100 year flood for a previous project that the Haas' completed. That's why we ask that the natural creek channel be left as is, not obstructed. That any pipes put in there are sufficient to handle the heavier storms, and that they leave quite a wide, what we call a repair end or water related habitat. A habitat that is not necessarily in the creek itself, but adjacent to the creek, and handles the overflowing quantities. They have agreed to do that. They show quite an extensive easement along this channel, and I think at this time it's sufficient to handle the larger quantities of water that can be anticipated according to the study that was done by Billy Nicholson some three or four years ago for the entire watershed area. Again, having said that, we don't require exact engineering details in the preliminary plan, because that could get extremely expensive, and if it were to get rejected in the Area Plan Commission hearing for some not drainage related thing, such as traffic or density or whatever, we don't want the money to have been thrown away for nothing. As I said, they will be back with a much more detailed plan after the Area Plan Commission hearing passes the preliminary plat, and then we will look, in great detail, at calculations that will have to prove that adjacent properties will not be adversely affected by storm water quantities up to the 100 year intensity.

Commissioner Mosby: If there is nobody else wishing to speak, I'll make a motion that we pass Heartland Crossing on a preliminary.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: You should give your names and addresses to the two gentlemen sitting back there that represent the project so that they can take your comments into consideration. Thanks for coming.

<p>Surveyor's Presentation to the Board of a Proposed New Storm Water Control Ordinance</p>
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Bill Jeffers: At this time the County Surveyor would like to present the Drainage Board with a proposed storm water control ordinance, in a very preliminary form. Originally, we had hoped to have this ordinance in place by the end of the year, or at the latest by March 10, 2004, but situations have come up that pushed our schedule up a little bit. So, I have attempted to write this to the best of my ability in a very short period of time. I ask that you excuse any typos, and other things,

because I'm going to be asking that you establish a committee to assist the County Surveyor in bringing this to an adoptable form that's acceptable to the community. Some comments, this particular printing that you have in front of you is available on the web at www.vanderburghsurveyor.com in the right hand margin. You will see under "What's New", County Surveyor proposes a new ordinance, for anyone who would like to access and print this exact document. It's in a PDF file, it will print exactly as it's been presented to the County Drainage Board. Anyone who has printed that prior to July, noon, July 25, because it was on there overnight, July 24 and then the morning of July 25. If anyone happened to have printed it, there were some corrections made, and you can obtain a free copy of this document by turning in your previous copy. Okay, what does this document do? Federal and state rules require that this ordinance establish the following; requirements for implementing appropriate erosion control and best management practices at construction sites, this document does that. Requirements for control measures and practices specifically developed to control erosion, sedimentation, and the management of construction waste, like discarded building materials, concrete truck wash out, litter, and sanitary waste. This document does that. Requires for the review and approval of construction plans with specific components to address potential adverse impacts on water quality and natural habitat. The document does that. It requires that the plans can be modified even after initial approval for the addition of erosion control measures and management practices to address conditions that may have been overlooked, or may have developed at the site after construction activities begin. That's a federal requirement, and this document does that. Establish a self monitoring process whereby construction site operators employ a qualified professional to inspect and evaluate the condition of and to enumerate repairs needed to the control measures on a weekly basis, and after each significant rainstorm. This document establishes that. Procedures for county personnel to inspect construction sites and enforce the regulations, including assessing penalties for non-compliance, and to ensure that erosion control measures and management practices are properly installed and maintained throughout the construction period. Requirements for the provisions for training and certifying plan review and site inspection staff at both the local and state levels of technical expertise. That is a state requirement, and this document does that. Procedures for the receipt and consideration of public inquiries, comments, and concerns regarding construction site activities, and for a tracking process that proves that the public inquiries, comments, and concerns are given to the appropriate staff for follow up. That's something that we generally do at this time, but we don't have a well defined process. This document will establish that. Prioritizing site inspections based on the site's potential for adversely affecting soil and water resources. That's important to both the state and federal agencies. They want certain characteristics of soils and so forth identified, and site inspections to be prioritized. A whole section is devoted to that. Highlights of the ordinance not necessarily required by federal or state rules; this document calls for the inclusion of three citizen members appointed by the County Commissioners to the plan review committee. This document provides for an appeal process for applicants and homeowners who may disagree with the plan review committee's determinations. We established a review schedule that greatly accelerates ahead of state recommended timelines. In other words, the state gives you 28 days to review plans, we feel that's unduly long. We take it down to eight and 14 days, in some cases 21. Most of them eight to 14 days. This document provides guidance materials superior to and ahead of schedule, by comparison with state supplied guidance manuals, which are not yet available. This document requires a technical review committee to establish educational programs to train inspectors, offer training to contractors, extend assistance and guidance to developers, civic groups, and neighborhood associations. The document requires technical review

committee to manage an informational and demonstration booth at the county fair and neighborhood associations National Night Out, which by the way begins August 5th. If I can put a plug in for the neighborhood associations National Night Out, August 5, 2003. The County Surveyor will have a booth at Garvin Park for the west sector. In the future we would hope that other members of the committee would establish booths at Aiken Park and Lorraine Park for the south and the east sectors. Requires committee members and technical staff to attend local, state and special seminars conducted by National Resource Conservation Service, the Urban Forester, and Purdue Extension Horticulturalists. It requires committee members and technical staff to attend a minimum of two neighborhood association meetings per year to convey back and forth some dialogue between you guys as a Drainage Board and our technical staff that will be reviewing plans in those neighborhoods. So, that's just some highlights, and here's the document. I know there's been already some concern about the length of the document. I believe it's 92 pages. Please understand that when I reduced it to single spaced, New Times Roman, 11 point, as it would be codified, that took it immediately down to 58 pages. This is a draft document, so there is plenty of space to make your notes in the margins.

President Fanello: Good bedtime reading.

Bill Jeffers: Yeah, and the first one, two, three, four, five, six or seven pages is unnecessary, well, it's not unnecessary, will not be codified. It's the whereas' and why fors and all that. There's at least 25 pages that are absolutely mandated by the state. I didn't make that up. So, you know, we're down in the neighborhood of 20 to 30 pages that what I will ask you to do is to appoint a committee to assist the Surveyor in modifying or just bringing this document to a form that's acceptable to the community, and acceptable to you as the Drainage Board, and then at that point take it to the County Commissioners for first reading. Among those who you might consider on that committee, I think, should be the County Surveyor, the County Engineer, two developers; one developer of major subdivisions that builds them all the way out, another that sells individual lots to individual homebuilders. I would like to see like an individual homebuilder type developer on there so that he can express his side of the, what he faces when he builds within an umbrella permit. A remodeler, a farmer, two neighborhood association people. I would say one from the West Side and one from the Oak Hill Neighborhood Association, because those two represent the areas that are rapidly building that are both inside and outside the city. I know I'm leaving somebody out, a building trade, or an industry representative, such as Mr. Pedtke, who has been the driving force behind me getting this done in this time frame, and has helped me immensely. I'll close my comments at that time, and tell you that Mr. Pedtke does have a list of persons with whom he's spoken who have expressed an interest on being on that committee, if you would like to form that committee.

Commissioner Crouch: Mr. Jeffers, I don't know if you had mentioned Soil and Water Conservation District, they had sent a letter asking that they also be included, at least in dialogue and notification. I'm sure you all got that also.

Bill Jeffers: Two comments on that. The state requires that Soil and Water Conservation District technicians be given the opportunity, in every case, to give comment, give technical comment and technical recommendations on all the plans that require Rule Five review and content. That's in the ordinance, I forgot to mention that. They will be notified of every plan that the state requires MPDES permit and the content that that permit requires in the plans. SWCD will be notified

of each one of those and they can give technical comment at that time. If they would like to be involved in the review of this ordinance, is that what you are speaking to?

Commissioner Crouch: Well, that's kind of what I understand of the letter they sent.

Bill Jeffers: Could be.

President Fanello: The letter was in reference to Rule Thirteen.

Bill Jeffers: I have a call in to Todd—

Commissioner Crouch: Thomas.

Bill Jeffers: —Thomas, who is a voting member, one of the supervisors at SWCD who's an agriculturalist. I'm asking him to be a member of the committee.

Commissioner Crouch: As a farmer.

Bill Jeffers: He is a farmer, and a landowner, and I think he might have a little business on the side. His dad is also a large farmer, large area farmer. Has a saw mill business on the side, and is an agricultural property owner. If Todd doesn't have the time, my next choice to ask would be Mike Thomas, who you have seen in front of the Area Plan Commission on a couple of occasions on Mohr Road subdivisions. Very well spoken, very intelligent man. Yes, I would like someone who is involved in, as a farmer, in the use of conservation practices to be on the review committee for the ordinance.

Madelyn Grayson: Bill, do you have an extra copy of that for the record? Or I could print it off your website, huh?

Bill Jeffers: You can print it off. Here's a copy for your file.

President Fanello: Do you want to submit a list of names to the Board of Commissioners for appointment to this committee? Is that how you want to handle this?

Bill Jeffers: We're trying to expedite it, so we can start meeting immediately, and, hopefully, have something to you in four to six weeks that's a presentable document.

President Fanello: Okay, I mean, do you want us to appoint the committee tonight? Or do you want us to appoint it next Monday night in our meeting, our regular meeting?

Bill Pedtke: If you don't mind doing it now.

Bill Jeffers: Did you want to talk about....Bill had a couple of ideas about that, because maybe the Drainage Board should appoint the committee, and then the committee when they have a document, they would present it to the Commissioners. I'm not sure, I guess, maybe your attorney has an idea about that. But, we would like to establish a committee as soon as we can get it working.

Kevin Winternheimer: In this case, I don't care, because they are one in the same people. So, it doesn't matter.

President Fanello: What is the pleasure of the board? Did you want to go ahead and appoint one tonight?

Commissioner Crouch: Have these people been notified? That's fine. I would like to see the list.

Commissioner Mosby: Yeah.

Bill Pedtke: Yeah, sorry we didn't make the list available. We were working on this all day today. First, I would like to commend Bill Jeffers for putting this document together. It's very complicated material. He got us to a starting point that we could get this work done. I think that it is 92 pages, but in order to make it all broken down into it's parts, it had to be almost. It does do what we wanted it to do in that it will help us comply with the federal and state requirements for this issue. It does do more than that also, and so we want to maybe sharpen the points that the Engineer and the Surveyor are having problems with in the county, and make sure that on the developers side, the regulated side, that it's going to solve the problem without going overboard. So, that's why we were talking today, it's time to set up the committee that we once talked about moving forward with something. I just have a hand written list, is that acceptable?

President Fanello: Did you want to read it off to us?

Bill Pedtke: I had John Stoll as County Engineer; Bill Jeffers as County Surveyor; myself as an industry rep; Jim Morley, Jr, as a professional engineer, works with projects; I had Les Shively down as a participant and lawyer who works with developers; Fred Padgett from the West Side Improvement Association; Steve Harp, from the Oak Hill Neighborhood Association; John Elpers who is a developer who builds and sells his lots; Brad Sterchi who builds all of his lots and sells them himself; I had Steve Heidorn down as a remodeler; and Todd Thomas as the agriculturalist, who also happens to be on the Soil and Water Conservation District board. Todd Thomas is the only one, I think, that we have not—

Bill Jeffers: The only one non-confirmed.

Commissioner Crouch: And this list meets the approval of the County Surveyor and the County Engineer?

John Stoll: First I heard of it. Sounds okay to me.

Commissioner Mosby: You just got a new appointment.

Bill Jeffers: I don't know everyone on that list, but the one's I do, I wholeheartedly support, and I trust Mr. Pedtke's judgements on the one or two that I'm not familiar with.

Commissioner Crouch: Mr. Jeffers, I want to commend you. I know you have been very involved in this project, and I want to thank you for your leadership in this area.

Bill Jeffers: I appreciate it, and I hope we can present you with a document that's suitable to everyone.

Commissioner Mosby: Thank you.

President Fanello: Do I have a motion to approve these names?

Commissioner Mosby: Motion to approve the names written by, read, okay, read by Mr. Pedtke into the minutes.

Commissioner Crouch: Second.

President Fanello: So ordered. I'll hand this official document to Madelyn.

Commissioner Mosby: I don't know if there's two copies.

Bill Jeffers: Thank you. The next order of business is the...

Commissioner Mosby: Bill, we have a lady that wants to speak to this, I believe.

Bill Jeffers: To what? I'm sorry, to the ordinance?

President Fanello: Was it the ordinance?

Unidentified: (Inaudible. Not at mike.)

Commissioner Mosby: Oh, okay.

Bill Jeffers: Did you want to speak to the ordinance?

Lucy Coffee: I just want to speak about the 25' easement behind (Inaudible. Not at mike.) subdivision on (Inaudible).

Bill Jeffers: Oh, okay. Yeah, that's a different item.

Commissioner Mosby: Okay.

Bill Jeffers: We'll get to that on other persons wishing to address the board. I'm familiar with that situation, thank you.

**Receive Emil and Jacolyn Fahse's Petition to Remove Obstruction:
10400 Hickory Lane**

Bill Jeffers: Next one, next item that's on your agenda is to receive Emile, or excuse me, Emil, Emil, I'll get it right. Emil and Jacolyn Fahse's petition to remove an obstruction from a natural surface watercourse. I believe your Recording Secretary has that petition, along with a check for \$100 representing the filing fee. Which means that upon your receipt of, the official receipt of that, the County Surveyor is automatically instructed to immediately and expeditiously make an investigation, file a report with you at your next month's meeting, at which time you will schedule a hearing.

Commissioner Mosby: So, do we need a motion to accept? Motion to accept the petition.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: I would like to point out that, yes, the ordinance went a little bit above and beyond the state mandate and federal mandate. This particular item right here would not come before you and require, for example, Mr. Fahse, who is the neighbor of a construction project, where the construction project apparently, or allegedly, took all the dirt from the basement excavation and piled it up in a natural surface watercourse, thereby allegedly blocking drainage from the Fahse's property, down through a natural waterway. He then has to come, as a petitioner, when someone else has acquired a permit from an agency in this building, and that agency received construction plans for review. Under that permit that was issued, allegedly this fella piled up a bunch of dirt in a natural surface watercourse, and it comes to you, and it comes to the Surveyor for resolution. Under the ordinance that I propose, it would go to the committee, and they could take immediate action to order the removal of it, without someone filing a \$100 petition, and going through a 90 day process of hearings. That's just an example of where it went beyond the mandate. Anyway, you get the picture.

Ditch Maintenance Claims

Bill Jeffers: I do have some ditch maintenance claims. This is for maintenance that's been performed on your regulated drains over the last 30 days, inspected, found approvable, with the required documentation attached and signed. The County Surveyor recommends payment of these ditch maintenance claims.

Commissioner Mosby: Motion to pay claims. Oh.

Revisit Fahse Petition Discussion

Unidentified: Before you move on, (Inaudible. Not at mike.) My name is Emil Fahse.

Bill Jeffers: Oh, I'm sorry. I didn't see Mr. Fahse.

Emil Fahse: I would like to ask the board—

Madelyn Grayson: Can you please come to the microphone, Mr. Fahse?

Emil Fahse: I've recently talked with Mr. Clem, the gentleman I put the petition on, and my standing water seems to be gone. He says he'll solve the rest of the problem. This only happened Thursday. So, what I would like to ask is if I could keep in touch with the Surveyor's office and not necessarily go with prompt action to allow him to get a chance, or allow him the chance to solve the problem by himself.

Commissioner Mosby: I can withdraw my motion to send the letter, if you want to wait.

Bill Jeffers: Or you can amend your motion just to receive the petition, hold it on file, that allows, once you receive the petition it acts like a warrant for me to enter private property and investigate.

Commissioner Mosby: Okay.

Bill Jeffers: That way I can go out and talk to Mr. Clem and Mr. Fahse, okay? I would say that if they resolve it without a hearing, we refund his \$100, and he can apply that toward any repairs he has to make there on the common lot line.

Commissioner Mosby: I can do that. I'll amend my motion to receive petition.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: Stay in touch.

Commissioner Mosby: Thank you.

Bill Jeffers: Thank you, Mr. Fahse.

Revisit Approval of Ditch Maintenance Claims

Commissioner Mosby: Motion to accept ditch claims.

Commissioner Crouch: Second.

President Fanello: So ordered.

**Encroachment Agreement Request:
Lot 78, Wynnfield Subdivision, Section One (Deferred)
Approval of Modified Drainage Plan**

Bill Jeffers: Okay, under encroachment requests and agreements we have one plan that's been presented to John Stoll and to the County Surveyor's office both by Jon Kipling of Morley and Associates, who's here in the audience with the plan. Inadvertently a drainage pipe, and Mr. Morley is here as well...inadvertently a drainage pipe was installed outside the easement, and I believe this is lot 78, Wynnfield Subdivision, Section One, Plat Book Q, Page 189. There is a 12' drainage easement shown on that plat. Inadvertently the pipe was put in outside the easement and covered up, and it was unapparent to the builder. Subsequently, a builder went in there and built the house over top of the drainage pipe. The house is located in the correct position, the pipe is located outside the easement. This plan proposed to relocate the drainage pipe inside the easement, and the County Surveyor has no problem with the modification of the plan that shows the 24" concrete pipe, along with a 36" box inlet being located within the easement, as it should have been, and we would recommend that modification. However, the technology that they're using to shore up and ensure that the house foundation is adequately supported over top of the existing pipe that they intend to leave in place, I am not qualified and not familiar with that particular method of foundation shoring, and I hesitate to make any recommendations about it. That would be a matter for the Building Commissioner and other engineers and technicians who are familiar with foundation support to make. The reason it comes to you depicted that way, the reason you are looking at anything other than just the relocation of a pipe, if there were no house there, you wouldn't go any farther than to approve the modification of the pipe, but one little corner of the house is so close to the easement that it requires the placement of one of these support mechanisms inside the drainage easement that kicks in your encroachment agreement to locate a permanent

structure inside a drainage easement. Again, because of my lack of expertise or qualification with regard to engineering of basement, excuse me, a foundation support system, I would like for the encroachment agreement language to be inspected by your attorney, and by others who are more qualified to make a recommendation. Because if we ever were to get inside that easement and start digging, I don't want the county to be held liable for any damage to or whatever, loss or injury that might occur from this foundation jack (Tape flipped to side B) goes well under ground, but still it's inside the easement. So, I'm willing to make the recommendation that the modified drainage plan be approved by this body at this time for the relocation of the 24" concrete pipe along the south line of lot 78, Wynnfield Subdivision, Section One, Plat Book Q, page 189, however, I'm reticent to recommend the encroachment agreement at this time. Mr. Morley, do you have any comment?

Jim Morley, Sr.: I'm Jim Morley, and just a commentary on this. The house was built then where the pipe was originally constructed, unaware that the pipe was there was through the process of doing the as-built drawings that we discovered that the pipe had been located incorrectly. The house is already completed. No signs of distress in the footing or everything, and that footing is outside. However, that pipe is down about four feet. The top of the 24" pipe is down about four feet below the footing, it's a 24" pipe, so it's about six foot down to the bottom. As far as I'm concerned as an engineer, that footing is built on unengineered fill. It's back fill for a pipe. To my knowledge there was no compaction, there was no particular effort, and I am concerned that there could be a long range effect on that house. So, I have recommended that in order not to tear that end of the house off, excavate all the pipe, that they back fill the pipe with flowable fill, that they add helical foundation supports that come down below the elevation of the pipe, some six, seven, eight feet through what is simply pipe backfill. I don't know the density of the pipe backfill, to the original ground down below, leave the supports in place, in order that they can guarantee that this footing is not going to settle. As I said, there is no signs of settlement, but now that I know that it's there, I think that's high risk. I think that the contractor who located it in the wrong place needs to support that footing to make sure that nothing happens in the future. The house, because one corner of it was built right up real close to the easement, the helical supports that are shown, the little bracket fits right on the outside of the footing. It will come within the easement, one of them about 6" or 7", the other one about 2" or so. So, I've asked for an encroachment up to one foot, but that gives us the support right at the end of the easement down to a point in the ground below the level of the old pipe, and if we ever had to excavate the storm pipe in it's correct location, that would be over there adding support to that house, and perhaps giving it even a more secure situation than we would have normal. You know, just digging within the 12' easement, digging a trench next to a house, we would actually have a supported house. So, that's the reason for the request of the encroachment within this. There are two, it's less than a foot, and that appears to be a reasonable solution that would offer the homeowner the security that extra underpinnings been placed under his house. That's how all of this came about, and the contractor is to make the corrections to the pipe, as Bill said, relocate everything so that it's right in the middle of the 12' easement that we had recorded on the plat.

Bill Jeffers: So, to wind things up, again, I would recommend Morley's modification of the final drainage plan for Wynnfield Subdivision, as shown on his submittal. Again, after that, if that motion is made, seconded, and passed, I would recommend that you withhold approval of the encroachment agreement until your attorney determines that sufficient language is in the encroachment agreement to protect the

county against any possible losses, damages, or injuries that may occur from any actions that might come about inside the boundaries of the easement.

Kevin Winternheimer: I see what your talking about is the property owner is indemnifying, releasing, holding us harmless, all that good stuff.

Bill Jeffers: Yes, sir.

Kevin Winternheimer: And that's gonna–

Bill Jeffers: You do have a document of that sort on file with Madelyn.

Kevin Winternheimer: I will have to take a look at that.

Bill Jeffers: See, because what happens here is the developer gives two dollars a lineal foot for this pipe, after John Stoll's office approves it's installation. That goes into a fund for the repair and replacement of the pipe should it fail. Then you have a crew out there digging this failed pipe up, say 20 years from now, 30 years from now, something happens, they have to dig this particular piece of pipe up, if something were to jar those one or two supports that's inside the easement, the vibration of the equipment or whatever, I just don't want the county to be held liable for any damages that would occur at that time because of that. So, I would ask you to approve the modification of the final drainage plan, and then withhold the approvment of the encroachment agreement until the language satisfies your attorney.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

Commissioner Mosby: Modification of the drainage plan.

President Fanello: So ordered.

Commissioner Mosby: Then motion to have attorney look at the encroachment request.

Commissioner Crouch: Second.

President Fanello: So ordered.

Encroachment Agreement: Krispy Kreme Doughnut Corporation
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Bill Jeffers: Let's see, that takes us down to other persons wishing to address the board–

Madelyn Grayson: Bill, there was one other encroachment agreement–

Bill Jeffers: Oh, I'm sorry.

Madelyn Grayson: –for the Krispy Kreme.

Bill Jeffers: Oh, Krispy Kreme, exactly. That's under construction, right now it's just being grated, no big deal. The drainage plan was approved last month, and—

President Fanello: We can't forget Krispy Kreme.

Bill Jeffers: —everything's cool except that they're paving over the top of a drainage easement, and they're from out of town, and Madelyn has just received their approved encroachment agreement along with a check for recording of the same to indemnify you against any problems under their parking lot that might occur, because they are over the top of a pipe. Parking lot only, this doesn't have any carry out windows or anything over the pipe.

Commissioner Mosby: So, do we have to have a motion to approve? Motion to accept.

Bill Jeffers: Accept, approve, and record, I suppose.

Commissioner Mosby: Motion to accept drainage easement encroachment agreement from Krispy Kreme Doughnut Corporation.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: Anything else, Madelyn?

Madelyn Grayson: Well, yes, now that you mention it. I did not get the second signed order for the removal of the obstruction for the Ambrose petition. I've got the first one. Was there a document?

President Fanello: There is another one right here.

Bill Jeffers: Oh, and before the Morley's leave the room, that bank up there by the new Schnuck's. We are still holding an encroachment agreement and waiting for a check, and has the land deal moved to the point that they are going to build that bank? Is that Old National—

Jim Morley, Jr.: The Schnuck's on Green River Road?

Bill Jeffers: The new Schnuck's up at Bill Spurling's development.

Jim Morley, Sr.: Right, and where the bank was going on the corner that was owned by the oil guy—

Bill Jeffers: Right, Dirsch.

Jim Morley, Sr.: —Dirsch, right.

Bill Jeffers: The Dirsch property.

Jim Morley, Sr.: As far as we know it's down the tubes.

Bill Jeffers: Okay. Well, we're going to hold that encroachment agreement until we—

Jim Morley, Sr.: Okay.

Bill Jeffers: –until it turns yellow.

Jim Morley, Sr.: Alright.

Bill Jeffers: Okay, but we're not recording it until we get a check.

Jim Morley, Sr.: Right.

Bill Jeffers: Okay.

Jim Morley, Sr.: We believe it's down the tubes.

Bill Jeffers: Thank you.

Other Persons Wishing to Address the Board

Bill Jeffers: Other persons wishing to address the board.

President Fanello: I believe we have a lady in the audience wishing to address the board.

Lucy Coffee: I'm Lucy Coffee. I wanted to discuss the 25' drainage easement behind Oak View Subdivision. There's 3' to 5' weeds that are growing in it, and it's supposed to be kept clear. My bank is eroding. There used to be a slope that was mowable, but there's no slope, and the sanitary sewer manhole that is close right by there, it has also been eroded out, the slope is gone. That portion is directly across from 30" to 36" pipe where the water drains out. It probably should have been rocked from the beginning, and maybe it wouldn't have happened. Mike Wathen has taken a look at it, and he said I do have a legitimate problem. It needs to be resloped, and black paper put on it and rock. I'm wondering how I get this done? Because it's not my property, but it's starting to erode out my land.

President Fanello: Mr. Jeffers?

Commissioner Mosby: Bill's said he's looked at it, so.

President Fanello: Bill, do you have a comment? You said you had looked at, or you're familiar with this situation.

Bill Jeffers: This subdivision is Oak View, Section B, or Section Two, I think. Oak View Place II, Section A, okay. It was built in the late 80's. It was recorded on June 26, 1987 under a drainage ordinance that precedes your 1994 drainage ordinance. The drainage ordinance this comes under is the 1986 ordinance. It's three pages long, has very little regulation in it. At the time of the construction of this particular drainage basin there were no parameters for the design of a drainage basin, and the company that designed this used a design out of California, which was a long, narrow basin, kind of like a ditch. It appeared to work, as the lady has said. For a long period of time it did work. Subsequent to our approval of this basin and the construction of the basin, the lady addressing you tonight somehow negotiated with the developer for the extension of a sanitary sewer line to her property, because her properties were not sewered, they were on a private disposal system, you know, field

bed. The only easement that the developer had to come down to get to her property was a drainage easement. So, he used that easement, that wasn't part of our drainage plan, he just arbitrarily used that easement to supply her with this manhole so that she, and I believe it was her great aunt could, or her aunt could connect on to there. They did not connect on immediately. The manhole sat there available to them for several years, and I believe they connected on, what, three or four years ago?

Lucy Coffee: Maybe five.

Bill Jeffers: Maybe five to six years ago. We were totally unaware of the manhole being in the drainage basin, bad place for it to be. It happened to be at the discharge end of a pipe, because it was brought down a drainage easement and placed there. The pipe, it's about a 24" or 36" pipe, discharges right on to the manhole, you know, washed all the dirt away from it, left a concrete cone exposed. I don't know whether or not her plumber when he tapped into that manhole backfilled his trench, so it could be, when I look at the 2000 aerial photograph, I don't see much erosion or damage, but I believe her that it's occurred, you know, and it's there, but it seems to have occurred over a long period of time without any involvement from the Drainage Board or the County Surveyor's office, and now the erosion is encroaching back into her property. Her quandry is that she doesn't own the property on which the erosion originates, and has no rights to go on to that property to make repairs. I don't have any answer.

Commissioner Mosby: Who's the owner?

Bill Jeffers: Oh, and then a homeowners association was supposed to be responsible, including financially, for keeping the weeds cut, keeping the retention basin clear of trash, keeping the shoreline free from all erosion, etectera, and the developer did not, as this lady has just pointed out to me, the homeowners association requirement is on the plat, and the developer, to my knowledge, did not form a homeowners association. So, she's left holding—

Commissioner Mosby: Is the developer still around?

Bill Jeffers: I believe his name is Jay—

Lucy Coffee: Jim Fuquay.

Bill Jeffers: Jim Fuquay. I do see him come in the building from time to time, I suppose on development related business.

Lucy Coffee: I show the one property owner, this diagram to prove to him that he did have that responsibility. But I haven't gone door to door to all of them, and they exchange hands, and you don't know if the old one tells the new one or what. But, you know, you put this on here, and we gave the easement down toward the end of the basin to them to connect to the old ditch. Who's responsibility is that section? If it was, if the easement was given to the subdivision that they do not own the land, who's responsibility is it to keep that section clean?

Kevin Winternheimer: Everybody is looking at me, and I'm so confused on what's going on here. (Inaudible. Mike not on.) when they used the drainage easement to put in a sanitary sewer, you lost me on that. I don't know, because I'm so confused on what the facts are here. Bill, do you have a handle on this?

Lucy Coffee: Well, here, you can look at it.

Bill Jeffers: What she's referring to is down at the end of the drainage basin, where it had to discharge back into a natural stream, this lady owned the ground where that discharge had to be made. It was her aunt at the time, and now she's inherited that ground. Okay, in the negotiations for an easement on that ground from this lady or her predecessor in the family, they arrived at the agreement for this sewer extension as part of the bargaining.

Lucy Coffee: (Inaudible. Not at mike.)

Bill Jeffers: But, actually it was our intention that the homeowners association maintain that easement where it discharges back into the natural creek. That was the original intent, to the best of my memory, which could be refreshed by going back to the Drainage Board proceedings of that year and finding out. But, I assume, my memory is correct that the homeowners association was supposed to be established by the developer to maintain the basin free of erosion, including maintaining cutting the weeds and everything else down on this lady's property in the discharge easement that was acquired for that purpose. That's what it states on the plat. That was the intent of that three page ordinance that was written by Keith—

Commissioner Crouch: Rounder?

Bill Jeffers: —no.

Commissioner Mosby: Wallace?

Bill Jeffers: Yes. Keith Wallace wrote that.

Commissioner Crouch: Would it make sense to perhaps ask that the County Surveyor do a little more research on this, and then have conversation with the County Attorney to see if there is any legal recourse that we have as a Drainage Board to correct this problem?

Kevin Winternheimer: Yeah, because I'm still confused on what's all going on here.

Bill Jeffers: Okay.

Kevin Winternheimer: We've got agreements, then we've got plat commitments, by entities that don't exist, it's hard to digest.

Commissioner Crouch: If that makes sense, that's a motion.

Lucy Coffee: One of the property owners just recently cut their section, and after that you could see two big wash out areas, probably 2' by 2' by 4'. I mean, you don't know that is there when they don't cut these weeds, which they are supposed to cut.

Commissioner Mosby: I will second her motion that we check into this, and, I guess, see about the homeowners association, or whatever that was supposed to be formed.

President Fanello: So ordered.

Commissioner Mosby: I don't where we can go from there.

Bill Jeffers: So, what they just did is they told me to investigate this and report back to them next month. So, you'll see me out on your property looking at this, if that's okay with you.

Lucy Coffee: Okay. Sure.

Bill Jeffers: Okay.

Lucy Coffee: Anytime.

Bill Jeffers: And you're free to button hole me and ask me what I'm looking at.

Lucy Coffee: Okay.

Bill Jeffers: And what I found out. You know my phone number.

Lucy Coffee: Alrighty.

Bill Jeffers: Thank you.

President Fanello: Thank you.

Lucy Coffee: Mike Wathen told me that I needed to get something done or it would just get worse and worse and keep cutting back. Whether I had to dig on my side, or whether we could fix the basin side, but if it extends out into my side, then as part of the drainage, which it really isn't, or part of the basin.

Commissioner Mosby: Okay.

President Fanello: Is there anyone else in the audience wishing to address the board? Bill, do you have anything else?

Bill Jeffers: No, ma'am. My business is completed.

President Fanello: Alright. Do I have a motion to adjourn?

Commissioner Mosby: Motion to adjourn.

Commissioner Crouch: Second.

President Fanello: So ordered.

Those in Attendance:

Catherine Fanello	David W. Mosby	Suzanne M. Crouch
Bill Jeffers	Kevin Winternheimer	Madelyn Grayson
Cecil West	Mike Crandall	Bill Pedtke
Emil Fahse	Jim Morley, Sr.	John Stoll
Lucy Coffee	Others Unidentified	Members of Media

Catherine Fanello, President

David W. Mosby, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
AUGUST 25, 2003**

The Vanderburgh County Drainage Board met in session this 25th day of August with Vice President David Mosby presiding.

Call to Order

Commissioner Mosby: Call to order Vanderburgh County Drainage Board agenda, August 25, 2003.

Approval of July 28, 2003 Drainage Board Minutes

Commissioner Mosby: I need a motion to approve the minutes of the previous meeting.

Commissioner Crouch: So moved.

Commissioner Mosby: So ordered. Second and so ordered.

Update on Jones Order to Remove Obstruction

Commissioner Mosby: Old business, Linda.

Linda Freeman: Okie doke. First of all, Linda Freeman, Vanderburgh County Surveyor's office. I would like to let the board know that the County Surveyor is not here tonight because his mother, Irene Jeffers, passed away this weekend. My thoughts and sympathies are with the Jeffers family in Alexandria, Virginia. That's a tough thing.

Commissioner Mosby: I'm sorry.

Linda Freeman: Old business, updates and reports. Under the Jones order to remove the obstruction, the Surveyor is delaying action until the contractor that we have lined up for that finishes the work on Rusher and Barr Creek projects that need to be matted and seeded in a timely fashion. In fact, we've got like a September 15th deadline on that. So, he's finishing up with that, and as soon as he finishes up with that we can have him go work on that obstruction on the Jones petition.

Commissioner Mosby: Okay.

Update and Set Hearing Date for Fahse Petition

Linda Freeman: 2b, set the hearing date for the Fahse petition. Mr. Fahse requested a delay of process at the July 28, 2003 meeting. Subsequently, Mr. Fahse has reported that he would like to proceed with the process. The Surveyor recommends that the board set September 22nd for the hearing for the Fahse petition, and authorize the Auditor to send out the necessary notices. The Surveyor will deliver the reports to interested parties as soon as published.

Commissioner Crouch: So moved.

Commissioner Mosby: Second, and so ordered.

Madelyn Grayson: Do we need to advertise that? I can't remember. It's a public hearing.

Commissioner Mosby: I think so.

Linda Freeman: I don't know if that's something that goes, when you send out the notices if that's sufficient.

Kevin Winternheimer: We're doing this as part of our regular Drainage Board, aren't we?

Linda Freeman: Yeah, it's during the regular, so, I mean, we'd be, I guess, in the notices to them. Apparently the gentleman started moving some dirt and things, but he hasn't actually corrected the situation. So, Mr. Fahse is requesting that we go ahead and proceed.

Update Order on Behalf of Asbestos Union/Ambrose Petition

Linda Freeman: On the Asbestos Union, the Ambrose petition update. Madelyn will offer signed green cards acknowledging the receipt of certified re-notification to those ordered to remove obstructions at the Eastside Industrial Park resulting from the hearing of Tom Ambrose's petition. I understand that two of the persons involved did not receive their things. Has that changed? You had a note on here that Donald and Susie Martin of 2628 N. Cullen did not receive, you didn't receive a green card.

Madelyn Grayson: I still have not received that green card back.

Linda Freeman: Okay, so that's the only thing that's going on with that.

Commissioner Mosby: Okay.

Linda Freeman: That they didn't receive a card, but I think they might be owners of more than one property on that.

**Report on Oak View Place II, Drainage Facility Maintenance:
Lucy Coffee Complaint**

Linda Freeman: Then the Lucy Coffee report, and you guys should have gotten that in your packet of information. The Surveyor submits a report requested by the board regarding several complaints and questions offered by Ms. Lucy Coffee with regard to erosion, weeds, maintenance and repair of drainage facilities in Oak View Place II. An advanced copy was sent to you guys and also Mr. Winternheimer. Basically, I spoke to Ms. Coffee this afternoon by phone, I told her that I wasn't going to take or recommend any action. But, what I've seen in the recorded easement that I attached to that report is that the agreement, the easement agreement that was drafted states that Mr. James Fuquay, the grantee, was, that he accepts this easement with the understanding that the grantee will maintain said easement for the purposes here and set forth, and keep such in good operating condition and repair, until whichever of the following shall first occur; the creation of a homeowners association, or the agreement of Vanderburgh County to assume the obligations imposed upon grantee under this easement. As far as I know, neither one of those have occurred. So, according to this drainage, or this easement that was recorded

in 1989 between Ms. Ida Schmitt, the property owner of record at that time, and apparently with James Fuquay's knowledge that he's responsible for maintenance of that easement, that 75' by 25' basin there at the, I think it's the south....I'm not sure of my directions here on this one, because it's not one that I'm personally familiar with exactly where it's at, but the 25' by 75' easement that was granted from Ida Schmitt to Fuquay Construction.

Commissioner Crouch: So, we had asked the County Surveyor to do research, and to determine whether this Drainage Board had any responsibility in addressing this issue, and what I'm surmising is at this point in time, we do not.

Linda Freeman: Right. Basically, Mr. Fuquay and Ida Schmitt, the property owner of record at that time, should have been...she signed it, and then it was granted to him. Mr. Easley, Andy Easley Engineering is the one that actually did the....yeah, it is the south corner of her property, so, west corner. Andy Easley Engineering, you know, had to have drawn up the agreement and the stuff for Mr. Fuquay, so. Mr. Fuquay and Ms. Coffee were both sent a copy of the report and of the attached easement.

Commissioner Mosby: Okay.

Commissioner Crouch: So, it would be Mr. Fuquay's responsibility, and legal recourse would be probably the only option.

Linda Freeman: Yeah, I think it's like a civil matter between the parties. So, I mean, she could take him—

Commissioner Mosby: Okay.

First Christian Church: Hwy 57: Final Drainage Plan
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Commissioner Mosby: Drainage plans.

Linda Freeman: Drainage plans. First Christian Church, location on Highway 57, is just south of and adjacent to the Windemere Sections Four and Five. The drainage plan serves the entire church community, all buildings and parking lots. At this time the church wishes only to construct a part of the parking lot and one activities building. The plan conforms to requirements, and the County Surveyor recommends approval of the final drainage plan.

Commissioner Crouch: So moved.

Commissioner Mosby: Second, and is there anybody in the audience that wanted to speak to the final drainage plan of First Christian Church? Seeing none. So ordered. I think Ms. Coffee was in the room, did you want to say anything? Or did you understand?

Lucy Coffee: I understood.

Commissioner Mosby: Okay. I just wanted to make sure.

Linda Freeman: She just wanted to make sure that she was here if you guys, if there was any other action or things that may have—

EVSC-Scott School Addition: Old State Road: Final Drainage Plan

Commissioner Mosby: Okay, EVSC.

Linda Freeman: EVSC, the Scott School addition. The plan conforms to requirements, and the County Surveyor recommends approval of the final drainage plan for Scott School addition.

Commissioner Crouch: So moved.

Commissioner Mosby: Second, and is there anybody in the room that would like to speak to Scott School? Seeing none. So ordered.

**Dawnridge Subdivision: Hogue and Boehne Camp Roads
Preliminary Drainage Plan**

Commissioner Mosby: Next.

Linda Freeman: Dawnridge Subdivision, location at the southeast corner of Hogue Road and Boehne Camp Road across from Perry Heights School. The preliminary drainage plan proposes preserving nearly the entire wooded part of the existing parent tract, and using the natural habitat for absorbing, filtering and diffusing the storm water discharge. Specific non-structural erosion control measures and structural best management practices will be used to detain, slow, spread, filter, and discharge post-construction storm water runoff at a reduced velocity, and at a higher quality without having to destroy the wooded area to build a pond or basin. The final drainage plan will incorporate specific features to address the improvement of existing roadside ditches sufficient to prevent cross pavement flooding and other concerns of adjacent property owners. The County Surveyor recommends approval of the preliminary drainage plan, and encourages adjacent property owners to submit their concerns and other drainage related comments to the Surveyor's office for referral to the design engineer. So, we're just recommending preliminary approval at this time.

Commissioner Crouch: So moved.

Commissioner Mosby: This is preliminary approval?

Linda Freeman: Preliminary.

Commissioner Mosby: Okay, second. Is there anybody that wanted to speak to Dawnridge?

Commissioner Crouch: I do think there are some people in the audience.

Commissioner Mosby: Okay. That's why I haven't said so ordered yet.

Madelyn Grayson: Will you please state your name for the record too, sir?

Jim Goelzhauser: Jim Goelzhauser, I live at 5626 Hogue Road, east of where the subdivision is going to be. I don't know if you've got the plans in front of you or not—

Commissioner Mosby: No, we don't have them.

Jim Goelzhauser: Would you like to see them? Then, I'm concerned, lot 22, there's one existing house and a dilapidated garage on it. That's part of the subdivision. That's lot 22 though. I live directly next door to lot 22. It's a hill that, it comes down the hill, and on the front of Hogue Road and down the back of our house is a very steep hill, but with this new road going in there, plus the new homes going there, the water has got to go somewhere, and it's going to come right across our property. We're concerned about erosion.

Commissioner Mosby: Here's lot 22, right here. Here's Hogue Road.

Jim Goelzhauser: When it rains now it's bad enough, but with this new road going across there, plus the new homes, like I said, the water's got to go somewhere, and we're concerned it's all going to stand in our front yard, which it does, basically, now, but it's going to get worse with these new homes. That's what we're concerned about. That's what we want to bring to your attention.

Commissioner Mosby: Have you discussed this with Mr. Jeffers?

Jim Goelzhauser: I don't know Mr. Jeffers, I don't think.

Commissioner Mosby: Okay, Mr. Jeffers is the County Surveyor who actually looks over these plans, and he's the one that makes the recommendation.

Jim Goelzhauser: Uh-huh.

Commissioner Mosby: Tonight this is just a preliminary plan to get it on the table. So, Madelyn, do you have their names?

Madelyn Grayson: Did you sign in on the...okay. Did it have your phone number on there as well? And your address?

Jim Goelzhauser: Yes, ma'am.

Commissioner Mosby: I would, Mr. Jeffers is out of town tonight due to family, but we will have him get a hold of you. You need to express your concerns to him, so that when he is going over the preliminary plans and the final plans, I mean, he's the one that does all the calculations, not us.

Jim Goelzhauser: Uh-huh, okay.

Commissioner Mosby: So that he's very aware of what you're saying. Then he brings his recommendation to us.

Jim Goelzhauser: Okay, well, I just don't want something to get through that's, like some of the subdivisions going up, and then there's a disaster after the fact. That's what we're concerned about.

Commissioner Mosby: This is just strictly preliminary.

Jim Goelzhauser: I understand that.

Commissioner Mosby: So, there will be...as we did the three before you, there will be a final come forward.

Jim Goelzhauser: Okay, then thank you very much then for your time.

Commissioner Crouch: Mr. President, I did receive a couple of calls from some other neighbors out there and their concerns were, in terms of driveways and safety issues, is there any recourse that they would have? That doesn't really deal with, I'm asking you, John, because I know those are areas that you probably deal in, and being new I'm not sure exactly what recourse that they have. Because we're really only dealing with drainage issues. So, if there are concerns about driveways and where they're being placed, how would that be addressed?

John Stoll: I would say it would have to go through the, be voiced at the Plan Commission. If it's approved at Plan Commission, then all the new driveways would access onto Hogue and onto Boehne Camp. One of the reasons why I didn't voice any concerns about that is because the developer is going to dedicate some additional right-of-way along Boehne Camp, so that way in the event the county ever does pursue a project to do any intersection improvements at that location there would be sufficient right-of-way to do that. So, it was a trade off. I know, typically, we don't have new driveways accessing on existing through roads when we do subdivisions, but in this case with the subdivision, I mean, with the school immediately west of the subdivision, there is no way you could ever do any widening to the west. So, it was a trade off. Accept the additional right-of-way and the driveways, or they would all access internally, but we wouldn't get additional right-of-way dedicated through the plat.

Commissioner Crouch: So, if neighbors have concerns about the issues regarding driveways and the placements, etcetera, then they need to be at Area Plan meeting?

John Stoll: Right.

Commissioner Crouch: They could even call Brad Mills at Area Plan?

John Stoll: I can talk to anybody as well. I believe the way the driveways were set up, we were trying to stipulate that the driveways be located as far away from the intersection as possible. So, say we've got a lot that fronts on Boehne Camp just south of Hogue, that driveway should be oriented more towards the south lot line. Down on, the driveways would access on, at Dogwood and Boehne Camp, they were pushed further to the east. So, it was to try to minimize the impacts as far as getting them further away from the intersection. But, I could talk to people about that as well. That was kind of the intent that we were looking at.

Commissioner Crouch: I think there's some....question?

Commissioner Mosby: Yes, go ahead.

Larry Ziegler: (Inaudible. Not at mike.)

Commissioner Mosby: No, you have to come to the mike though, I'm sorry, because you have to state your name.

Larry Ziegler: My name is Larry Ziegler, I live at 5710 Dogwood Drive. There's other neighbors here, and we're concerned about the property that is going to be put all under roof, and no yards, in a small area with a cul de sac road coming out, plus driveways coming on to Dogwood Drive. In the paper it says Dogwood Lane, which is in the Newburgh area, but it's Dogwood Drive. We're concerned of the watershed

that runs down off the angle, which he's going to decrease the angle, but it's still going to be like a 10% grade, which is going to be no drainage except down at the angle on to Dogwood Drive. So, it will run right across the road, if it's not well ditched, across the road into three of our houses. Which we have a little water problem out in the field now.

Commissioner Crouch: Well, those questions, I guess, should be addressed to Mr. Jeffers, if it's related to drainage. But, if it's driveways and their location in terms of safety or traffic, then John Stoll could—

John Stoll: Or EUTS even.

Larry Ziegler: I have talked to Mr. Jeffers.

Commissioner Mosby: You have? I knew we had talked, and I had you talk to him.

Larry Ziegler: I know he's out of town, he had a death in the family and everything. I'm hoping that he contacts me when he gets back. If not, I'll get back (Inaudible).

Commissioner Mosby: Well, and Linda's here and she can tell him—

Linda Freeman: I'll make a copy.

Commissioner Mosby: Okay, she can tell him to contact you, because that would be something that he would look at and let us know.

Larry Ziegler: Thank you.

Commissioner Mosby: Thank you.

Commissioner Crouch: Are the neighbors clear?

Unidentified: We've got to wait, right?

Commissioner Crouch: You can actually talk to—

Commissioner Mosby: This is actually preliminary.

Commissioner Crouch: —yes, on the drainage to Mr. Jeffers, but—

Unidentified: Well, he's not here.

Commissioner Crouch: When would that come back, Linda, next month?

Linda Freeman: Yeah, depending on—

Madelyn Grayson: The next Drainage Board is September 22nd.

Unidentified: The third Monday?

Madelyn Grayson: Fourth Monday. September 22nd.

Unidentified: After the County Commissioners meeting? (Inaudible) on you to make a decision on this drainage?

Commissioner Mosby: Whenever they bring it back, I mean, we're not exactly sure if it comes back in September or October.

Linda Freeman: Yeah, September 22nd is the next meeting in September, but it depends on the engineers if they get, you know, if they get everything submitted to Bill's satisfaction. Then, of course, he recommended that you submit your concerns and things to our office, so that way we can make sure we address those. Like I said, one of the engineers is right here tonight if you want to touch base.

Commissioner Mosby: Are there any other...oh, I'm sorry.

Commissioner Crouch: No, I was just going to ask are you all comfortable with who you need to talk to? There's no final action tonight.

Unidentified: That's fine, as long as we get to have our concerns, you know (Inaudible. Not at mike.)

Linda Freeman: Okie doke?

Commissioner Mosby: Okay. I will say so ordered then.

Other Drainage Plans

Linda Freeman: Then under other drainage plans, Bill wasn't sure, he was thinking that he'd be here tonight, but just in case he wasn't he left, you know, other drainage plans that the current ordinance allows other plans to come to the board for consideration without the recommendation of the Surveyor, but I haven't heard from any engineers or developers that they had something that wasn't on the agenda. Yeah, I would say from the looks of the audience that that is a correct assumption.

Commissioner Mosby: Okay.

Linda Freeman: So, we can move on to other business?

Commissioner Mosby: Yes.

Ditch Maintenance Claims

Linda Freeman: I've got some ditch maintenance claims for our annual maintenance here that you guys can sign. We've got the attached paperwork, the normal goodies, so.

Commissioner Crouch: Motion to approve.

Commissioner Mosby: Second and so ordered.

Encroachment/Relaxation Requests/Agreements

Linda Freeman: Then we, I don't know if there was any receipts for relaxation of any drainage easements.

Madelyn Grayson: There was one that was brought down to the Auditor's office for a Delta Properties LLC. There was no recording check attached. I think it's from Morley and Associates.

Linda Freeman: Is that for the—

Madelyn Grayson: 4763 Rosebud Lane. I don't think Bill's even seen it.

Linda Freeman: Yeah, I'm not sure, so, we'll just hold on to that one. Especially since they didn't send their money. No money, no recording. Okie doke.

Petitions to Remove Drainage Obstructions

Linda Freeman: I don't know if there were any petitions received for removal of obstructions. Not that I know of.

Commissioner Mosby: Not that I know of.

Other Persons Wishing to Address the Board

Linda Freeman: Any other persons wishing to address the board?

Commissioner Mosby: Is there anybody that would wish to address the board?

Discussion of Drainage Easement Issue: Wynnfield Subdivision

Linda Freeman: Then any comments or questions from the board. The only other thing that I have was, I had a conversation with John Stoll concerning the relaxation of one foot....this is concerning Wynnfield Subdivision, Section One. I talked to John Stoll today, and John Kipling with Morley and Associates about the relaxation of one foot off the north side of the drainage easement on the south line of lot 78 in the corrected plat of Wynnfield Subdivision, Section One, and then the subsequent addition of one foot on the south side of the north line of lot 77, which is directly south and adjacent to—

Kevin Winternheimer: We took care of that—

Commissioner Mosby: We done did that, yeah.

Kevin Winternheimer: —in the Commissioners meeting.

Linda Freeman: Okay, but it was concerning a drainage....okay, so, that's all. Alrighty. That's all I have.

Commissioner Mosby: Anybody else that would wish to address the board? Comments or questions? Seeing none.

Commissioner Crouch: Motion to adjourn.

Commissioner Mosby: Motion, and I will second and so order.

(The meeting was adjourned at 7:09 p.m.)

Those in Attendance:

David W. Mosby	Suzanne M. Crouch	Kevin Winternheimer
Linda Freeman	Madelyn Grayson	Jim Goelzhauser
John Stoll	Larry Ziegler	Others Unidentified
Members of Media		

**VANDERBURGH COUNTY
DRAINAGE BOARD**

David W. Mosby, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
SEPTEMBER 22, 2003**

The Vanderburgh County Drainage Board met in session this 22nd day of September, 2003 at 6:40 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Drainage Board meeting for September 22, 2003.

Approval of August 25, 2003 Drainage Board Minutes

President Fanello: First item of business, approve minutes of previous meeting.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Fahse Obstruction Hearing (Cancel-Refund Deposit)

President Fanello: Turn it over to Mr. Jeffers.

Bill Jeffers: We have notice of a hearing of the Fahse petition. The County Surveyor went out and inspected the property, as required by statute, and is now filing a report of findings. Rather than read those into the minutes at this time, I would ask that you move to accept the report as presented.

Commissioner Mosby: Motion to accept.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: The Surveyor's recommendation is at the end of the report. Recommends that Mr. Fahse work out a private arrangement with Clem regarding the repair and long term maintenance of a drain tile on the Clem's property that serves the Fahse property. That the Fahse's should consider creating a rain garden in this depression that holds water temporarily that would digest any untreated sanitary sewage that may be flowing over the grounds of that location. Information is available on line or from the Surveyor's office regarding this type of practice. Fahse and Clem should arrive, and apparently have arrived at a private resolution of their mutual problems related to this petition. The hearing being hereby canceled, the County Surveyor recommends the Drainage Board refund the \$100 filing fee to Mr. Fahse for his use towards the repair and maintenance of the drainage system serving the affected area of his property. This, here are five or six copies of the report, one of which the Recording Secretary should use to enter into the minutes. I would ask that you make a motion to refund Mr. Fahse's \$100 filing fee in return for him withdrawing his petition.

Commissioner Mosby: Motion to approve Surveyor's, or yeah the Surveyor's plan.

Commissioner Crouch: Second.

Commissioner Mosby: Recommendation.

President Fanello: So ordered.

Introductions & Explanation of Drainage Board's Role

Bill Jeffers: For those of you who are enjoying your first visit to the Vanderburgh County Drainage Board, or for folks who haven't been here for a while, on your far right, at the end of the table, is Madelyn Grayson, our Recording Secretary from the County Auditor's office. Ms. Grayson is recording the minutes of our meeting, which by the way are being broadcast live on the Internet. Next to Ms. Grayson is Commissioner Suzanne Crouch, a voting member of this board. Then next to her is Commission President David Mosby, also a voting member of the Drainage Board. Next to Mr. Mosby is Commissioner Catherine Fanello, the President of this Drainage Board. On my left is the Commissioners Corporate Attorney, Kevin Winternheimer, who also serves as legal advisor to the Drainage Board, and to the County Commissioners. My name is Bill Jeffers. I'm the County Surveyor. I'm the technical advisor to the Drainage Board. I do not vote. In accordance with state statutes, the three Commissioners comprise the Drainage Board, and only the three Commissioners vote on each plan or issue that comes before the board.

Update on Erosion & Sediment Control and Storm Water Control Ordinances (Rule 13 Changes)

Bill Jeffers: This board, both acting as the Drainage Board and as the County Commissioners, have taken a very pro-active approach to storm water management. Last week the Commissioners adopted an amended erosion control ordinance that effectively transferred authority to the County Engineer, John Stoll, to monitor local construction sites with regard to erosion and sediment control. The Drainage Board has also appointed a citizens committee to hammer out either a new ordinance or revisions to our existing storm water control ordinance that will satisfy requirements of new federal and state rules governing the control of construction activities to eliminate or minimize construction related pollution of our streams. The new rule is known as Rule 13, became effective on August 6th. The County Commissioners will initiate a program by filing a notice of intent with IDEM, excuse me, Indiana Department of Environmental Management, November 4th that implements a five year plan mandated by Rule 13. While the plan must address several levels of eliminating or minimizing storm water pollution from activities and pollution sources associated with urban areas. The federal government, EPA, has identified lawn fertilizer, pesticides, parking lot runoff, detergents, oils, grease and automotive fluids, etcetera as major sources of water pollution that this program must address. Construction site control program is just one of six basic control measures that the County Commissioners must implement. Since we are just now on a threshold of implementing this program, the drainage plans that come before us tonight, and those that come before us in future months will contain more and more elements of the new federal and state rules required for construction plans. The new rules are based on new concepts, some of which are proven, some of which are not, so we're all learning as we go. We ask for your patience. I want to stress again that this Drainage Board, the County Surveyor, as well as the County Commissioners, the County Engineer are all working together with both private and public partners in this endeavor to stay focused on implementing an overall storm water pollution control

program that will maximize benefits associated with newly mandated rules, while minimizing any excessive regulation that might impose unnecessary hardships on individual property owners, or have an adverse effect on economic development. So, we all know Americans don't like to be told what to do, especially regarding their private property. At the same time, Americans don't like to be told that we can't accomplish goals that benefit all of us as a community. Another thing for sure, Americans don't like interference with Monday night football, so let's move on to the drainage plan review.

Overview of Drainage Plan Review

Bill Jeffers: After a brief, how this works, after a brief presentation of each drainage plan, the County Surveyor will make a recommendation to the board regarding the plan's merit in accordance with the requirements of the county's storm water control ordinance. Then the Drainage Board will invite you, the public, to comment as remonstrators to the plan, if you wish. A follow up by the design engineer, the developer representing the plan comes after your comment, public comments. All your comments should be storm water specific. Traffic, density and other non drainage issues are discussed at the Area Plan Commission the first Wednesday of each month at 6:00 p.m. If the plan is a preliminary plan tonight, it will return to a subsequent drainage board meeting with revisions and final details that should address all the concerns that you, the public, raise at this preliminary hearing. If the plan happens to be a final drainage plan, the County Surveyor may recommend, when needed, some additional details of erosion or sediment control to be added to the construction plans that are subsequently issued for bidding by the private developer. In other words, if tonight we happen to discover some items of erosion and sediment control, because we're new to this, this has just been handed over to the Commissioners, and to the County Engineer, some details may need to be added. These construction plans with these added details generally come back to the County Commissioners in a week or two after the County Engineer reviews them and recommends their approval. So, there is ample opportunity for all interested parties, public and private, to make their concerns known, and to ensure that final construction plans, approved by the County Commissioners, contain sufficient detail to protect your interest.

Dawnridge Subdivision: Hogue Road and Boehne Camp Road Preliminary Drainage Plan

Bill Jeffers: So, our first one is Dawnridge Subdivision. It's located on Hogue Road and Boehne Camp Road, and I believe it's next to, what's the name of the school there?

Unidentified: Perry Heights.

Bill Jeffers: Perry Heights school, thank you. Dawnridge is a preliminary plan, which means that it will undergo additional scrutiny. We're asking for public comment if there are legitimate concerns. This particular plan, as I said some of this is new to us, this erosion control. What the state government, the Indiana Department of Environmental Management, and the Department of Natural Resources really wants us to do is minimize disturbance of the existing soil with it's cover of trees and so forth. As you know this site has a large, wooded area. Normally, we would go in there and rip out a lot of the woods, because our ordinance requires storm water detention. That usually results in the destruction of natural habitat just to satisfy this

storm water detention requirement. It does work, but it results in a lot of destruction of natural habitat in a forest or a woods. It can cause a lot of runoff of silt that has to be controlled. Under the new suggested methods, we have come up with a plan that has been designed by Morley and Associates to leave the wooded area remaining, set it aside as a conservation type easement, a woods easement, and to use it to run the storm water off the lots and the streets through the natural habitat, so that the trees and the natural forest litter absorbs and strains out the impurities and so forth, and the water leaving the site should be as clean after construction as what you experience today. The comments that we got from residents, and the things we noticed when we were reviewing the plans, is that some of the ditches along side Boehne Camp Road, and some of the ditches along side Dogwood Lane, need to be widened a little bit to handle any additional runoff that would come off those front yards and driveways, and not allow that water to jump over the surface and run to the south side of Dogwood and down in through someone's front yard or driveway. So, that is addressed in this plan. The rest of this water will be, all that water plus the rest of the water from the new houses and streets will be conveyed back into the woods and what we call a level spreader. You just take a long thing along a contour line, and you dig an area, just a small, shallow area out to guide the water out and spread it out before it spills over and runs down through the natural woods. Then when it leaves that site, it should be nice and clear and free of any sediment that would adversely affect the neighboring properties. So, having said that, like I said, the County Surveyor will make a recommendation to approve the preliminary plan for Dawnridge Subdivision based on the fact that it did conform to the requirements for the county storm water drainage ordinance for a preliminary plan. Then ask for any public comment from adjacent landowners regarding their concerns. Following your comments, the design engineer may respond directly to your comments. Then I suggest you all meet with him, call him in the next 30 days, and ensure that your concerns are addressed in his final plan, which should come back to us at the end of October. So, if you could come to the mike and give us your name and address so that Mrs. or Ms. Grayson can record it accurately for the minutes, we'll be happy to hear from you at this time.

Larry Ziegler: Larry Ziegler, 5710 Dogwood Drive. I understand what you're saying, and am very pleased to hear that you are looking at the ditch on Dogwood Drive, because I don't know what the plan is or what they're doing with the property as far as leveling it, because there's an angle of land that runs very steeply and it's all going to run, if you look at it right now, it pretty well is all going to run toward Dogwood Drive. Which, right now, there's my neighbor....I don't have as much problem as he does, but it comes out of the corner of that field and goes right across the road to his house, in a big rain. So, it really needs to be dealt with. I was talking to Dennis, talking to him about the road. The easement of the road is...the road is on, the one that is on the south side of the easement, and there's like, it's another distance, 20' to the property line and we was wondering, talking to him, if he could come out and look at it and see if we couldn't move the ditch to the property line of where the property is going to be. To see if that would give us more buffer of keeping the water from coming over the road. Down the road, the road is off center, so it's a single lane road down at the bottom. The way it is right now, whenever the rain comes, why there is a very large amount that goes down and can't get under the road to get to the other side. So, there's a problem of which Mr. Tison is here to talk about that part of it too. But, we don't know, we've not seen anything drawn out or anything, so we don't even know what we're...we just had a picture of the 23 pieces of property that they're going to put in there with houses on them. You know, we've not had a—

Bill Jeffers: I have an extra copy if you would like to share it with your neighbors. Ron London is the design engineer. The fella sitting second seat from the end in the back.

Larry Ziegler: We were here at the last meeting, and we talked to a couple of people and they were going to get us a copy, or have someone contact us. So, we never did receive that.

Bill Jeffers: He's expanded the 15' right-of-way that exists now to a 25' on his side of the road. That would give ample room to widen the road, whether the county did it or whether the county required the developer to do it. Dennis is a good person to start with, and John Stoll is another person that you should express your concerns to. But, initially, I think you should work with Ron London, and have him explain the details that are....right now they are currently working on construction plans that will come back to the County Commissioners, and he probably has even more information than I would on that aspect of it.

Larry Ziegler: Okay.

Bill Jeffers: If you would like to share this...the one's they send out are reduced copies, and sometimes hard to read.

Larry Ziegler: That's all I have. Thank you.

Jim Goelzhauser: Good evening. My name is Jim Goelzhauser. I live directly next door to this new proposed subdivision. What I'm concerned about, can I show you a couple of pictures here, if you don't care. You can start at one end—

Bill Jeffers: If you present pictures, do you have copies? Because we keep all pictures.

Jim Goelzhauser: You can have them, if you like.

Bill Jeffers: Okay, if you don't mind.

Jim Goelzhauser: This is Perry Heights school (Inaudible. Away from mike.) My property starts from all angles—

Madelyn Grayson: Mr. Goelzhauser?

Jim Goelzhauser: (Inaudible. Not at mike.)

Bill Jeffers: Right.

Jim Goelzhauser: So, that's—

President Fanello: Can you please speak into the mikes, because we're recording. It doesn't—

Jim Goelzhauser: Yes, I'm sorry. If you look at the pictures, I'm at the...my property starts at the bottom of the hill. Perry Heights school is in the background. When it rains now, water just comes down the hill tremendously, and it's going to cause, it's a lot of problems now. Now, if you're going to have eight new homes, or if there's going to be 22 homes, but if you're going to have eight, I feel it's going to affect our

area. You've got eight, the water is going to run off these homes, and it's going to come down through the fields. Now, I talked to these guys, Morley and Associates, he said they want to plant grass there. I don't know if that's going to work. Now, he's going to come up with something, but the guy that owns the property, I've had to turn him in I don't know how many times over the last two years for not even cutting the weeds back there. He won't even do that. Then I have to threaten, you know, then he'll finally cut them. He's got a renter that lives in this trashy house right now, and he thinks the house is great. So, I mean, what we're concerned about is, if you've got all these weeds now, why is he going to plant grass? I mean, he hasn't spent five cents on that property in the last two years, and it's, I don't know, have you seen it?

Bill Jeffers: Yes, sir. I know what you're talking about. As an agricultural piece of ground, generally, it's most ground like that is maintained as poor pasture. But, in order to sell a residential piece of property, it's usually standard practice to plant lawn grasses and develop a dense turf, which does absorb substantially more water as it runs across the surface. I doubt seriously that a good business person would attempt to sell rough pasture when they can...I would think they could get a lot more return out of a well maintained, handsome lawn with a house on it.

Jim Goelzhauser: Well, that's a good argument, sir, but if you look at the house, he tells me he's going to sell it to that renter. He's got a pick up truck out there now that doesn't have a license plate on it. It was loaded with garbage. It was jacked up all winter, and there was spare tire out there, and I had to get on him...I know this has nothing to do with drainage, but I'm telling you this is the kind of guy—

Bill Jeffers: It doesn't, and I would cut those comments short by simply and politely telling you that in Vanderburgh County if an unlicensed vehicle is within site of a county right-of-way for 20 days or longer, you can turn that in to have it towed. They will red tag it, and hopefully they will follow through with their code enforcement on that.

Jim Goelzhauser: Okay.

Bill Jeffers: I mean, and I would agree with you that things like that could be offensive.

Jim Goelzhauser: Yeah. That's what I'm trying to say in the whole ball of wax here. He's going to build 22 homes, why is he going to have this trashy house here? I mean, who wants to build a new home next to this trashy house? I talked to him about it, and he seems to think it looks nice. Which I understand why, because I went and looked at his house, and his house looks just about like that one. I'm sorry to say it, but that's just the way it is. I've got pictures of that house if you would like to see it. I mean, the garage, I'm sorry, the garage is just a dirt floor, it hasn't been painted in 20 or 30 years. Yet, he wants to build a subdivision here, and I don't understand. I mean, and he just shrugs it off when I tell him. Then he says, he told the neighbor, he rents it out to this guy, and he says that he's thinking about, this developer is going to sell it to him. So, it's going to be continued to the same thing again. I mean, he's got the junk truck...I don't understand. I mean, if I was going to build a subdivision, that's the first thing I would do, I would either tear that house down....everybody, all the neighbors are asking why don't he tear the house down? They can't figure out why. So, that's what I'm concerned about.

Bill Jeffers: I would agree with you on that, and maybe he needs some education on marketing, but the increased flow from that area, under the new plan, will be reduced by three cubic feet per second. The increased flow from the other area of concern will only be increased by four cubic feet per second, and that's where we're requiring the level spreader, that's just a technical term, to slow it down, spread it out, and have the natural woods to absorb it.

Jim Goelzhauser: Uh-huh.

Bill Jeffers: So, as far as drainage from this area, if he follows his plan, we feel it will be sufficient to protect the neighbors.

Jim Goelzhauser: Okay, now what if he doesn't follow it...I mean, like for instance the Home Depot, that was a disaster from the water runoff there. What if he does not? I mean, like I said, I haven't seen this guy spend five cents on the outside of his property. If he says he's going to plant grass, and he's going to do all this, I mean, can you make him? Or how does that work?

Bill Jeffers: He has a letter of credit he has to file that represents the total cost of implementing the plan; the streets, the drainage plan, etcetera. He cannot retrieve that letter of credit, it acts as a guarantee, that he will perform all the work. If, during the construction, you have an adverse effect that actually comes down and negatively impacts your property, you should immediately call the County Surveyor or the County Engineer and have a technician come out and document it. If he continues to violate the ordinance, he's subject to progressively higher fines. If he violates it three times or more, he can have a stop work order issued that will shut him down.

Jim Goelzhauser: Okay, I have one other quick question. I've been out there almost forty years, we all have nice homes out there. We're on a septic system, he's been there two years and he's going to have sewers put in. I'm trying to get on, I live right next door, I can't get on the sewer. They keep saying it's too deep, and they've got to dig deeper, and so forth. It just seems like I live right next door, and I can't get on. They say I'll never be able to get on.

Bill Jeffers: Some developers are more willing than others to work with the neighbors to provide extensions of sanitary sewers. I would say probably the less agitated he feels the more prone he might be to work more closely with the neighbors for sewer extensions. That's just been my observation, I don't know if it will pan out for you.

Jim Goelzhauser: I don't think it will. I know this guy.

Bill Jeffers: I wish you well.

Jim Goelzhauser: Thank you. Okay, thank you very much for your time. I appreciate it.

Bill Jeffers: Yes, sir.

President Fanello: Is there anyone else who would like to speak?

Tom Tison: Tom Tison, 5506 Dogwood Drive. My only comment is that Dogwood Drive is a one lane county road that was once chat, and the county took over some years ago. To put a larger ditch on the north side of it is possibly a hazard to traffic,

because there is going to be more water going down that side of the road. During the winter it's just one lane wide now, so if you go off the side you're going to be in the ditch. So, my concern is I live down hill from these folks is the ditch and the water coming over the side of the road. So, that's my concern and I thank you for the time. For the record, it's Dogwood Drive, not Dogwood Lane. Thank you.

Bill Jeffers: There are two people sitting here who are on the Area Plan Commission; Commissioner Crouch and myself. We do consider commitments from the developer, and I would encourage you to encourage the developer's representative, Mr. Ron London, to look into a commitment to provide turn lanes and so forth. If it's found to be justified by an engineering study, those issues are handled at Area Plan Commission as a use and development commitment is what it's called.

Tom Tison: Right, that's why I kept my concerns to the ditch. I appreciate your comment.

Bill Jeffers: Right. There is the opportunity to work towards road widening, either with county monies or with the developer's monies.

Tom Tison: That's fine. Thank you.

Bill Jeffers: Yes, sir.

President Fanello: Anyone else?

Bill Jeffers: Again, at this time the County Surveyor recommends approval of a preliminary plan, and suggests that anyone with continued concerns call Ron London at Jim Morley's office, 464-9585, express them to him. 464-9585, and see that your concerns are adequately addressed in the final plan.

Commissioner Mosby: Motion to approve on preliminary.

Commissioner Crouch: Second. You can also call me if you have any concerns. It's 867-6964.

President Fanello: A motion and a second on preliminary. So ordered.

Bill Jeffers: You all are welcome to stay, we're going to go on to some other plans at this time.

<p>East Pointe Business Park, Section Three Morgan Avenue and I-164: Final Drainage Plan</p>
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Bill Jeffers: The second one is East Pointe Business Park, Section Three. This is a continuation of the development by Working Beverage on Morgan Avenue and I-164. This is a final drainage plan. It's quite extensive. There are some items of erosion and sediment control that need to be added. I have seen those items today that are being added, and continue to be added to the construction plans that were being presented to the County Engineer, and confident that the final plans for roads will contain those erosion and sediment control items that bring it completely up to speed. In as far as the drainage plan, it meets the requirements of the existing drainage code, and the County Surveyor recommends approval.

President Mosby: Is there any remonstrators? Motion to approve East Park, East Pointe Business on final with amendments.

Commissioner Crouch: Second.

President Fanello: So ordered.

**YMCA of Southwestern Indiana: 6846 Oak Grove Road
Final Drainage Plan**

Bill Jeffers: The next drainage plan is YMCA of Southwestern Indiana. It's located in Burkhardt Crossing, 6846 Oak Grove Road, next to Lowe's. The design engineer is Veazy, Parrot, Durkin and Shoulders. This has been to site review twice. It represents a very creative use and lots of green space next to Lowe's parking lot, which is a welcome relief to many people. The County Surveyor recommends approval of the final drainage plan for YMCA of Southwestern Indiana, 6846 Oak Grove Road.

Commissioner Mosby: Any remonstrators?

President Fanello: Is there anyone wishing to speak to this one?

Commissioner Mosby: Motion to approve YMCA.

Commissioner Crouch: Second.

President Fanello: So ordered.

**Tri-State Orthopaedic Surgeons: 225 Crosslake Drive
Final Drainage Plan**

Bill Jeffers: Your next item, that was a final plan, I'm sorry. The next item is also a final plan, Tri-State Orthopaedic Surgeons, 225 Crosslake Drive. This is next to the Ford dealership way out near I-164, behind Steak 'n Shake. It's a final plan. It represents a plan that conforms with the Vanderburgh County Drainage Ordinance, and the County Surveyor recommends approval.

President Fanello: Anyone wishing to speak?

Commissioner Mosby: Motion to approve Tri-State Orthopaedic Surgeons.

Commissioner Crouch: Second.

President Fanello: So ordered.

**Northfield Shopping Center: U.S. 41 at Boonville-New Harmony Road
Modified Final Drainage Plan**

Bill Jeffers: The next item is Northfield Shopping Center. It's on U.S. 41 at Boonville-New Harmony Road. What it is, is a modified final drainage plan. The modifications basically consist of the removal, not the removal, the non-installation of a number of pipes and drainage inlets to let the existing grass swales that go through this grassy

area remain vegetate swales, thereby helping to filter out impurities that runoff the Buehler's grocery store parking lot out by the 4-H Center. That's not to say that Buehler's has any different conditions than any other parking lot, it's simply that the grass cover in the swale does strain out more automotive fluids than a pipe would. So, the County Surveyor recommends approval of the Northfield Shopping Center final modified drainage plan as submitted.

President Fanello: Anyone wishing to speak?

Commissioner Mosby: Motion to approve revision of Northfield Shopping Center.

Commissioner Crouch: Second.

President Fanello: So ordered.

**Lot 18, Wynnfield Subdivision
Modified Final Drainage Plan**

Bill Jeffers: The next item for your approval is Lot 18, Wynnfield Sub. Also a revised, final drainage plan. Some errors in the installation of the storm water pipe resulting in the storm water pipe being located outside the easement. What you're being asked to approve tonight is the relocation and reinstallation of the mistakenly placed pipe back into the easement, so that all portions of the drainage system will be within the designated easement for this pipe. It also establishes one new drop inlet, in order that the pipe be installed correctly. All that your being asked to do tonight is to approve the linear reinstallation of storm water pipe, and storm water inlets, and to approve moving the easement one foot south. That's already been recorded by the legal representative for the developer. That's to move this easement one foot away from the house foundation so that the pipe is sufficiently separated from the house foundation for future maintenance and repair. You're not being asked to approve any other facet of the project, other than the modifications of the drainage pipe by the installation of one additional inlet, and moving the easement one foot south. The County Surveyor recommends approval of this modification.

President Fanello: Anyone wishing to speak?

Commissioner Mosby: Motion to approve modification revision for Lot 18 of Wynnfield Sub.

Commissioner Crouch: Second.

President Fanello: So ordered.

Heartland Crossing, Section One: Final Drainage Plan

Bill Jeffers: The last drainage plan, which I inadvertently did not include on the agenda printed Friday, is Heartland Crossing, Section One. It came before you a month or so ago as a preliminary plan. This is the one that sets aside some stream bank protective zone, and uses some of the new concepts. Again, same comments as East Park Business Park, there are some additional erosion and sediment control details that due to the recent changes in your assignment of authority to the County Engineer, we would like to see simply some updated and concise depictions of the erosion control details that your technician from that department will be working with

the developer on compliance. These will put, again same as East Pointe Business Park, they will be put on the final construction plans that come to you, commonly called road plans. In all other aspects the Heartland Crossing, Section One final drainage plan conforms to the existing storm water control ordinance for our county. The County Surveyor recommends approval.

Commissioner Mosby: Motion to approve Heartland Crossing, Section One.

Commissioner Crouch: Second.

President Fanello: So ordered.

Ditch Maintenance Claims

Bill Jeffers: I have an envelope full of ditch maintenance claims. The only stand out is that we recently completed two large erosion control projects and bank stabilization projects, one on Barr Creek and one on Rexing Creek. The farmers adjacent to those projects have expressed their extreme delight in the resulting project that was designed by our Chief Deputy Surveyor, who is a veteran engineer. He used some modern techniques. We heard both sites had over 2" of rainfall last night, and they were checked this morning and remain stable. The farmers are absolutely delighted with them. All the necessary paperwork is attached to those claims. The County Surveyor recommends that you approve them.

Commissioner Mosby: Motion to approve ditch maintenance claims.

Commissioner Crouch: Second.

President Fanello: So ordered.

Drainage Easement Encroachment Agreements: Delta Properties LLC & Skeletal Properties LLC

Bill Jeffers: I have some drainage easement encroachment agreements. They are standard agreements approved by, with regard to content, by your attorney. Or they are on the forms that are approved by your attorney. I sincerely hope they are all filled out in black ink to satisfy the Recorder. I do not have, Madelyn, a check for the one from Delta Properties LLC, which is Lot One, Vogel Plaza Subdivision. Do you have a check for that?

Madelyn Grayson: No.

Bill Jeffers: I would recommend that you approve the drainage encroachment agreement and instruct your Recording Secretary, Madelyn Grayson, to hold it until she receives the appropriate check for it's recording.

Commissioner Mosby: Make a motion to accept and hold on the recommendation of the Surveyor until he receives the check.

Commissioner Crouch: Second.

Bill Jeffers: Okay, the second encroachment agreement is another parking lot, that by necessity had to slightly encroach the agreement to reach the required number of parking spaces. Same as the one you just approved. It appears to be filled out correctly in black ink. It has the required attached exhibits. For some reason, instead of Madelyn getting the recording check, I got it, for \$17.

Madelyn Grayson: I hope you got the encroachment agreement too, because I didn't get that.

Bill Jeffers: They sent it to the wrong office. Sorry, this should have gone to Madelyn before it came to me. However, it appears to be in order, and I would ask that you sign and approve this encroachment agreement as well.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Petitions for Removal of Obstructions

Bill Jeffers: I don't believe there are any petitions to receive at this time.

Reports: Storm Water Control Ordinance Committee

Bill Jeffers: The only report I would have is to sincerely congratulate the Commissioners on the adoption of the amended erosion control ordinance, and to tell you that the committee that you appointed will diligently pursue doing the same thing with the storm water control ordinance. We have received comments from two legal authorities that serve on that committee, I guess, in my words encouraging of indicating that we might want to incorporate amendments into the existing ordinance, rather than apply a whole new layer of bureaucratic control over type of existing controls. Some of the suggested language appears to create a new committee that would have to meet with a quorum, take votes, and act as kind of a mini Area Plan Commission. I don't think that's what we really wanted. So, we may be doing the same thing that you guys were so successful at doing, and attempt to incorporate only that, only those regulations that are required by state law into our existing ordinance. So, we may have to drop back for a month and punt, but I hope by the end of the year we're able to accomplish the same feat that you were with the erosion control ordinance. I have no further comment on that until we get busted on it.

Correspondence

Bill Jeffers: Correspondence, I have none.

Other Persons Wishing to Address the Board

Bill Jeffers: Other persons wishing to address the board may do so at this time.

President Fanello: Are you sure? Bill, looks like he wants to say something.

Bill Pedtke: Who's playing tonight?

Commissioner Mosby: Oakland and Denver.

Bill Jeffers: Comments and questions from the board, if any.

Commissioner Mosby: Motion to adjourn.

Bill Pedtke: What's the score?

Commissioner Mosby: I don't know. It ain't started yet, give us time.

Commissioner Crouch: Second.

President Fanello: So ordered.

(The meeting was adjourned at 7:20 p.m.)

Those in Attendance:

Catherine Fanello	David W. Mosby	Suzanne M. Crouch
Bill Jeffers	Kevin Winternheimer	Madelyn Grayson
Larry Ziegler	Jim Goelzhauser	Tom Tison
Bill Pedtke	Others Unidentified	Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
OCTOBER 27, 2003**

The Vanderburgh County Drainage Board met in session this 27th day of October, 2003 at 6:06 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Drainage Board for October 27, 2003.

Approve September 22, 2003 Minutes

President Fanello: Approve minutes of previous meeting, do I have approval?

Commissioner Mosby: So moved.

Commissioner Crouch: Second.

President Fanello: So ordered. I was going to go all those in favor.

**Old Business: Receive Report Regarding Construction
Site Run-Off Control Ordinance**

President Fanello: Old business, Mr. Jeffers.

Bill Jeffers: Okay, receive a report regarding construction site run-off ordinance. This is the ordinance that you, the Drainage Board, appointed a ten or 12 member committee to assist the County Surveyor producing ordinance language for the Rule 13 construction site run-off control ordinance. This is not a drainage ordinance. This will not replace the existing storm water drainage control ordinance. This does not necessarily replace the existing erosion and sediment control ordinance that the Commissioners recently amended. This is simply an erosion and sediment control ordinance with a lot of new bells and whistles to satisfy federal and state environmental rules regarding the potential for polluted discharge, specifically from construction site activity. After the Commissioners adopt the ordinance, IDEM must approve the ordinance language. IDEM and the Department of Natural Resources also will take a really close look at Vanderburgh County's existing qualifications to run a local program before they will approve it. IDEM published a guidance manual to help the county prove it's qualifications, and to document it's credentials to run a program. The ordinance is not in it's final form at this time, however, it's very close. Thanks to the hard work of the committee that you appointed. At this time I would like to simply distribute the text of the ordinance as it came out of the last committee meeting, Monday a week ago. So that you have time to read it before, because I don't anticipate any grand changes. I don't anticipate anything but some very minor language adjustments, possibly at the suggestion of the County Attorney or one of the other attorneys on your committee. So, I'll distribute this at this time so that you have the opportunity to read it. If you find something in there that concerns you, please pass it on to the appropriate committee member to have those changes made in the next couple of weeks, because we really should try to adopt this ordinance before the end of the year. It is on-line at the County Surveyor's website, www.vanderburghsurveyor.com, in the right hand blue margin under what's new. Anyone who would like to can read the exact same copy I just distributed. As I said

, after you adopt this in it's very final form, after your readings, IDEM, Indiana Department of Environmental Management, and Indiana Department of Natural Resources will most likely come down here and interview your MS4 operator, the County, the lucky County Engineer, John Stoll, and see what kind of qualifications he and his staff have to run the program. Like I said, the Indiana Department of Environmental Management published a Rule 13 workbook that has all the suggested management practices that the local entity should employ in that program, and gives you some measurable goals to attain, and that's what they will be looking at. So, what I did, I took the liberty of producing another 20 page document that shows, in my opinion, that the County Engineer, by himself with his own staff that he already has, and with, if he likes with some auxiliary or supplemental help from the County Surveyor's office—

John Stoll: We would like.

Bill Jeffers: —we have the existing personnel, with the existing credentials to do this program without any help from the state or anyone else. That would be to our best advantage, because then we could immediately begin to manage the program, and we would, it would mesh in...and I show how it will mesh in with the existing plan review that's done by Area Plan Commission, Site Review, Sub Review, Building Commissioners and so forth. Everything meshes together. So if someone submits a plan down here at the Civic Center, they can submit this plan at the same time, this new erosion control construction plan they have to submit under this ordinance, which is only what is required by Rule Five, and it will be distributed to the appropriate people, and those people that I name, I show how they're qualified to do the work that IDEM requires be done. So, this is, kind of disregard that other workbook I gave you, because that was me trying to tear apart Rule Five and put it back together in an ordinance form. I just wasn't able to do it without that workbook. I would save that for a snowbound day. This one here actually tells you....very snowbound. This document here does tell you exactly how your County Engineer and his staff, along with some help from other agencies can accomplish this program without any further ado. The reason I brought this to you tonight is simply because I think you need time to digest it, and then we will be coming to the Commissioners and asking your, the Commissioners, permission to forward it to IDEM. Before I would forward this to IDEM, I think you and the County Engineer should read it, to make sure that I haven't indicated any commitments on someone else's part, like John's, something that he might not be able to accomplish in the year...they tell you what year you're going to accomplish these things in. Make sure that I haven't over committed John with his current workload. So, before we send this to IDEM, you really need to take a look at it. John might even want your consultant, Clark Dietz, to take a look at it.

The Arbors at Eastland: Final Drainage Plan

Bill Jeffers: Under drainage plans, the Arbors at Eastland is an apartment project located south of Boonville Highway, west of I-164. It is a final drainage plan for an apartment project, and it does include an erosion control plan. The County Surveyor's recommendation is to approve the final plan for Arbors at Eastland.

President Fanello: Do I have a motion?

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Ameriquel Foods, Inc: Final Drainage Plan

Bill Jeffers: The second drainage plan is Ameriquel Foods Incorporated. It is simply a plant expansion, they are adding on some new production area and some parking lot area. They've provided a new basin that meets the 10/100 detention requirements, in conjunction with other facilities they already have. It was designed by Morley and Associates. It's on U.S. 41 north of Volkmann Road. It is a final drainage plan, and it does include erosion control details sufficient for a small site. The County Surveyor's recommendation is to approve the final plan for Ameriquel Food Incorporated plant expansion, Morley project number 5664-3B.

Commissioner Mosby: Motion to approve Ameriquel.

Commissioner Crouch: Second.

President Fanello: So ordered.

Daylight Industrial Park: Revised Final Drainage Plan

Bill Jeffers: Your next drainage plan is Daylight Industrial Park, Boonville-New Harmony Road at Green River Road. It's an existing subdivision. This is a revised final drainage plan for the detention basin design. The project is operating under a currently approved erosion control plan for the entire site. This is simply a plan to modify the original plan with regard to some side slopes and rip rap protection at the pool elevation. The County Surveyor's recommendation is to approve these revisions.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Ditch Maintenance Claims

Bill Jeffers: We have some ditch maintenance claims that have the appropriate attached paperwork with them indicating that they are all complete in accordance with the specifications. They have been inspected, and signed by the appropriate individuals, and the Surveyor recommends the payment of these ditch maintenance claims for work completed in 2003.

Commissioner Mosby: Motion to pay ditch claims.

Commissioner Crouch: Second.

President Fanello: So ordered.

**Encroachment/Relaxation Requests/Agreements
Petitions for Removal of Obstructions**

Bill Jeffers: I haven't had any indication that we have any encroachment/relaxation requests or other agreements, petitions–

Other Persons Wishing to Address the Board

Bill Jeffers: –and other than other persons wishing to address the board, or if there may be comments or questions from the board, the County Surveyor is finished with his portion.

Commissioner Mosby: I don't see anybody wanting to address the board.

Bill Jeffers: Or dress the board down?

Commissioner Mosby: Motion to adjourn.

Commissioner Crouch: Second.

President Fanello: So ordered.

(The meeting was adjourned at 6:17 p.m.)

Those in Attendance:

Catherine Fanello
Bill Jeffers
John Stoll

David W. Mosby
Kevin Winternheimer
Others Unidentified

Suzanne M. Crouch
Madelyn Grayson
Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
NOVEMBER 24, 2003**

The Vanderburgh County Drainage Board met in session this 24th day of November, 2003 at 6:22 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Call to Order

President Fanello: Call to order Vanderburgh County Drainage Board meeting, November 24th.

Approval of October 27, 2003 Drainage Board Minutes

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

Commissioner Mosby: So moved.

Commissioner Crouch: Second.

President Fanello: So ordered.

Receive Update on Jones Order to Remove Obstruction

President Fanello: Old business, we'll turn it over to the County Surveyor, Mr. Jeffers.

Bill Jeffers: Update on the Jones order to remove an obstruction. This was on St. Joe Avenue at Sheridan Drive. We removed it Saturday with an excavator and restored the ditch line. I'll forward a billing, or the amount of the billing to the County Attorney for collection at a later date, and report to you on that next month, the forwarding of the bill. Anyway, it's accomplished, and the end of that report.

Country View Subdivision: Kansas Road west of S.R. 57: Preliminary

Bill Jeffers: Under drainage plans, we have a new subdivision called Country View Subdivision. It's located on Kansas Road west of State Road 57. This is a preliminary plan. For those in the audience who are going to speak to it, against it, for it, a preliminary plan has certain requirements for content, which this plan meets. After it leaves this hearing, if it is approved, it goes to Area Plan Commission for a full hearing on the primary plat. Then within a month or so it will return to this board for a hearing of it's final drainage plan. Of course, the final drainage plan contains a much greater amount of detail, in as far as it's a construction plan that shows exactly how it will be completed in phases. The preliminary plan is a workable plan that doesn't necessarily reflect all the exact details that a final plan will reflect. That gives the persons who are concerned about the plan 30 days or more to work with the developer and his consulting engineers, James E. Morley, to work out any concerns that they may have with regard to drainage. We would like for everyone to keep their comments to drainage in this hearing. The Area Plan Commission will hear other issues such as density, traffic, etcetera. We're only concerned with drainage, erosion control, and sediment control in the Drainage Board. If we could, I would like for the developer or his engineer to present the plan. Then we'll hear

from those persons in the audience who have comment on the plan. Then you'll hear the Surveyor's technical recommendation to the board.

Jim Morley, Jr.: Jim Morley, Jr. of Morley and Associates, project engineer. The project we've submitted is in compliance with the preliminary drainage ordinance. The drainage facilities, or the storm water retention facilities we have, far exceed the requirements that the county ordinance has. In essence, what we've ended up doing is setting up a drainage basin for an entire watershed, not just our subdivision, but for an entire watershed about two to three times the size of our project. So, we offer roughly five times the storage required for our project, and about 50% again the storage required for a much larger watershed. So, we don't anticipate any problems when it comes to drainage. There is plenty of storage in the facility. All the rest of the storm sewer system will consist of pipes and swales appropriately sized to convey all of that water to the storm water retention basin.

President Fanello: Are there any questions? Are there any individuals in the audience wishing to address the Country View Subdivision drainage plan?

Bill Reinhart: You know—

President Fanello: Please come to the mike, and state your name and your address.

Bill Reinhart: Bill Reinhart, 2515 Viehe Drive. He was explaining it out there and it sounds pretty good, but I don't know if the Drainage Board can actually make this, but we want to make sure that at the back of the Viehe subdivision, off of Viehe Drive, there's a swale in there that's going to carry this water. Can we be guaranteed that that's not going to flood into our yards eventually? I mean, I don't know how this all works, but we just want to make sure. I think the way it was explained that it is, but is there anyway that we can get a guarantee that it's not going to? I don't know.

Bill Jeffers: We can tell you that the plan that Mr. Morley is designing is required to carry the entire flow of the water arriving at his subdivision, that arrives to the boundaries of his subdivision, he is required to carry the 25 year volume, through the drainage facility, without causing flooding outside the channels that that flow is in. He's required to carry the 50 year storm flow through the easements without flooding outside the easement lines. It may come out of the bank, but it won't go outside the easement lines. Then the 100 year flow is required to not inundate an existing or future dwelling structure, garage, etcetera. So, if you have a condition in Viehe subdivision where you have experienced flooding during any one of those storm events, you most likely will still experience some flooding during a similar storm event. We can't guarantee—

Bill Reinhart: But there shouldn't be water coming off that?

Bill Jeffers: There shouldn't be any additional water from his subdivision backing up onto you.

Bill Reinhart: Okay.

Bill Jeffers: His lake is oversized, I don't anticipate...I actually anticipate that it will be a better situation, but I can't guarantee no flooding whatsoever, because I believe there's some flooding that occurs out there naturally.

Bill Reinhart: Okay. Thanks.

Bill Jeffers: Yes, sir.

William Deppen: I'm William Deppen, 2441 Southeast Browning Road. The proposed project backs up to our back end of our lot. Of course, he sent us this map, but I defy anyone to read it. In the registered mail. I can't find a heavy enough magnifying glass to read it. So, I have a couple of questions. First, where does the drainage start in relationship to our property? There's an old road bed in back of us, that at one time, of course, was a road to Petersburg. Now, is that going to be disturbed? Or are we going to stay on the other side of the big trees on the other side of the bed?

Bill Jeffers: Mr. Deppen, he will not disturb any ground outside of his property.

William Deppen: Well, I guess, I would like to know where his property is?

Bill Jeffers: His property is apparently adjacent to yours, and shares a property line. He will not cross your property line with any land disturbing activities?

William Deppen: Okay, now my property line, now do I have a 15' easement in back of my property?

Bill Jeffers: Only if it's platted on your property. Is there an easement platted on your property?

William Deppen: There is on the sides, and I haven't looked at it on the back. But, as I said, there is an old road bed—

Bill Jeffers: He will not be using the easement inside your property lines. He will have his own easements dedicated inside his project line for drainage.

William Deppen: When will we know where that is going to be?

Bill Jeffers: I have an extra set of plans, and with his permission I would show them to you now.

William Deppen: I would appreciate it, because with this I can't tell a thing.

Bill Jeffers: Right, that's simply a notification to let you know we're having this meeting, and to send out a full set of plans would be economically unfeasible. However, I will give you my extra set of plans, and you may take and show them to, or you can look at them yourself or show them to your neighbors.

William Deppen: Okay.

Bill Jeffers: All the land disturbing activity will occur inside of this platted area. I'll mark, is your name...how do you spell your name, sir?

William Deppen: D-e-p-p-e-n. Deppen.

Bill Jeffers: I have troubling reading the big map. Do you know where that is, Jim? Which lot is his?

Jim Morley, Jr.: I can address a couple of those for you if you want.

Bill Jeffers: Okay, why don't you take this and show him where he is on this plat. He has a Petersburg Road address, and then he can keep this plat.

William Deppen: (Inaudible. Not at mike.)

Bill Jeffers: Or a Browning Road address.

Jim Morley, Jr.: Do you want me to address one of his concerns at this time, or wait?

Bill Jeffers: That's fine, right now if you want to, Jim.

President Fanello: Yeah, you can go ahead.

Jim Morley, Jr.: The perimeter of this project is wrapped in rear yard swales. From the property line to the center of the swale is approximately 12'. So, the land disturbing activities, like Bill said, will be limited to our property only, and from your back property line to the center of the swale will be about 12'.

William Deppen: (Inaudible. Not at mike.)

Jim Morley, Jr.: To the center of the rear yard swale. The drainage swale on the back, to keep the water from leaving this site and coming on to the adjoiners.

William Deppen: In other words, you are going to use the old road bed (Inaudible)?

Jim Morley, Jr.: If the old road bed is within 12', then, I guess, it will be excavated out. I don't believe, if I remember right, I don't believe there is a platted right-of-way for the old road bed.

(Comments and discussion made away from microphone.)

Bill Jeffers: Is there anyone else who would like to address the board at this time while Mr. Morley is viewing the plat with Mr. Deppen?

President Fanello: I don't see any. Do you want me to go on to, or wait?

Bill Jeffers: Mr. Reinhart, do you all have anybody else that wants to talk?

Bill Reinhart: I don't think so.

Bill Jeffers: Okay. As I said, this is a preliminary drainage plan. The plan meets or exceeds the requirements for a preliminary drainage plan. We have been through the checklist with the developers engineer, and he has replied sufficiently for a preliminary drainage plan. I would ask that the neighbors contact Mr. Morley, Mr. Jim Morley, between now and 30 days from now. Any concerns you have, make sure he incorporates that into his final drainage plan, and we will have another meeting on December 22nd at about the same time. At that time we may consider the final drainage plan, if he has it ready. If not, it will be in January. The County Surveyor's recommendation is to approve the preliminary drainage plan for Country View Subdivision.

Commissioner Mosby: Motion to approve.

Commissioner Crouch: Second.

President Fanello: So ordered.

Ditch Maintenance Claims

Bill Jeffers: The next item is ditch maintenance claims. These are claims for work that's been completed in 2003. The projects have been inspected. The paperwork has been completed, and the County Surveyor has signed, recommending payment of these claims.

President Fanello: Do I have a motion to accept?

Commissioner Mosby: Motion to pay the claims.

Commissioner Crouch: Second.

President Fanello: So ordered.

Inland Marina: Continuing Maintenance of Eagle Slough by Dredging

Bill Jeffers: Next item is Inland Marina. We have a situation where Eagle Slough has passed through, and continues to pass through what used to be known as catfish pond. It's the entrance to the Ohio River. Inland Marina, this has historically maintained the channel of Eagle Slough by dredging through this entire portion from Waterworks Road through their marina basin into the outlet of the ditch where it enters the Ohio River since, I'm not sure of the exact date, but I know it's the mid or early 70's. I have researched the record, and found that when Eagle Slough was constructed in the mid 1970's, under Richard Nussemeier, County Surveyor, that the plans were completed via a registered civil engineer and land surveyor. That it went through the proper statutory bid process, and that the project was completed in accordance with the plans. At that time the levy board, the Vanderburgh City/County Levy Board, had some concerns about the north bank of Eagle Slough because of the sandy nature of the soil, and were apprehensive about the maintenance of the channel, so that it would be done in such a way that it would not cause the sandy soil to landslide down into the river and adversely affect the levy maintenance, and a protection of downtown Evansville. As a result, the levy authorities engineer and the Vanderburgh County Surveyor got together and decided that the maintenance of this channel would best be performed by dredging, and the only available professional and experienced dredging operation was being conducted by a company, I believe, was later known as, was it Crane Construction?

Ron Riecken: For a while.

Bill Jeffers: For a while it was Crane, then it became another company later. Mr. Ron Riecken is here representing that company, and the land holders. They have done this at no cost to the county at least 20 years, possibly 30 years. To my knowledge, I came on in 1981, they were doing it at that time. I've inspected this ditch every year since 1981. The work has been performed by this dredging operation. We do not have the where with all to maintain this portion of Eagle Slough from Waterworks Road to the mouth at Ohio valley. We have taken advantage of the good fortune that befell us by this company under the direction of Ron Riecken performing this work. It's basically been a gift. The state statute allows

an individual, or an entity, or a corporation to give a gift to the Drainage Board, either in services or in money, so long as those services and that money is used in the performance of maintenance of regulated drains, in the purpose of the chapter, 36-9-27. I feel that that's what this has been done in the spirit of. We are trying, at this time, to make it official. Here's Mr. Riecken, and, I believe, the president of the levy authority.

Ron Riecken: Jack Cunningham.

Bill Jeffers: Mr. Jack Cunningham who is also here.

Ron Riecken: And Ellen Crane from Crane Environmental is here, who helps us with our permits.

Bill Jeffers: Right. They brought me a document that had a legal description of what they call a lease area, a 50 year lease, on behalf of the levy authority, is that correct? And we have overlaid it, this is the original copy that my Chief Deputy Surveyor, who is a licensed land surveyor in the state of Indiana, overlaid the dashed, is it a red line? That is the 150' wide project area that was shown on the original plans for Eagle Slough reconstruction. Here's some copies in black and white. Here's one for you, Mr. Riecken. The legal description was a little sketchy, but it was sufficient. You can see what happened there is the person who wrote the legal description favored straight lines, as opposed to curved lines because they are easier to describe in a legal description. You can see that the lease area almost exactly matches the project area that was completed by Vanderburgh County back in the '70's. I'm going to let Mr. Riecken explain some of the technicalities of what we're trying to accomplish here, but I assure you that the County Surveyor, whether that County Surveyor was Mr. Nussemier, in the '70's, Mr. Brenner in the '80's and '90's, or myself at this time, have all benefitted from, as has the Vanderburgh County Drainage Board the on-going and perpetual maintenance of this strip of ground by Mr. Riecken and his associates.

Ron Riecken: Okay, I'm Ron Riecken, Inland Marina. We have every intention to continue to maintain this outfall channel the same way we have, as a gift. Our problem is, the actual legal drain is only 20' wide, in the old description. The Indiana DNR will not let us dredge in the spring, because the fish are spawning. Now, we've been doing this for 40 years, and there's more fish in this marina...the bass tournaments come to Inland Marina. "Orsanko" comes and shocks his fish for their aquarium, because we have got all species of fish in this marina. We haven't hurt any fish. We have been in court by telephone with the environmental court with DNR three times now. I tell them if we can't dredge the mouth of this marina in the spring after the river silts it closed all winter long, through all these high waters, then we'll be out of business. They say, we don't care about business, we care about the fish. Now, the Drainage Board doesn't need a permit to dredge a legal drain. So, the 20' down the middle we can continue to dredge without a permit, but that's not enough to drain all of this bottom land. The reason that this whole thing drains so well and there's no standing water is because it's actually 150' wide. So, what I would like to do, and actually this was the judge, the environmental judges suggestion. This gives them something to hang their hat on, if you all can make the legal drain, the legal description of the legal drain the full width of this piece of property that we lease from the county, then there's no permit required, they've got something to hang their hat on, and we can continue to maintain it just the way we have, at no charge to the county.

Bill Jeffers: Thank you, Mr. Riecken. Now, originally, when he's saying 20' wide, that was the bottom of the channel on the original drawings, because, at that time, much of this was dry land on either side of the drain. Then they raised the pool elevation of the Ohio River by, how many feet, Mr. Riecken?

Ron Riecken: A little over four feet.

Bill Jeffers: They raised the pool elevation by four feet when they built the new dams, and that inundated what previously was the dry side banks of this ditch, that was a shallow ditch. Now, you can't stabilize a side bank of a ditch at less than 3:1 side slopes. So, if it had been three feet deep, it would have been 20' wide at the bottom, but it would have been an additional 18' wide at the top. That's 38'. Now, I understand there's accumulation of up to 7' of silt, from time to time, annually, because of the huge amount of siltation that comes down the Ohio River and eddies back into here. So, you're talking about a situation to stabilize super saturated silt accumulation, under water constantly, 7' deep, would take probably 6:1 side slopes. So, that would add another 84' to the 20' bottom, that would be 100' wide. So, that would be 120 something feet wide, whatever, and it almost exactly matches the maintenance area that was originally contemplated at 150' wide as shown on the drawing I handed out. Had the person who set up the lease lines followed lines of curvature, rather than straight lines, it would have, I would say, nearly exactly matched the design width of Eagle Slough as it was planned to be laid out, and, in fact, was laid out between Waterworks Road and the mouth at the Ohio River. It would be the County Surveyor's recommendation, if this comes to a decision tonight, that we would approve what Mr. Riecken has asked, and accept his gift of continued maintenance, at no cost to the county. However, I would defer to the County Attorney to give me some guidance on how this might most appropriately be accomplished to the satisfaction of any applicable statutes. The only one I know of, Kevin, is that we can accept a gift, and that the reconstruction plans for Eagle Slough clearly show a project width of 150', as shown by the dashed line on this plan. The legal description that Mr. Riecken provided for the lease area is shown overlaid in solid, straight lines.

Kevin Winternheimer: Okay, state, give me that last one again. What are the solid, straight lines?

Bill Jeffers: The solid, straight line is the lease area laid out by this legal description, and all these terms of conditions in an agreement between Mr. Riecken's corporation and the levy authority, the levy board, for the use and continual dredging of this lease area. It's shown here on the legal description, yellow hatched, and we reproduced it on top of our project site lines from, I believe, 1972. Those plans are on record in our vault, and have been reproduced, given to Mrs., or Ms. Ellen Crane, who represented Mr. Riecken at the environmental hearings. She has copies of those that have been in front of the environmental judge.

Kevin Winternheimer: I don't have any problem with the concept of what he's talking about. You just tell me where the boundaries are, and we could do it. I have no problem with the idea that he's going to lease the property, and in an exchange your going to do the necessary dredging, and that we do that. Bill, you just tell me where the appropriate, whether it's the hash marks, or the straight lines, it doesn't matter to me.

Bill Jeffers: We were hoping that they would match up exactly. Here's copy of the original plan. My impression—

Kevin Winternheimer: Can we get a survey of that? Get that done, to get the curved lines to match that? Get a description with the curved lines rather than the straight lines?

Bill Jeffers: Or else a declaration from a licensed land surveyor that prepared this deed, or a lawyer that prepared this deed that it's a scribbner's error that the minor discrepancies show up as straight line rather than curves, something like that. Because the intent is obvious to create a lease area that mirrors the project site area. I know from experience that describing curves is much more complicated and expensive, and a lot of times they just reduce them to straight lines.

Kevin Winternheimer: The issue with straight lines is that we may not have control of that area to give them a lease on it? Is that your concern?

Bill Jeffers: I don't have any concerns. I think the intent, I think that the original engineer who laid out the project site area as the reconstruction, did a little bit better job of laying in the curves than the subsequent person who created the lease lines. I think the intent is there for them to be one and the same.

Kevin Winternheimer: Which do you prefer? Or you don't care? The straight lines—

Bill Jeffers: The lease line carries more weight as a property parcel. The lease line contains the entire channel of the ditch.

Kevin Winternheimer: And that's the curved line?

Bill Jeffers: The curved line is the area that we are statutorily allowed to maintain.

Kevin Winternheimer: Ah, that's what I was waiting to hear. Okay.

Bill Jeffers: Because, it's—

Kevin Winternheimer: Can we get some sort of description or drawing to attach or something to do this? I don't know what's involved, but—

Bill Jeffers: You would like them to look the same, in other words?

Kevin Winternheimer: No, I would like to stay within the boundaries that we are sure we have control over.

Bill Jeffers: Right.

Kevin Winternheimer: Then give them the right to do the necessary dredging, and give them a lease for that.

Bill Jeffers: Would it be possible for you all to lease the 150' wide strip, as opposed to the lease line that shown?

Ron Riecken: The broken line is—

Bill Jeffers: That's the project width from the original reconstruction.

Ron Riecken: That's actually where we dredge, because the solid gets all the way up here almost to Harbor's Edge.

Bill Jeffers: Right.

Ron Riecken: That's solid ground, so it's not dredged there.

Kevin Winternheimer: Okay.

Ron Riecken: But, this broken line, all the way including this width here, we do dredge.

Bill Jeffers: That's correct, and that is Eagle Slough.

Ron Riecken: Yeah, that is Eagle Slough. The reason that this was changed, and originally was 20' like you said, was because when the Corp of Engineers built the (Inaudible), they closed off the drain to all the bottom land, and now all of that water has to come down Eagle ditch. Half of them used to go out into that little bridge under what is it, Lenn Road?

Bill Jeffers: Yes, sir. Lenn-Becker.

Ron Riecken: That's all closed off. The Corp didn't need a permit to do that either, but they closed it. So, every bit of that acreage drains now down Eagle ditch, and it wouldn't drain through 20' the way it was originally.

Bill Jeffers: No, it's absolutely necessary that he dredge the width that's, you know, that exists there, and maintain it fully open. Otherwise, we will not get drainage of one of the largest urban areas that flows out to the Ohio River. It's not just farm ground, Mr. Riecken, it's all the pump stations for the levy corporation as well, depend upon your dredging.

Ron Riecken: Yeah, exactly. Sure, yeah. So, what we need to do is just, the dotted line area, which we've got a print of, we would like for that to be the legal drain.

Bill Jeffers: Oh, okay. Well, then the County Surveyor recommends that the area shown on this display, which is an exact replication of a set of plans on file in our office since 1975, that this be declared the entire width of the legal drain of Eagle Slough from Waterworks Road to it's mouth at the Ohio River. I'm sorry, I think I misunderstood your original statement.

Commissioner Mosby: I'll make that motion.

Commissioner Crouch: Second.

President Fanello: So ordered.

Ron Riecken: Alright, thank you. Thank you, Bill.

Bill Jeffers: Yes, sir.

Relaxation Requests:
Lot 28/29, Burkhardt Crossing, Crawford Brandeis Ditch
Charles C. Rust, et al; Hitch Peters Road; Sonntag Stevens Ditch
Pillar Stone Development; Lot 15/16 Burkhardt Crossing, Kelly Ditch

Bill Jeffers: Okay, we have some relaxation requests. Lot 28/29 Burkhardt Crossing, Crawford Brandeis Ditch. Culver's Restaurant requests that the 75' right-of-entry across lot 28 and lot 29 of Burkhardt Crossing Sub, as recorded, be relaxed from 75' to a uniform width of 23', as measured from the center line of the eastern most 10' concrete box culvert constituting Crawford Brandeis Ditch. The Vanderburgh County Surveyor recommends that the board allow that relaxation at this time.

Commissioner Mosby: Motion to allow relaxation.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: And I have a document for you all to sign in that regard. Is this the original, Lee? It says draft.

Lee McClellan: Yes, sir.

Bill Jeffers: It says draft on it.

Lee McClellan: Well, that's not the original document. That was a draft that I just sent to you for your review. I have an original.

Bill Jeffers: Okay, if you would like them to sign this one to be put into the minutes, and your original to be recorded.

Commissioner Mosby: We've got one right here.

Bill Jeffers: You've got one? Okay. The one should be recorded, and I believe your Recording Secretary would appreciate the draft copy for her minutes. We have another—

Commissioner Mosby: Here's the original.

Bill Jeffers: —relaxation. We'll be back to this Burkhardt thing in a moment. We'll have another relaxation at this time, Charles Rust and others request the relaxation of Sonntag Stevens Ditch, west of Hitch Peters Road, and along property owned by Charles C. Rust, Henry C. Rust, Robert C. Rust, Gary M. Rust, and others, from 75' to a distance of 30' as measured at right angles to the top edge of each bank of the open drain as shown on the attached document. In this case I have an order that Mr. Robert Rheinlander prepared, and the County Surveyor recommends that you sign this order and allow the relaxation of Sonntag Stevens ditch to a distance of 30'.

Commissioner Mosby: So moved.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: Here's a copy of the order for your Recording Secretary. If there is anyone else who would like a copy, he sent several. For some reason, Mr. Rheinlander, who is very thorough in these matters, also sent a petition from Charles C. Rust, Henry C. Rust, Robert C. Rust, and Gary M. Rust, herein after collectively

referred to as “the Owner”, basically requesting, again, that the right-of-way be relaxed, in this case, to 25'. I am asking that it be released, that the 25' be struck, and that it be released to 30' as recommended by the County Surveyor.

Commissioner Mosby: So moved.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: We'll take care of the particulars on that as they occur. Here is a copy of the petition for your Recording Secretary. There are other copies if you wish to see one. Okay, Pillar Stone Development LLC, 3604 Dayton Avenue, Louisville, Kentucky requests that the right-of-entry for Kelly Ditch be relaxed from 75' to 35', within lots 15 and 16 of Burkhardt Crossing, per the attached exhibits. This also is for a commercial development, as are the other two that have just been approved. The County Surveyor recommends that the board relax the right-of-entry for Kelly Ditch from 75' to 35', along lots 15 and 16 Burkhardt Crossing per the attached exhibits, of which I have one. We'll have to write a letter to those folks to let them know that this action took place. There is no prescribed form for this action, that's why we have, in this case, three different ways of doing it.

Commissioner Mosby: So moved.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: Here's the official transmittal from Madelyn Grayson requesting that Pillar Stone be put on the agenda with letters, etcetera. I'll pass that in a moment for her records.

Encroachment Agreements:

Lot 28/29 Burkhardt Crossing: Jack Rogers or Culver Restaurant

Lot 15/16 Burkhardt Crossing: Pillar Stone Development, LLC

Lot 2/3 Glass Subdivision, Section One; Burkhardt Plaza, LLC

Bill Jeffers: Okay, back to encroachment agreements for these same properties, okay? Lot 28 and 29 of Burkhardt Crossing will be occupied by a restaurant known as Culver Restaurant. The current owner of the property is Jack Rogers. Terms of his agreement with Culver Restaurant is that the relaxation take place, which just did, and that they be allowed to pave a previous drainage easement, replace the swale with a pipe and pave over top of it for their parking lot. Mr. Lee, help me, Lee.

Lee McClellan: McClellan.

Bill Jeffers: McClellan, I'm sorry, it's getting late. Mr. Lee McClellan is here as representative and civil engineer, land surveyor for the project to make the request.

Lee McClellan: Yes, Lee McClellan with Morley and Associates. As Mr. Jeffers has explained we are asking for that relaxation of that encroachment so that a parking lot with curb and gutter, landscaping, and possibly even parking lot lighting. We have not yet seen the plans for the lighting for the building from the architect. So,

there's a possibility that these curbed islands that are in the parking lot could contain light fixtures, and probably a very good likelihood. In addition to that, I don't know if this is the time to bring it up, Bill, but we're also as part of the overflow swale that drained Old National Drive to the west to Crawford Brandeis Ditch, which at one time was a large open drain, and was replaced with two 10' concrete box culverts. We have to put now a pipe in there to drain this sag in the street in case the curb inlets would plug. This would require what Mr. Stoll and Mr. Jeffers, when we talked on Friday, would be that we would need to request a modification to a legal drain connection to allow this pipe to enter the drain. There is presently a pipe there now that drains the roadside ditch on Burkhardt on the east side, but that pipe needs to be lowered approximately a foot and a half, and a larger pipe installed. It's a 15" concrete pipe, and we're going to put in a 24" concrete pipe, because that is the size of the pipe that is necessary to carry the overflow from the curb inlet should they plug. Therefore, we request that modification, and then also we sent to Bill this morning, we finished up the legals over the weekend, a request across Jack Rogers property, and also across Culver's property, a dedicated 10' drainage easement for this emergency pipe to be installed. This is what we discussed on Friday. So, I guess, those are the three things that we're here in front of you requesting as part of this encroachment agreement.

Bill Jeffers: Okay, they have relaxed the right-of-entry. John Stoll and I have reviewed the alternative to the overflow swale, and we agree that it's practical and appropriate. The County Surveyor, at this time, recommends that the Drainage Board approve the new connection of the pipes described by Mr. McClellan, at this time, consisting of a 24" or equivalent elliptical pipe, 24" or equivocal sized elliptical pipe, to the regulated drain pipe known as Crawford Brandeis Ditch. I ask the board to approve that at this time.

Commissioner Mosby: So moved.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: Ask you to accept and pass forward the new drainage easement that's required to accomplish that so that Mr. McClellan can record that on behalf of Jack Rogers and subsequent property owners. That's recommended by the County Surveyor's office.

Commissioner Mosby: So moved.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: Ask at this time that you approve an encroachment agreement between Mr. Rogers and subsequent property owners and the County Drainage Board, indemnifying the County Drainage Board against any losses or damages that might occur within the easements that are to be occupied by pavement and other permanent structures.

Commissioner Mosby: So moved.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: Madelyn, I will take care of the details on the Drainage Board's behalf, together with Mr. McClellan, on the developer's behalf.

Lee McClellan: Okay, thank you.

Bill Jeffers: Okay, back to Pillar Stone, we have an encroachment agreement brought forward, they are going to, just like this one, they are putting a parking lot in the relaxed drainage easement, and, Madelyn, I believe you have the documentation and the recording check down there?

Madelyn Grayson: Yes, I do.

Bill Jeffers: For exhibits A, B and C. The County Surveyor recommends that the Drainage Board sign the original copy of the encroachment agreement and approve that for recording for Pillar Stone Development.

Commissioner Mosby: So moved.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: And we have a request, the name of the requestor is Stewart Klipsch, Lieberman Group, for the encroachment of a drainage easement with a sidewalk, that's what's going to encroach on behalf of Burkhardt Plaza LLC on....I'm looking for the lots here, lot two and lot three, Glass Subdivision, Section One. I recommend that the Drainage Board allow a sidewalk to encroach a drainage easement at that location.

Commissioner Mosby: So moved.

Bill Jeffers: And to sign the agreement.

Commissioner Crouch: Second.

President Fanello: So ordered.

Petitions

Bill Jeffers: Are there any petitions to come before the Vanderburgh County Drainage Board at this time?

Other Persons Wishing to Address the Board

Bill Jeffers: Any other persons wishing to address the board? Any questions or comments from the Board? If not, I have two copies of 3 ½" disks, each with the proposed drainage ordinance for construction site runoff control in Word, I believe it's MC2000, to give to Mr. Kevin Winternheimer for his legal staff to do with as they must. Anyone else requiring a hard copy or digital copy of the proposed drainage ordinance may acquire one by calling the County Surveyor. Lee?

Lee McClellan: Yes. Our office sent over a request by Brad Sterchi for the relaxation of some drainage easements and a platted lake maintenance and storm drainage easement out at Clear Creek. We have those documents. New easements have been granted. The first document is an exhibit that involved lot 256 and 266, and I know it's kind of hard to see, but this dotted line was the original easement that was granted by the plat, because that was the original drainage channel. The developer, Mr. Sterchi, has, in fact, actually brought the easement down like this and straight, and then across as a result of the as-built survey. So, we have granted new public utility easements parallel to it, and those have been recorded to allow the utilities, but we still need to change the drainage easement on that petition. On this one here it involves lot one at the corner of Clear Creek Drive and Mt. Pleasant. This was anticipated at the time that the plat was prepared that lot one would have a drainage and lake maintenance easement on it. It turns out that that is not necessary anymore. So, we have gone in here again and provided the easement for the utilities, and that easement has been recorded, but the lake maintenance and easement still exists. So, we're requesting that those be relaxed, and the other request we are making is that normally a request like this would need to go to public hearing, because of the fact that it would be necessary to contact all existing utilities and adjacent property owners involving these relaxations, but since the owner has already gone ahead and granted new easements to the utilities, basically, the only thing left is the granting of the drainage portion by this board. We would request that under your authority that you relax those, or grant those requests, and not necessarily require us to have a public hearing.

Kevin Winternheimer: Are you talking about not having a public hearing (Inaudible. Tape flipped to other side) drainage easement?

Lee McClellan: Uh-huh.

Kevin Winternheimer: I think you still need to. I'm afraid you're going to mess up your title if you don't. I understand that you may own all the property surrounding it, but I still think you need to. Obviously, your notification will be real simple. There aren't going to be any, but still, I still think you need to do that.

Lee McClellan: Okay. Okay.

President Fanello: Thank you, Lee. Any other questions?

Lee McClellan: Thank you.

President Fanello: Do I have a motion to adjourn?

Commissioner Mosby: Second, or motion to adjourn.

Commissioner Crouch: Second.

President Fanello: So ordered.

(The meeting was adjourned at 7:10 p.m.)

Those in Attendance:

Catherine Fanello
Bill Jeffers
Jim Morley Jr.

David W. Mosby
Kevin Winternheimer
Bill Reinhart

Suzanne M. Crouch
Madelyn Grayson
William Deppen

Ron Riecken	Lee McClellan	Others Unidentified
Members of Media		

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY
DRAINAGE BOARD
DECEMBER 22, 2003**

The Vanderburgh County Drainage Board met in session this 22nd day of December, 2003 at 6:15 p.m. in Room 307 of the Civic Center Complex with President Catherine Fanello presiding.

Approval of November 24, 2003 Minutes

President Fanello: Call to order Vanderburgh County Drainage Board meeting, December 22nd. Do I have an approval of the minutes of the previous meeting?

Commissioner Crouch: So moved.

President Fanello: Do I have a second?

Commissioner Mosby: Second. I'm sorry.

President Fanello: So ordered.

**Receive Update/Request Action on Jones Order to
Remove Obstruction**

President Fanello: Old business.

Bill Jeffers: I apologize for not publishing the agenda on-line this week for you, and it was kind of an up to the very last minute deal on a couple of these items. So, I didn't get it done until today. Under old business, I'm asking you to receive an update on the Jones order to remove an obstruction. This was the long standing and on-going situation at Sheridan Road and St. Joe Avenue, wherein Mr. Smith petitioned to remove an obstruction that the Jones' had placed in a ditch behind their house. Mr. Jones was terminally ill and we didn't push the matter, and then his widow was unable to complete the work and asked for an extension, and her family was unable to complete the work. So, according to statute, the County Surveyor went in with a contractor and completed the work on her behalf. I put in front of you the Indiana Code that is applicable to this showing that under 36-9-27.4, section 14, after the hearing this board did find that an obstruction of a drain alleged existed, and that the removal would promote better drainage of the petitioners land and not cause unreasonable damage to the land of the respondent, Mrs. Jones. Under section 16, you found for the petitioner, and thereby you entered an order directing the respondent, Mrs. Jones, to remove the obstruction at her expense, which was not done, so you directed the County Surveyor to remove the obstruction at the expense of the respondent. Turning the page, I've included section 21, which authorizes an advance on the General Drain Improvement Fund to pay for the work that was done. Section 22 allows you to recover the expense as custodian of the General Drainage Improvement Fund, if the amount was advanced from the General Drain Improvement Fund, and that you may recover this through an action, under little (b), through an action, in a court having jurisdiction in the same manner that a creditor may recover an amount owed under a contract. I give this to you today, because later in the meeting I will be submitting a claim from Naas Brothers for \$495 for their completion of this work, and there is no money in that fund at this time to pay the \$495. The reason there is no money is because we have not transferred funds to that account over the last year for this purpose. The only money that is allowed to go into that account is money collected from your \$100 petition filing fees, and any money you might transfer from one account to another. To pay anything

that requires any real money, I would recommend that you transfer from Eagle Slough Account, which has a surplus that can be repaid. The Board of Accounts allows you to repay a borrowed amount from one account to another, so long as you do it within a three year period. This was brought to the attention of a previous board, at an earlier date, by an earlier Surveyor, and has not been a practice that was customary, and therefore it was not carried forward from administration to administration. Just to bring that to your attention at this time, and ask you to work with the new County Auditor, the new Surveyor and the new Drainage Board to make sure that we, from time to time, transfer monies into this account when the occasion arises that a person does not pay for the obstruction removal. Then you may have to instruct your attorney to seek, it's not a remedy it's a recovery of the unpaid amount. That was by way of explanation of what may occur when the Auditor notifies you that I submitted a claim for \$495 to be drawn against an account that has no money in it. So, we'll move on to the next item, which is an update on Inland Marina, Inc.

Commissioner Crouch: Excuse me, Mr. Jeffers. I spoke to someone, I think it was perhaps Madelyn, regarding those people that don't pay—

Bill Jeffers: Yes.

Commissioner Crouch: I know you were talking about that, but would, what would be our recourse if they don't pay? To put a lien on their property for the amount?

Kevin Winternheimer: Are you talking about the—

Commissioner Crouch: The obstruction, yes.

Kevin Winternheimer: —the obstruction? We would file an action and get a judgement lien against them, and it could be executed as other judgement liens are executed. So, yeah, we would take them to court. That's our last resort, but that's what we would do. It would be a judgement lien against all their property, real and personal.

Commissioner Crouch: Do we not have a couple that are older claims that have not been paid? Perhaps we ought to look at doing that. Do you know?

Bill Jeffers: This is the only one that I am aware of. There may be others that I've either not been made aware of or I have forgotten about. This is the first one that I'm aware of where the respondent absolutely refused to do the work, and expressed her intention not to pay for the work after it was done. Most of the rest of them we've been able to work out in some other fashion. That's most likely why we've never followed through with transferring money over there, because we've never needed it until this time.

Receive Update/Request Action on Inland Marina, Inc. as “Agent”
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Bill Jeffers: Okay, on Inland Marina, Incorporated. You visited this issue last month, and we have to revisit it at the request of Indiana Department of Natural Resources, at this time. I hope everybody has a yellow lined copy of what I just handed out, to make it easier to follow along. On the second page is a letter from Ms. Ellen Crane, representing Inland Marina, addressed to Doug McDonald, the Chief Deputy Surveyor, the highlight of which indicates that the administrative legal judge working

for Indiana Department of Natural Resources requests that the County Drainage Board, basically, declare Inland Marina the “agent” for the Drainage Board, thereby exempting Inland Marina from the Flood Control Act that’s provided by Indiana Code 14-28-1-22(b)1, further stating that a drainage board, or it’s agent, may perform a reconstruction or maintenance project as defined by 36-9-27 without obtaining a license under that other Indiana Code, on a regulated drain if the total length of the drain is not more than ten miles. We know that. Eagle Slough is less than ten miles long, and we know that we are not required to obtain licenses or permits under 14-28-1-22. I give you, back here in this packet, citations of those two laws somewhere. Don’t worry about it. But, they say, therefore a document, or the minutes of the Drainage Board meeting, stating that Inland Marina is acting on behalf, or is an “agent” of the Drainage Board to maintain this section of Eagle Slough is required. I thought we had covered that in the last Drainage Board meeting last month, but, apparently, we have not. Additionally, the administrative judge asked that a copy of an exhibit showing 150' wide bottom width of a legal drain, etcetera, that’s highlighted for you here, with various elevations that are given here on this document, be turned in to DNR. I thought we had done that, but, apparently, that needs adjustment as well. On the following pages, I have shown you Eagle Slough as it existed in 1953, highlighted. You can see it was totally high and dry, not inundated by the Ohio River, and that the Marina is those three or four slips of boats that you see outside of Eagle Slough, in the river itself, and several other, about a dozen boats moored outside of those slips. On the next page I show you a USGS quad sheet from 1957, again showing that Eagle Slough flowed across dry land. It’s the yellow highlighted portion, tops of the banks were approximately 350' above sea level. Right where it enters the Ohio River it dropped down to an elevation of 340' above sea level, and then into the river, which in 1957 had a normal pool elevation of 338'. Then I show you a photograph from 1966, again, basically showing the same thing, Eagle Slough, a regulated drain, maintained by the Drainage Board, is high and dry, not inundated by the Ohio River. The reason I show you these three exhibitions, or exhibits from 1950's and 60's is because that’s when the reconstruction of Eagle Slough was designed. In and around 1968 through 1970, by then County Surveyor, Richard Nussmeier. He designed that ditch to flow across dry land, as you see existed at the time he designed it. Turning to the next quad sheet, you see that in 1981, due to the Corp of Engineers raising of the pool elevation of the river, Eagle Slough is inundated up to about 342' above sea level. You see the pond that resulted. Now the slough that was constructed under the official reconstruction by the Drainage Board, everything copasetic and kosher, is now inundated, the entire channel, as shown on this quad sheet from 1981. The next sheet is a county map, blown up section, from 1990, showing you that nothing changed between 1981 and 1990, during that nine year period, except you’ll note that the land on the north side of Eagle Slough increased in elevation from about 360' above sea level to 375', indicating a fill occurred sometime between 1981 and 1990. Now I know that that fill occurred, and I know that that fill occurred with a permit from the Corp of Engineers in the Indiana Department of Natural Resources. So, any change of topography or terrain that occurred, occurred under a permit from the Corp of Engineers and the Indiana Department of Natural Resources. We still have to maintain Eagle Slough, free flowing, and free of obstructions. So, here is what we sent to the Indiana Department of Environmental, or Natural Resources, the next sheet, it shows Eagle Slough, the overlay...you’ll recall this from last month, the overlay of the original 150' wide reconstructed Eagle Slough, and the little (aa) is what we call a typical cross section that we took across that slough and we turned that in to them. They determined that part of that cross section was on dry land. Well, that came as no surprise to anyone in our office, because due to topographical changes, the organic nature of the Ohio River, and nature in general, plus the man

made improvements that were made on that bank, resulted in a deposit of fill, as I said, done under permit from this agency. We still have to maintain Eagle Slough open. To satisfy the administrative judge's request, the second request, that we forward a copy of the exhibit showing the 150' width, with a bottom width, 6:1 side slopes, the top of the bank at the elevation shown, 365', the pool elevation of 341.8, the bottom of the ditch at it's designed flow line, 331.8, that's what was designed back in '68, '69, and implemented around '72. It's all right here. So, I'm asking to forward that. With regard to declaring Inland Marina as your "agent", I took the liberty of preparing a document for your consideration at this time. That would satisfy the other criteria. This is the original, I'll hand it to your Recording Secretary. If you decide to sign it, she will be in possession of it at this time. Then I'll hand a copy to each of the board members, and Mr. Winternheimer has a copy that I previously handed to him before the meeting. Did I also hand out this yellow thing again? Basically, that's just your background, except you're allowed to accept a gift under 36-9-27-75. We covered that ground last time. You accepted the gift. The gift is comprised of the annual and continuous dredging of Eagle Slough from Waterworks Road to the mouth of the Eagle Creek at Ohio River. Second page shows that DNR does indeed require permits, however, the permit section does not apply to a reconstruction or maintenance project, and 36-9-27 on a stream or open regulated drain if the total length of the stream is not more than ten miles. Again, Eagle Slough is less than ten miles long. Next page shows that 36-9-27, section 53.5, a county surveyor planning to perform a project, whether it's reconstruction or maintenance of a regulated drain, is not required to have an individual permit under section 404 Clean Water Act. So, that negates the previous page. Next page, again, 36-9-27 point, or, excuse, section 33, right-of-entry, the county surveyor, the board, or an authorized representative of the county surveyor or the board has the right-of-entry to perform maintenance. I give you that because I can't find the word for agent in this code, and I can't find the word for agent in DNR's code. The next thing I give you is section 34 of our statutes. 36-9-27 being the statute, saying that the surveyor must classify all regulated drains as in need of construction or in need of maintenance or ready to be vacated. I give you this because it's pertinent to what I'm going to present in a moment. A regulated drain is in need of reconstruction when it will no longer perform the function for which it was designed and constructed, vis-a-vie 1972. It no longer conforms to the maps, profiles and plans prepared at that time, vis-a-vie the documents I've given to you showing how radically the topography has changed. And topographical or other changes that have made the drain inadequate to properly drain the lands affected. Reconstruction consists, in part, of deepening, widening or changing the course of a drain. That's for background information. Declaration of agency that I've prepared, hopefully to satisfy the request of the administrative judge, and I respectfully ask you to submit it to the judge, because I feel his request is legitimate. I am asking, I am saying that an agent is a person who undertakes some business with you, and that to establish agency three elements must be shown; that you consent to Inland Marina as an agent, that the "agent", Inland Marina, accepts your authority, and that the control exerted by this board over the "agent", Inland Marina, accepts that as well. I think your County Attorney can tell you that if no money changes hands, in other words, this "agent" is doing this as a gift, and you have accepted that gift, if no money changes hands, then he's a non-contractual agent, and there is no contract that needs to be drawn up. Is that correct?

Kevin Winternheimer: That is correct, yes.

Bill Jeffers: So, there whereas' basically reflect exactly what they say, Inland Marina for an extended period of time, but I've limited it to January 1, 2000, because that's

the date that I was sworn in, that's the date that two of the three current board members were sworn in, and up until this date we have served. That's the date that I have picked to say that we know for a fact that this Inland Marina has acted as our "agent". I tell you what the services are, specifically, with regard to dredging and where the dredging occurs. The next whereas reminds all involved that Inland Marina offered the board a gift of dredging and you accepted that gift, and that it coincides with the lease agreement between the Levy Authority and Inland Marina, and the remaining terms, in terms of years, that that lease is active. And that you accept the gift, and wish continued receipt of the benefits and services, and some other things about if, for some reason it can't be accomplished within the 150', is what this is alluding to, that this board and this surveyor does have the ability, statutory ability to study the drain and it's needs, and either change the course of the drain, widen the drain, or deepen the drain, and we will do so only if needed. The last whereas, Inland Marina freely accepts the relevant controls by this board, under this board's authority, pursuant to the law, and the board will act in compliance with the law. Then it says now, therefore, the county board does declare Inland Marina to be the uncontracted "agent" of the board, etcetera. I didn't mean to come to you before Christmas and drag this meeting into total adnauseum, however, I felt that this had to be done now, or DNR will not put this to rest. I recommend that you make this declaration, if your County Attorney advises you so.

Kevin Winterheimer: Yeah, I have no problem. I hope it helps them get what they need to the administrative law judge, and that he or she is satisfied with it. I have no problem with this.

Commissioner Mosby: I make a motion to appoint Inland Marina as "agent".

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: Thank you, and the only other request that I have is that the administrative law judge also wanted a copy of the draft, a draft copy of the minutes whenever they are available. But, I said that would be sometime after the first of the year, when you get caught up with your workload.

Madelyn Grayson: Do you want me to go ahead and forward the declaration of agent letter tomorrow?

Bill Jeffers: Yes, please.

Madelyn Grayson: And then follow up with the draft copy of the minutes?

Bill Jeffers: Along with those pictoric, those depictions that I gave you a packet of, but you and I can handle that in the morning.

Madelyn Grayson: Okay.

Bill Jeffers: And then the draft minutes can go to him when your workload allows.

Madelyn Grayson: Okay.

Bill Jeffers: Thank you.

Eagle Ridge Estates: Preliminary Drainage Plan

Bill Jeffers: Eagle Ridge Estates is a subdivision, part of Eagle Crossing Subdivision. Let me pull it out and get the right number. Eagle Ridge actually was area C, future estate lots of Eagle Crossing, section three. As such, it already obtained preliminary approval of it's detention of storm water down in the golf course, Eagle Crossing. That's how it's been presented at this time, and the County Surveyor recommends approval of Eagle Ridge Estates, preliminary plan.

Commissioner Mosby: Motion to approve preliminary.

Commissioner Crouch: Second.

President Fanello: So ordered.

Ditch Maintenance Claims

Bill Jeffers: Okay, under ditch maintenance claims, the Union Township Ditch Association respectfully requests that due to high water in the Ohio River all this fall, that the silt dipping on Barnett and Cypress Dale Maddox ditches be delayed until the fall of 2004. They will maintain a bid price of 30 cents a foot, and all other specifications in accordance with the current ditch bid. They will honor that at that time. The County Surveyor recommends that their contract be extended for that project due to continuous high water during the period of time that we asked them to dip the silt.

Commissioner Mosby: Motion to extend the Union Township contract.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: The rest of, I'll put that letter in there, Madelyn for your receipt. The rest of the claims are in order, except for the one I mentioned earlier, the \$495, which has no money in the account to pay, however, the claim is in order, the man is due his money, and I will submit it at this time, and we'll have to take action appropriate.

Kevin Winternheimer: I was going to ask you, Bill, on that one, do we need to take any action to transfer the monies? Or how are we going to do this?

President Fanello: Do you want us to, yeah, do you want us to—

Bill Jeffers: I would recommend that you transfer \$1,000 from Eagle Slough Account to the General Account that's already been established. There's already been one established a couple of years back for this purpose. It's an open account in the Auditor's office. I don't have the line number in front of me, but it's the account which would otherwise be known as General Drain Improvement Fund for the purpose of paying for the removal of obstructions to a drain.

Commissioner Mosby: I'll make a motion that we transfer \$1,000.

Commissioner Crouch: Second.

President Fanello: So ordered.

Bill Jeffers: Thank you. Then that will have to be repaid within three years from whatever we collect over the next three years.

Kevin Winternheimer: I assume you want me to collect this? I'll try to get it formally, and if not, we'll take her to court? I assume that's okay?

Commissioner Crouch: Motion to instruct the County Attorney to pursue collection of the obstruction fee.

Commissioner Mosby: Second.

President Fanello: So ordered.

Kevin Winternheimer: Bill, can you send me some paperwork on that? The lady and the address and all that stuff, whatever.

Bill Jeffers: Yes, sir.

Madelyn Grayson: Bill and Kevin, I also, I'm not 100% sure they ever signed the contract. I think they made a motion several months back to do that, but we waited...I've still got the contract in my office, so can they sign that next Monday at the Commission meeting if that motion has already been made?

Kevin Winternheimer: I'm sorry.

Madelyn Grayson: The contract with Naas and Sons.

Kevin Winternheimer: They can approve it tonight if you want to.

Madelyn Grayson: I think they already...for some reason we held off signing it.

Bill Jeffers: We may have held off signing it because her sons kept saying they were going to do the work themselves, but that never happened, and I may have gone ahead and told them to proceed. The work is done. I've inspected it personally. It's finished.

Kevin Winternheimer: Okay, why don't we go ahead and approve that contract, and authorize signatures. We'll get it signed.

Commissioner Crouch: So moved.

Commissioner Mosby: Second.

President Fanello: So ordered. Now, Madelyn, oh, excuse me.

Bill Jeffers: I'm sorry, go ahead.

President Fanello: That's okay. Madelyn, can you check on this transfer, and if there's any, what our office needs to do regarding that transfer of monies?

Bill Jeffers: I had another sheet of paper here, but I think Kevin covered it in your Commissioners meeting. I think it's a standard to give to the newspaper reminding you of the Open Door policy, and they want to know what your meetings are.

Kevin Winterheimer: Right. Right.

Bill Jeffers: You don't normally do that until the first meeting of January, which would be the 22nd, I believe, of January, in our case, but to go ahead and let them know it will be the first, or the third Monday, no, fourth Monday of each month, except as otherwise, yada yada.

Madelyn Grayson: Bill, somebody brought that to my office. So, I've got Jim Beck's e-mail address.

Bill Jeffers: Right, we get one of those every year. I understand—

Madelyn Grayson: I'll send it to him. A notification telling him, I can just send a copy of—

Bill Jeffers: For the record, Jay Zimmer is the first reporter in many months to stay here for our meetings.

Commissioner Crouch: And we ran him off.

Bill Jeffers: No joke. No, anyway, I understand that. It's just that we normally wouldn't have the meetings scheduled until late in January, but if the paper wants to know when they are, go ahead and do what you have to do. I have no further business, unless the Commissioners have any questions, or if someone from the public does.

Commissioner Mosby: I don't.

President Fanello: Do I have a motion to adjourn?

Commissioner Mosby: Motion to adjourn.

Commissioner Crouch: Second, and Merry Christmas to all.

Commissioner Mosby: Merry Christmas to all.

President Fanello: So ordered.

(Meeting was adjourned at 6:40 p.m.)

Those in Attendance:

Catherine Fanello

Bill Jeffers

Others Unidentified

David W. Mosby

Kevin Winterheimer

Members of Media

Suzanne M. Crouch

Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Catherine Fanello, President

David W. Mosby, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.