

**VANDEBURGH COUNTY
DRAINAGE BOARD
JANUARY 26, 2004**

The Vanderburgh County Drainage Board met in session this 26th day of January, 2004 at 6:03 p.m. in Room 307 of the Civic Center Complex.

Call to Order

Commissioner Mosby: Call to order Drainage Board meeting of Vanderburgh County for...what is it? I lost my paper. Did you give us an agenda, Bill?

Bill Jeffers: (Inaudible. Not at mic.)

Commissioner Mosby: I was going to say, I was looking for an agenda.

Bill Jeffers: I thought Linda brought down ten copies, I don't see them though. It's not very long.

Commissioner Mosby: Okay.

Approval of December 22, 2003 Minutes

Bill Jeffers: First item is approve minutes.

Commissioner Crouch: So moved.

Commissioner Mosby: Second and so ordered.

Bill Jeffers: That was from December 23rd, I believe.

Election of Drainage Board Officers

Bill Jeffers: Your next order of business, I believe, would be to reorganize the board, and appoint new officers for 2004.

Commissioner Crouch: Typically, the Vice—

Commissioner Mosby: Yeah.

Commissioner Crouch: I'll make a motion that David Mosby serve as President of the Drainage Board.

President Mosby: If I don't vote for myself, do I lose? Second and so ordered.

Bill Jeffers: Then you need a Vice Chair...a Vice Chairperson.

Commissioner Crouch: I'll move that Commissioner Fanello be Vice Chairperson.

President Mosby: Second and so ordered.

Bill Jeffers: And set the meeting dates, which probably has been advertised.

Kevin Winternheimer: We included it with our general advertisement already.

Bill Jeffers: Okay, so that's as advertised with your other meetings.

Receive Update on Inland Marina as "Agent": Eagle Slough

Bill Jeffers: Under old business you are to receive an update on Inland Marina, Incorporated as "agent" for Eagle Slough. Your recording secretary, Madelyn Grayson, sent a letter to Steve Lucas, the administrative law judge, Indiana DNR Division of Hearings, and received a return certificate indicating the receipt of the package. If you'll receive, at this time, this notification that a letter and a certified mailing receipt has been transmitted back and forth to the administrative law judge and enter it in your record, it will serve as a record that all of that has been taken care of.

Commissioner Crouch: I'll make a motion to accept it into the record.

President Mosby: Second and so ordered.

Drainage Plans

Bill Jeffers: Under drainage plans, none were received or reviewed for January that require board action.

Ditch Maintenance Claims

Bill Jeffers: Under ditch maintenance claims, we have this folder full of claims with the required paperwork and a recommendation from the Surveyor that the claims be signed and paid to the individual contractors on our ditches.

Commissioner Crouch: Motion to sign the claims.

President Mosby: Second and so ordered.

**Encroachment Agreements: Vogel Road Commercial Park, Sec. II
Spurling Development**

Bill Jeffers: We have an encroachment agreement received, again, by your recording secretary, Ms. Madelyn Grayson, ready for your signature from Spurling Development, Incorporated asking that a drainage easement agreement for encroachment be entered into between this board and Spurling Development LLC for a lot on Vogel Road Commercial Park, Section Two, as shown on exhibits A, B, and C, with a recommendation from the County Surveyor that the encroachment be allowed and this agreement be entered into by the board.

Commissioner Crouch: So moved.

President Mosby: Second and so ordered.

Petitions to Remove Obstructions

Bill Jeffers: I'm not aware of any petitions for the removal of obstructions to drains or watercourses at this time.

Other Persons Wishing to Address the Board

Bill Jeffers: That puts us down at other persons wishing to address the board.

President Mosby: Do we have any—

Bill Jeffers: Mr. Rucker, did you have—

President Mosby: Do you want to come forward at this time and state your name and address please.

Myron Rucker: Myron Rucker, 5800 Oakridge Drive, Evansville, Indiana. I would like to come down here and ask for some help. You might look at this as old business, I look at it as continuing business. I live in the Oakridge Subdivision, which is east of Melody Hills between, it's just off St. George and Oak Hill Road. The reason I'm coming down here is for a problem that has plagued me for years and years. I realize money has been spent uphill on Ward Road in the past to alleviate some drainage problems uphill, but everything that comes downhill to my property from Anthony Drive and Dusseldorf and all the other properties east of Melody Hills comes my way to a 60' ditch that goes into a drainage system, which is an open ditch. It's more than 85 acres, I don't know the exact measurement, but everything comes down my way to a 12" ditch. The property sits on a pretty flat surface, and the rear of the yard is really flat, but in the meantime, when the water comes down the hill, it just stages there. It can't get into the 30" pipe going, which is Licking Creek, originally, that goes behind my house, through the subdivision, over to Oak Hill Road. The water comes through there at a rapid rate, any heavy rainfall is a big problem for me. There has been discussion in the past about a pipe in there, they decided that an open ditch is the best way to go with this route. I've even had people come out, I've talked to Keith Poff of Sitecon. I had Staub come out and shoot elevations on my yard, trying to run pipe to, just to get a chance to get the water off my property so it could keep up with the ditch. The ditch can't keep up. It's got jags in it, it's not exactly straight, and in the past we've been criticized for trees growing in the back in that area, the ditch not being maintained and cleaned, which is not the case all along where I live. The trees have been removed. There's no trees back there. I try to keep all the trash out of there, but there is no way this ditch can keep up. It keeps flooding my yard. In the past I've tried to make improvements in the back yard, but there's no way you can improve a back yard, add on to your property when it's basically used as a staging area for a massive amount of water. There is no way this thing can work any longer. I mean, I can't sell my home the way it is now, if I wanted to. I've tried to think about making improvements, but there's no way I can make improvements with all the water coming down there and doing excessive damage to the property. Basically, I'm coming down here to ask you guys to have somebody look at this thing one more time, and see if there is anything that can be done, you know. The elevation of the property is not feasible to run pipe. I've had Staub out there the other day, right before Christmas, and then I'd talked to Mr. Jeffers, you know, over the telephone about it, and that's why I'm here. I need some help with the property. What they did in the past has never helped me, you know. Any heavy rainfall or heavy thunderstorm that rolls through there, I'm in trouble. Twelve inches is not enough. There's no pipe, you go from one end with a 15" pipe to an open area going into a 24" pipe, then it goes around past the

sanitation sewer to a 30" pipe. My water can't get in there because of all the water coming down the other direction. It just sits there and stands. It can't get into the pipe and make the turn. It never has made that turn. Anytime it rains, I mean, I've had to move the dogs out of the backyard, I mean, the yard, you can't use the backyard. You know, basically, that's why I'm down here appealing to somebody to look at this thing, because I need some help with it, you know, because any drainage water that comes from

Anthony Drive, traveling east, I'm in trouble. In fact, if Anthony Drive had all of his drainage culverts hooked, on both sides of the road, it would be twice as bad. They're not all hooked up. They're not all connected, you know. The two subdivisions coming down to my house, you know, there's no way, you know, I've only got one side coming down at me, plus 85 plus acres of just drainage water after it gets saturated, and it goes to this one ditch.

President Mosby: Have you had the County Engineer out there?

Myron Rucker: Everybody's been out there. They've tried to stop water up on Ward Road and send it in another direction. That hasn't really helped me at all. All that does is give me about 20 minutes to say, help.

President Mosby: Okay. Let me talk to him, because I'm not familiar with it right off hand, but let me talk with the County Engineer and Bill and see what, if at all, any solution that this Commission can come up with.

Myron Rucker: Believe me, sir, I've tried. I mean, I've had Keith Poff out there—

President Mosby: I would be more than glad to meet Bill or John out there.

Myron Rucker: The elevation of the lot is too small—

President Mosby: Okay.

Myron Rucker: —to run water down through this 12" ditch.

President Mosby: Well, I understand what you're saying, so let me talk with Bill and John, and before the next meeting I'll meet them out there, and we'll get together and talk, and we can discuss it, and I'll fill the other two in.

Myron Rucker: You know, if you look at that, look at the ditch system as a whole.

President Mosby: Okay.

Myron Rucker: Please, because—

President Mosby: I'll ask John to bring the master plan.

Myron Rucker: — the part where I'm at there was trees and everything out there. Those have all been removed. I mean, I don't know what else you can do other than the rock coming down from Knob Hill Road that used to be a road that was going to go through there, and they never finished it, rock retard the ditch. But, even at that, sir, there is no way that water is going to make that turn and get past my house. It's just a staging area.

President Mosby: Well, I'm not going to tell you tonight what we can do, but I'll be honest with you next month.

Myron Rucker: I just want somebody to look at it.

President Mosby: Okay, that's fine.

Myron Rucker: I need some help. I mean, I've had people out there looking at it and they're telling me, I mean, you're going to put a 12" pipe, you know, with the drop in your yard, the elevation of your yard, it's not going to work. Staub was out there, and it's not like I haven't tried to do something about it, but the advice I've been given hasn't really helped me.

President Mosby: Okay, well I'll get--

Myron Rucker: There's just too much coming down there.

President Mosby: I'll get a hold of the County Engineer and let him advise us on what we can do.

Myron Rucker: Thank you, sir.

President Mosby: Thank you very much, Mr. Rucker. Is there anybody else that wants to address the board?

Bill Jeffers: Okay, in that case we would be at comments, questions, or directions from the board, if you have any.

President Mosby: How about I get with you and John and we'll go out and look at Mr. Rucker's problem.

Bill Jeffers: Alright, there's a large amount of information available on file, and a great deal of work was done to address the conditions in the neighborhood, and there's a great deal on record to explain exactly what's happening at that location.

President Mosby: Okay. I'll get with you so that you, and if John's got any information, he can fill me in, and we'll look at it.

Bill Jeffers: The County Surveyor has no other business to come before the board at this time.

President Mosby: Any member have any other business?

Commissioner Crouch: Motion to adjourn.

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

(The meeting was adjourned at 6:17 p.m.)

Those in Attendance:

David W. Mosby

Kevin Winternheimer

Others Unidentified

Suzanne M. Crouch

Madelyn Grayson

Members of Media

Bill Jeffers

Myron Rucker

**VANDERBURGH COUNTY
DRAINAGE BOARD**

David W. Mosby, President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY
DRAINAGE BOARD
FEBRUARY 23, 2004**

The Vanderburgh County Drainage Board met in session this 23rd day of February, 2004 at 6:10 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

Call to Order

President Mosby: Call to order Vanderburgh County Drainage Board meeting for February 23, 2004.

Approval of January 26, 2004 Drainage Board Minutes

President Mosby: Do I have approval of the January 2004 minutes?

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

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

Eagle Ridge Estates: Final Drainage Plan

President Mosby: Drainage plan, Eagle Ridge Estates.

Linda Freeman: I made my nice little script here. Eagle Ridge Estates, final drainage plan and report submitted....(audio interference)...what's going on? It's not me, I just changed direction. Okay. Final drainage plan and report submitted on February 17th by Keith Poff from Sitecon. The plan was reviewed by Bill on February 20th, and recommended for approval by Bill Jeffers, County Surveyor. I've got a review summary that states the final plan substantially conforms to county drainage ordinance, and the County Surveyor recommends approval at county drainage board meeting on February 23, 2004. I've got a list of review comments that Bill would like to have added into the meeting. If anybody would like to review those, I can read those out loud, or I have provided, I've got hard copy, and I've provided Madelyn an electronic copy of that. So, if there's anyone here that needs to hear the comments that Bill Jeffers has for Eagle Ridge estates, I have those in a hard copy.

President Mosby: Is there anybody—

Commissioner Fanello: Does anyone need to....I forgot.

President Mosby: That's no problem. Is there anyone here pertaining to Eagle Ridge Estates?

Linda Freeman: Bill would like his statements on the record in the minutes.

President Mosby: If no one is here to comment on Eagle Ridge Estates, we will add Bill's comments to the record.

Following statement provided by County Surveyors Office pertaining to the recommendation of approval of the final drainage plan for Eagle Ridge Estates by the Vanderburgh County Surveyor.

“Review Comments: The following comments have been forwarded to Keith J. Poff, at Sitecon, Inc.

1. Eagle Ridge Estates is a wooded project site divided into large estate lots.
2. While the building lots average one (1) acre in size, many of the lots are smaller than one acre, and will remain under the original 5-year NPDES permit unless the developer successfully exercises “early termination” under 327IAC 15-5.
3. Lots sized over one acre, or project sites comprising two or more lots may result in land disturbance greater than one acre on individual homebuilding sites, and consequently require separate individual NPDES permits available only after approval of individual construction plans.
4. Individual building sites on lots sized under one acre must be developed in conformance with the original Erosion Control Plan (ESC) and Storm Water Pollution Prevention Plans (SWP3s) developed by the project site owner (Maple Leaf Group) and approved for this project site. SWCD currently is reviewing the Eagle Ridge Estates ESC/SWP3.
5. The County Surveyor has completed preliminary review of the ESC/SWP3, and finds it the most complete and well-organized ESC/SWP3 the County Surveyor has reviewed for a project since the enactment of new Rule 5.
6. The “construction phase” SWP3 substantially comports with the new local ordinance for control of storm water run-off from construction sites and with new Rule 5; however, the County Surveyor discovered the following defects that must be appropriately addressed in the “construction phase” SWP3:
 - No designated common concrete truck washout and containment for entire project site.
 - No stated requirement, instructions, or designation for individual lot concrete truck washouts.
7. The “post construction” SWP3 does not comport as well with new state and local rules, but the County Surveyor is not surprised considering the scarcity of technical guidance, lack of appropriate training, misinterpretation of the new rule, dearth of open communication, and exclusion of local MS4 technicians from ongoing training sessions by the state regulatory agencies. With his editorialization now behind us, the County Surveyor finds the following defects in the “post -construction” SWP3 for Eagle Ridge Estates:
 - C1 offers incomplete description of anticipated pollutants; ie: pesticides, road grit, road salt, pet wastes, and swimming pool and household chemicals appear absent from the list.
 - C2 appears to provide a sequence addressing “construction phase” practices for individual lots, many of which will remain under the original permit and plan.
 - C2 should address sequencing of the installation of permanent practices for the interception, treatment, and fate of post-construction storm water pollutants
 - C3 addresses the target very well as far as it goes, but should include maintenance instructions and restrictions related to maintaining unobstructed open grassy swales, prohibition of pet kennels in or near storm water conveyances, clean-up of pet

wastes, floatables, road grit, and sediment from gutters, swales, inlets, or other structures installed in common easements on private property.

- C4 is not complete as it does not provide details and specifications from a standard reference manual for structural and non-structural post-construction storm water management practices. Regrettably, the state agencies offer no reference manuals for post-construction practices. The County Surveyor's "riverfriendly.com" site does.
 - C5 is not complete as it does not create a maintenance narrative or guideline to be passed to subsequent property owners as required by the new state and local rules.
 - The post-construction SWP3 does not take sufficient credit for very progressive practices that this project offers such as extensive riparian corridors, and preservation and enhancement of native natural habitat and resources.
8. SWCD or DSC may approve the ESC/SWP3s for Eagle Ridge Estates; however, the County Surveyor reserves the option of revisiting the plan to encourage compliance with the local rule.
9. The project site owner proposes construction of all the road, drainage, and sewer infrastructure as a part of the initial phase of construction. Therefore, the County Surveyor recommends the developer finish and permanently stabilize the streets, storm water drainage infrastructure including new or reconstructed open channels, pipes, discharge structures, sanitary sewer and utility lines appropriate control measures and seed mixtures, fertilizer applications, and mulch types and rates of application per USDA/NRCS recommendations for specific conditions at the project site.
10. All disturbed areas that will remain idle for 15 days or longer must be seeded, mulched, or otherwise temporarily stabilized with approved methods by the end of the 14th day.
11. Some utility companies will not extend services until they feel they can recover their initial investment. According to the rule, the developer must inform utility contractors that they will be totally responsible for managing their own construction activities, repairing damages, and re-stabilized areas within public rights-of-way and drainage easements at such time as their installations occur. The post-construction installation of utilities such as cable TV service or other later installations must include compacted backfill of trenches and re-seeding and re-stabilization of the damaged rights-of-way and easements.
12. The County Surveyor suggests gabions or contained rip rap mattresses be installed at each end of the culvert under Street Four rather than loose, "hand placed" rip rap, and will not recommend acceptance or maintenance by the county if loose rip rap is found in the pipe or downstream creek bed.
13. The County Surveyor may withhold his approval of any subdivision plat submitted for recording until the ECP/SWP3, and Street and Drainage Construction Plans for the project are submitted to and approved by the Vanderburgh County Engineer (MS4 Operator)."

End of inserted comments by the County Surveyor.

President Mosby: Are there any questions on Eagle Ridge Estates by any member of the Commission or board? Seeing none, chair would entertain a motion.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second to approve final plan for Eagle Ridge Estates. So ordered.

Cayman Ridge (Previously called Country View): Final Plan
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President Mosby: Next, Cayman Ridge.

Linda Freeman: Next is Cayman Ridge. It was previously submitted as Country View. The final drainage plan and report was submitted February 9, 2004 by James E. Morley. The plan was reviewed by Bill on the 17th and recommended for approval by Bill Jeffers, County Surveyor. He's got his review summary, the plan substantially conforms to the county drainage ordinance, and the County Surveyor recommends approval at county drainage board meeting of February 23, 2004. He also, same thing, I've got a list of review comments that he would like to be entered into the minutes. Is anybody here to comment on Cayman Ridge? I have extra copies. So, we would like those added to the minutes.

Following statement provided by County Surveyors Office pertaining to the recommendation of approval of the final drainage plan for Cayman Ridge by the Vanderburgh County Surveyor.

“Review Comments:

1. The project site owner proposes to build the subdivision in four (4) phases. The County Surveyor recommends each phase be sequenced so that land disturbing activities and associated land-stabilizing measures coincide appropriately with each other and with weather conditions to effectively minimize adverse off-site impacts associated with erosion and sedimentation.
2. The County Surveyor recommends that disturbed land be graded and temporarily or permanently stabilized as quickly as possible using appropriate control measures and seed mixtures, fertilizer applications, and mulch types and rates of application per USDA/NRCS recommendations for specific conditions at the project site. All disturbed areas that will remain idle for 15 days or longer must be seeded, mulched, or otherwise temporarily stabilized with approved methods by the end of the 14th day.
3. The County Surveyor recommends that all disturbed land be finally stabilized and all permanent management practices installed and operating in accordance with approved designs and with state and local rules before NPDES permits are terminated and local letters of credit released.
4. The County Surveyor recommends open, vegetated spaces within the project and adjacent to its boundaries be preserved in existing or improved native wooded condition along the west line, and established with native or NRCS-approved grasses, shrubs, and trees wherever else applicable to provide natural habitat, riparian corridors, and sight barriers.
5. The County Surveyor recommends speedy and complete relocation (or permanent) stabilization of the unnamed tributary of Firlick Creek,

and the excavation and final (or permanent) stabilization of the regional detention basin sequenced as a part of the initial construction phase. The detention basin should be fully operable at least as a temporary silt control and storm water detention basin before streets are paved and homes are built.

6. The County Surveyor suggests use of gabions or contained rip rap mattresses rather than loose, uncontained, "hand placed" rip rap torevet the 4 X 12 box culvert under Road #5.

7. The County Surveyor suggests Indiana Erosion Control Handbook, Indiana Drainage Handbook, or City of Knoxville BMP Manual practices including rock chutes, grade stabilization structures, or other practices more appropriate and effective than rock-lined channels for drainage swales with grades steeper than 6%.

8. The County Surveyor has not completed review of the Erosion Control Plan (ECP) or the Storm Water Pollution Prevention Plans (SWP3s) submitted for Cayman Ridge on 01/17/04. Therefore, the County Surveyor will withhold his approval of any subsequent subdivision plat submitted for recording until the ECP, SWP3s, and Street and Drainage Construction Plans for the project are submitted to and approved by the Vanderburgh County Engineer (MS4 Operator)."

End of inserted comments by Vanderburgh County Surveyor.

President Mosby: Okay, is there any remonstrators present on Cayman Ridge? Anybody that would like to speak? Seeing none. Any questions by any member of the board? Seeing none.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second to approve Cayman Ridge, and we will add Bill's comments to the record.

Asbury Pointe Subdivision: Preliminary Plan
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President Mosby: Next we have Asbury Pointe Subdivision.

Linda Freeman: Asbury, okay—

Jim Morley, Jr.: Thank you very much.

President Mosby: You're welcome.

Linda Freeman: Oh, Asbury Pointe Subdivision, preliminary drainage plan report submitted on February 9th by Morley and Associates. The plan was reviewed on the 17th and recommended for approval by Bill Jeffers, County Surveyor. His review summary states the preliminary plan substantially conforms to county drainage ordinance, and the County Surveyor recommends approval at county drainage board meeting on February the 23rd. Same again, I have a report here, review comments that Bill would like to have entered into the minutes.

Following statement provided by County Surveyors Office pertaining to the recommendation of approval of the preliminary drainage plan for Asbury Pointe Subdivision by the Vanderburgh County Surveyor.

“Review Comments: The following comments have been forwarded to Ronald London, P.E., at Morley and Associates. In lieu of reading the comments aloud at the drainage board meeting, the County Surveyor respectfully request the board enter the following comments into the minutes of the meeting, and making the comments available to interested parties:

1. Report is not signed or sealed by a registered engineer or land surveyor as required.
2. Plan sheets C-3, C-11, C-13 are signed and sealed by Ronald London, P.E., as required.
3. Other plan sheets necessary to complete review of a “final” plan, Erosion Control Plan (ESC), and the Storm Water Pollution Prevention Plans (SWP3s) are absent from the submittal.
4. The project site owner does not expressly propose in the report to build the subdivision in phases. The County Surveyor recommends the final plan provide “phased” land development with each phase more explicitly sequenced so that land disturbing activities and associated land-stabilizing measures coincide appropriately with each other and with expected weather conditions to effectively minimize adverse off-site impacts associated with erosion and sedimentation.
5. The County Surveyor recommends the final plan and the ESC/SWP3 demonstrate that disturbed land will be graded and temporarily or permanently stabilized as quickly as possible using appropriate control measures and seed mixtures, fertilizer applications, and mulch types and rates of application per USDA/NRCS recommendations for specific conditions at the project site. All disturbed area that will remain idle for 15 days or longer must be seeded, mulched, or otherwise temporarily stabilized with approved methods by the end of the 14th day.
6. The County Surveyor recommends the final plan and the ESC/SWP3 demonstrate that all disturbed land be finally stabilized and all permanent management practices installed and operating in accordance with approved designs and with state and local rules before NPDES permits are terminated and local letters of credit released.
7. The County Surveyor recommends the final plan and the ESC/SWP3 demonstrate open, vegetated spaces within the project and adjacent to its boundaries be preserved or established in native trees, native background vegetation, or NRCS-approved grasses, shrubs, and trees wherever applicable to provide natural habitat, riparian habitat or corridors, and sight barriers.
8. The County Surveyor recommends speedy and complete relocation, and final (or permanent) stabilization of the unnamed tributaries of Schlensker Creek on or adjacent to the project site as a part of the initial construction phase to retain, detain, or sufficiently filter, abate, and convey anticipated increased storm water run-off.
9. The County Surveyor recommends speedy and complete excavation and final (or permanent) stabilization of the detention basin sequenced as a part of the initial construction phase. The detention basin should

be fully operable at least as a temporary silt control and storm water detention basin before streets are paved and homes are built.

10. The County Surveyor recommends the final drainage plan and the ESC/SWP3 demonstrate some form of filtration, infiltration, retention, detention, or alternative abatement of the increased storm water run-off anticipated to discharge from Lot One through Lot 13, Lot 79 through Lot 91, and from Asbury Pointe Drive into the tributary of Schlensker Creek.

11. The County Surveyor recommends the final drainage plan and the ESC/SWP3 demonstrate stream bank improvements and protections from the tributary crossing the Raab property, Lot 57, Lot 56, Lot 55, Lot 54, Lot 53, and including the junction of the tributary with the other open drain at and from the southeast corner of Lot 53.

12. The County Surveyor recommends the final drainage plan and the ESC/SWP3 include details and specifications for management practices and control measures from the Indiana Erosion Control Handbook, the City of Knoxville BMP Manual, and other standard reference manuals for the application of appropriate construction phase and post-construction practices throughout the project site.

13. The County Surveyor recommends home sites benched into hill sides be cut, graded, prepared, and temporarily stabilized early in the construction sequence and maintained stable in the preparation for individual lot development.

14. The County Surveyor suggests that any open, grassy swale with design grades less than 0.8% be provided with at-grade or subgrade provisions that prevent chronic wetness. Alternatives to "paved ribbon liners" will be considered, but the County Surveyor will recommend sufficient retention of letters of credit to guarantee final/permanent vegetative stabilization of open grassy swales with no evidence of chronic wetness.

15. To complete a review of Asbury Pointe ECP/SWP3, the County Surveyor requests the plans be reorganized and indexed sequentially to conform to IDNR/DSC's "interim review" checklist, and that the content and information required by state Rule 5 and the local construction site run-off control ordinance be more fully submitted as a part of the final drainage plan.

16. The County Surveyor will withhold his approval of any subsequent subdivision plat submitted for recording until the ECP/SWP3, and Street and Drainage Construction Plans for the project are submitted to and approved by the Vanderburgh County Engineer (MS4 Operator)."

(End of inserted comments by Vanderburgh County Surveyor.)

President Mosby: Is there anybody or any remonstrators or anybody that would like to speak to Asbury Pointe Subdivision? Please come forward, state your name and address for the record.

Rudolph Raab: Yes, I'm Rudolph Raab. I live adjacent to it, and it appears like I'm going to have about 17 homes bordering the north and west side of my home. There is a natural drain catty corner across the northwest corner of my property, and I was wondering what they was going to do with that?

President Mosby: Okay, Linda, did you hear what his question was? Please state your question again, she was—

Linda Freeman: I'm sorry, I was—

Rudolph Raab: On the northwest corner of my property it makes an angle across, the natural drain that's there now, and when you build all these homes, and put all these driveways in, you're going to be quadrupling or more the water running across my property. The map that I was sent, it appears like it's going to be in the same place. It's going to be a serious erosion on the northwest corner of my property if you go through this.

President Mosby: She's getting the info out.

Kevin Winternheimer: Is the engineer here?

Linda Freeman: The engineer is here, and he is more than willing to talk to the gentleman and explain any questions or concerns that he has. I also have a set of plans if you guys need to look at them. This is a preliminary plan. This is just allowing them to go forward.

Rudolph Raab: I realize that, but I want it brought up.

Linda Freeman: I know, you want your concerns addressed, but this is a preliminary thing that allows them to go ahead and—

Rudolph Raab: I was told there is going to be a containment pond.

Linda Freeman: Right. There will be some type of retention.

Rudolph Raab: I'm not real sure I can follow my map, because I can't really tell where that's going to be.

Linda Freeman: Right.

President Mosby: Okay. Go ahead.

Ron London: I was going to say, I've got a set...my name's Ron London with Morley and Associates. I will be more than happy to talk with the gentleman outside. I've got a full set of plans, and I can go through with him thoroughly out there, if that's okay with the Commissioners.

President Mosby: Yes, we'll have Ron get with you, and then if, I mean this is a preliminary, so it has to come back to us for a final plan. If at that point that you aren't satisfied, then we just need for you to come back on final plan, and that's where we could discuss it further. At this point he'll get with you privately and see if he can work out whatever differences you might have before it goes back to Bill.

Rudolph Raab: Okay, I would appreciate that.

President Mosby: That's no problem. Thank you.

Kevin Winternheimer: If I might, sir, you might, if you're not satisfied with what they tell you, contact Ms. Freeman and Mr. Jeffers and tell them, you know, if you're not satisfied with his explanation or what questions you still have. Maybe they can get it worked out.

President Mosby: Is there anybody else that would have any questions pertaining to Asbury? Seeing none, motion, or chair would entertain a motion to accept this on preliminary plan.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second to accept preliminary plan on Asbury Pointe Subdivision.

Receive Surveyor's Annual Report on Regulated Drains

President Mosby: Next we will move to new business, receive Surveyor's annual report on regulated drains.

Linda Freeman: Basically, we're planning to do, I mean, in a nutshell we're planning to do basically what we did last year, barring, I think we had three, let's see with Rexing, we had four special projects last year, two of which are being held over because Union Township couldn't get in the bottoms. They submitted a letter December the 16th to our office, and it was submitted to you guys during the December drainage board meeting. You guys approved the extension of that. They are going to honor their prices that they bid in 2003 to complete the project in 2004, that 30 cents a foot, that's really inexpensive. Everything else is basically the same, the mowing, spraying, dormant spraying, sterilization of the bottoms. We've got one project that we're looking at on the side, around Summit Place, just south of Target. There is Bonnie View and Bonnie View extension, we want to silt dip that out and then clean the concrete liner. That's that ditch that they ran, that runs east west right there along the south line of the Target property. We'll clean that out. That's about it, I mean, basically what we did last year and then those two special things. Oh, and Pond Flat Main, but we're looking at that. Doug looked at that today, and he's not even sure we really need to go through there. I don't know, but Doug was looking at Pond Flat Main today, and we may add that to (Inaudible. Away from mic.). Here's a complete set of what we intend to be the specifications. Let's see, Pond Flat Main is not under special provisions, but that's if we decide that something does need to be done to that ditch, then we'll add that in. If you guys want a copy of any of this stuff, I have it. We'll post it on our website as soon as it's... we've still got a few little tweaks. You know, a couple of things that Doug needs to calculate. I've got some....can we move on to other business?

President Mosby: Yes.

Linda Freeman: Or is there any questions on the—

President Mosby: Any questions on the annual report that you received?

Linda Freeman: The annual report and the—

Sign and Authorize Publication of Notice to Ditch Maintenance Bidders
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President Mosby: Sign and authorize the publication of notice to ditch maintenance bidders.

Linda Freeman: It's just the notice to bidders. We are asking for the notice to bidders to be in, it's on the back of the annual report if you flip that over. (Inaudible. Away from mic.) We're asking that they, the bids would be opened on March the 22nd at the regular drainage board meeting, and then we're asking that the advertisement be in the paper, what, this Friday and again March the 5th.

President Mosby: Do I have a motion to advertise?

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

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

Madelyn Grayson: Linda, can you e-mail that to me? Just the notice to bidders.

Linda Freeman: Yeah.

Madelyn Grayson: Okay.

Linda Freeman: I've got two copies that aren't stapled and don't have this on the bottom that I would like you guys to sign for that.

Receive & Approve 2004 Edition of Ditch Maintenance Specifications

Linda Freeman: So, no questions on the ditch maintenance specs or anything?

President Mosby: Yes, receive and approve 2004 ditch maintenance specifications.

Linda Freeman: Yeah, that's kind of what I just covered too.

Kevin Winternheimer: That's what she just covered.

President Mosby: Okay, so we'll just keep going.

Ditch Maintenance Claims

President Mosby: Other business, ditch maintenance claims.

Linda Freeman: Right, I have a few claims. We have ditch claims that have their proper paperwork attached; the certification of payments, because these are the last payments for these folks, for their 15% retainage. Yes, this is just their final payments. That we have approved that they have paid all their vendors, and we're just finalizing their payment.

Commissioner Fanello: Do you need a motion, separate motion to approve?

Commissioner Mosby: Motion to approve ditch maintenance claims.

Commissioner Fanello: I'll make that motion.

Commissioner Crouch: Second.

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

Encroachment Agreements

President Mosby: Encroachment agreements.

Linda Freeman: Do we have any encroachment agreements?

President Mosby: I don't have any.

Madelyn Grayson: Just the old one, no new one's. The next one on the list, I don't know if Bill addressed that with you or not.

Revisit an Unrecorded 1995 Encroachment Agreement for Michelle Loehrlein: Green River Estates

Linda Freeman: Okay, and that, where he's got the revisit an unrecorded 1995 encroachment agreement for Michelle Loehrlein. Apparently that's handled, they have their permits and things. I'm not sure exactly what transpired, but Bill said that's been handled. That they have their building permits.

Madelyn Grayson: Well, that's good enough for me.

Receive Petitions

Linda Freeman: Did we get any petitions?

Other Persons to Address the Board

President Mosby: Anybody else want to address the board real quick?

Linda Freeman: Since I'm it.

President Mosby: You want us to give you direction? I ain't never seen that one on there, direction from the board.

Linda Freeman: I was really, when I looked at the Commissioners agenda and it had rezonings on it, I was like, oh.

President Mosby: I'll take a motion to adjourn.

Commissioner Fanello: Motion to adjourn.

Commissioner Crouch: Second.

(The meeting was adjourned at 6:23 p.m.)

Those in Attendance:

David W. Mosby

Kevin Winterheimer

Rudolph Raab

Catherine Fanello

Linda Freeman

Jim Morley, Jr.

Suzanne M. Crouch

Madelyn Grayson

Ron London

Others Unidentified

Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

David W. Mosby, President

Catherine Fanello, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
MARCH 22, 2004**

The Vanderburgh County Drainage Board met in session this 22nd day of March, 2004 at 6:02 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

Call to Order

President Mosby: Call to order Vanderburgh County Drainage Board for March 22, 2004.

Approve February 23, 2004 Drainage Board Minutes

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

Commissioner Fanello: So moved.

President Mosby: Second, and so ordered.

Permission to Open Bids for Annual Ditch Maintenance

President Mosby: Do I have a motion to open bids for annual ditch maintenance?

Commissioner Fanello: So moved.

President Mosby: Second, and so ordered. I guess, while you're opening the bids, we'll go ahead and move on. Then we'll come back and review the bids. So, while they are opening the bids for the annual ditch maintenance, we are going to move on to drainage plans.

Carpentier Creek Pavilion: Preliminary

President Mosby: First will be Carpentier Creek Pavilion, preliminary.

Bill Jeffers: Carpentier Creek Pavilion. I'm sure everyone knows where it's located on Rosenberger Avenue and the Lloyd Expressway and Hogue Road. This is a preliminary plan. The County Surveyor has reviewed the preliminary plan, and recommends approval of the preliminary plan without detention, due to it's proximity to and across Carpentier Creek, a major tributary in Vanderburgh County, with the provision that the Indiana Department of Natural Resources Divisions of Water, Division of Water, also approved the plan. The design engineer has submitted the plan to Indiana Department of Natural Resources Division of Water, to the attention of Michael Kneer, the director, and subsequent to their submittal to the Division of Water, I got a call from Mr. George Bowman, who requested that the county drainage board enter into an agreement to monitor and report on the relocated and reconstructed channel of Carpentier Creek, as the plans indicate. I'm going to hand out a copy of a proposed agreement that I prepared from, at the suggestion of George Bowman. (Inaudible). Mr. Bowman represented to me that what he had sent me was an agreement from Hamilton County, Indiana, where Hamilton County drainage board entered into a similar agreement on a project to reconstruct a portion of a major tributary, went to DNR, DNR simply wants to be assured that the mowing

of the channel banks and overbank areas will be completed. That the channel and the channel banks and overbank will be kept free of debris and obstructions after construction is completed, so that the water can flow unimpeded through the channel and across the overbank area. And that the shape and condition that the channel and the overbank area is constructed to is maintained in that shape and condition perpetually. That's down at the bottom of the first page, a, b, and c. Now, that's what DNR is after, and what they are after is the drainage board saying that they will provide inspection on the back page. They will provide an inspector, a qualified inspector. You have one in Mr. Wathen at the County Engineer's office. The County Engineer himself is qualified as an inspector. At this time I'm qualified for as long as I'm working for Vanderburgh County, and there are two individuals in my office, both chief deputies are qualified. But, the inspector has to be supervised by a professional engineer or land surveyor. Again, the County Engineer, so long as you employ a County Engineer, he is a professional engineer licensed to practice. So long as chief deputy, Doug McDonald works for the County Surveyor, he's both a civil engineer and a professional land surveyor. So, we would assume that you would always have a professional engineer on staff. I failed to mention Valerie Harry is also a professional engineer, and she's also qualified as an inspector. So, you have the personnel that can go out and inspect the site on a regular basis, minimum of once a year, per this agreement, plus every time flood waters overtop Hogue Road. That was specifically required by Mr. Bowman. That would represent a 100 year flood in other words. So, you would have to go out and check then. Then we need to produce a report on a regular basis, and subsequent...basically, what you're doing here is you're committing the county to use their forces to inspect and report on the finished condition of the channel, at least once a year, and after every major flood event, and to cause the removal of obstructions, debris, etcetera, and the maintenance of the grass and other vegetation in it, and the maintenance of the channel in it's location and shape exactly the way that the plans that DNR approves show. That's an expense to you, it's not something that we've ever done before to obtain a permit for a private individual. I don't think it's something we can't perform, but you might want to think in terms of it sets a precedent that will have to be followed, possibly, and I'm not sure that DNR has the legal authority to enforce this. However, I'm not saying it's onerous. I'm not saying it's impossible. I'm simply saying that this means that every time a permit is issued by DNR for reconstruction of a ditch through a project, they will probably be asking the same thing again. It's up to the drainage board. Whatever the drainage board decides, the County Surveyor will provide assistance and manpower. I've signed the bottom of the original copy, and if the Commissioners so desire to enter into this agreement with DNR, they should apply their signatures here on, and date your signatures please. Now, as to how you're going to cause this to happen, what you should do is enter into an agreement with the developer obligating the developer, so long as he owns the property, to perform these maintenance items in accordance with the report that's generated by John Stoll, or the County Engineer, whoever he may be in the future. That agreement that you enter into, separately, between the drainage board and the developer, should be put into a document by your legal staff that can be recorded and applied to all subsequent property owners. Now, we have done that before. Skinner Broadbent piped a ditch underneath Eastland Place where Shoe Carnival is, in exchange for allowing them to enclose the ditch and build a commercial subdivision over top of the ditch, just like this, or similar to this, we have a recorded document whereby they maintain the pipe, they maintain the face of the pipe, etcetera. So, there is a precedent on that part, okay? It's a fairly long document, and I do have samples of similar documents that Mr. Bowman was kind enough to forward to me that other counties have used. Here's the original copy.

President Mosby: Are there any questions of Mr. Jeffers?

Bill Jeffers: Before you execute all these things, you may ask if there is any remonstrators in the audience. Other than that, again, I have reviewed the plan and recommend approval of it. It is in accordance with our local code, so long as DNR approves the reconstruction, the plan will work.

President Mosby: Are there any remonstrators?

Unidentified: (Inaudible).

Bill Jeffers: Ma'am—

President Mosby: Ma'am, I need you to come to the Mic. and give us your name and address.

Loretta Roberts: I'm Loretta Roberts, my address is 4526 Kerrick Lane. I'm here representing John Roberts. John is deceased. I think I have a lot that adjoins this construction. From what I'm understanding, my, what was a lot is becoming a drainage ditch. I'm quite upset about it.

President Mosby: Okay. I don't know where your property is exactly.

Loretta Roberts: It's on Warner Avenue.

Unidentified: (Inaudible).

Loretta Roberts: Well, there's not a house on it. It's just a lot.

Unidentified: This is the Lloyd Expressway. John Roberts was your husband?

Loretta Roberts: Yes.

Unidentified: Okay. I believe it's this lot right here. It's south of (Inaudible) Avenue.

President Mosby: Okay.

Unidentified: (Inaudible) this is the floodway. (Inaudible) Carpentier Creek. (Inaudible).

Loretta Roberts: No, I haven't seen it. This is where it was (Inaudible), they are moving it, aren't they?

Unidentified: This is up creek. This is (Inaudible).

Loretta Roberts: Well, I just, I'm real concerned with what's happening and how it's been done. Like, all the soil that's been placed in there, and made it like over my head. I mean, it's over five foot deep ditch there now.

President Mosby: Okay, I need you to give your name for the record too.

Loretta Roberts: Previously, there wasn't anywhere near that. I mean, there just wasn't a ditch, it was just a trickle of water that went over the land.

President Mosby: Okay.

Jon Kipling: My name is Jon Kipling. I work with Morley and Associates.

President Mosby: Okay.

President Mosby: Mrs. Roberts, this is a preliminary hearing, so, if you would want to get with Bill Jeffers, the Surveyor, who is head of the drainage board, he would be more than glad to try to answer any questions you might have. Because this will have to come back on a final. This is just a preliminary, so, if you have any questions, if you would like to get with him, or get with Mr. Kipling from Morley and Associates so that they can answer any questions you might have before we hear this on final.

Bill Jeffers: Okay, there may seem to be some urgency in me asking for all these approvals tonight, and the reason is I won't be available from the end of this month through about the end of April. However, this particular plan is at DNR, and I don't anticipate that it will be back before the May meeting. So, there will still be 30 days where this lady, after I come back, will be able to speak with our office, if she's not satisfied with the answers she gets from Jon Kipling at Morley and Associates. But, I would recommend that she immediately begin talking to Jon Kipling at Morley and Associates about her concerns that she would like to see incorporated into the final plan, and to talk to Mr. Dennis Owen, who is the developer. So, that they know what you're concerned about, and can explain it to you thoroughly in a technical way.

Loretta Roberts: How did it get this far along before we were notified?

Bill Jeffers: You were notified of a preliminary drainage hearing, and an Area Plan hearing that will occur the first Wednesday of April. That's what's required by law. The question the lady asked was how did it get this far along. There have been notifications on the portions that are over on Dorothy Drive, however, this particular project that's before you today will appear in front of Area Plan Commission the first Wednesday of April, I believe. Is that correct, Jon? Is it scheduled? The legal notices went out, and if there is any question about the legality of the notice, you can address that to Area Plan Commission at 426, excuse me, 435-5223.

Loretta Roberts: 5223? Area Plan?

Bill Jeffers: Or is that 5226?

Unidentified: 5226.

Bill Jeffers: 5226. If you have any questions about the legality of the legal advertisement, not the legality, but the correctness, they can show you the green cards that were sent out at the appropriate time.

President Mosby: Are there any other questions? Are there any other remonstrators? Seeing none. Let me see if I get this right, Bill. I need a motion to accept the letter from the drainage board with DNR, right?

Bill Jeffers: Motion to approve it for form, or a motion to enter into the agreement—

President Mosby: Okay.

Bill Jeffers: – with DNR, as shown on this sheet, on this letter.

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

President Mosby: I will second and so order it. So, we have a motion–

Bill Jeffers: Then a motion to approve the preliminary plan as presented, as a preliminary plan.

Commissioner Fanello: So moved on that, and then I would like to make an additional motion if it's required at this time, but the letter that you talked about as far as the agreement between the–

President Mosby: Hold on, I've got to second and so order the preliminary plan. I'm sorry, I thought that was part of the motion. We have a motion and a second to accept preliminary plan. So ordered. Go ahead.

Commissioner Fanello: The letter that the County Surveyor referenced as far as the agreement between the developer, I would like for us to pursue that option as well.

President Mosby: Okay, and I have a motion to pursue an agreement letter with the developer, and, I guess, subsequent land owners.

Commissioner Fanello: Right.

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

Bill Jeffers: Okay, and then we'll provide your legal staff with whatever documents we have, which are very limited. I've read them, they are very limited. I know that Mr. Winternheimer and his staff can come up with a much more thorough agreement between you and the developer and subsequent property owners as to them paying for and accomplishing all the maintenance required, and repairs required perpetually. Thank you.

President Mosby: Mrs. Roberts, if you will get with Mr. Kipling from Morley and Associates and see if–

Bill Jeffers: Their phone number is 464-9585.

Havenswood Sections 2 & 3: Preliminary

President Mosby: Next we have Havenswood sections two and three, preliminary.

Bill Jeffers: Havenswood is another preliminary that meets the requirements of the county drainage code. The County Surveyor has reviewed it and found it compliant, and recommends approval. The only question I have at this time that needs to be answered before the final is submitted, is do the adjacent property owners who came in a year ago on this issue, two farmers that own property adjacent, are they okay with the discharge point in a ditch that they share that has a pipe in it that they maintain? That can be answered at final. I just want to enter that for the record. The recommendation is for approval.

President Mosby: Is there anybody here that wants to speak to Havenswood, sections two and three, preliminary plan? Seeing none.

Commissioner Fanello: I'll make a motion to approve the preliminary Havenswood, sections two and three.

President Mosby: Second and so ordered.

Asbury Pointe Subdivision: Final

President Mosby: Next we have Asbury Pointe Subdivision, final plan.

Bill Jeffers: Asbury Pointe Subdivision is a final plan. It has been presented a month ago as a preliminary plan, subsequently the Soil and Water Conservation District plan review technician has reviewed the construction and erosion control plans and post construction pollution prevention plan for this project, as required by Rule Five, and has found that it is appropriate, and has forwarded her approval of it to IDEM for a Rule Five permit. The County Surveyor has reviewed the plan from the point of view of the local storm water drainage control ordinance, or code, and find it's substantially compliant with that code. The recommendation is to approve the plan. The only controversial issue at this time is that, and there are people here to speak to this issue, is that the plan that was presented by Morley and Associates that I'm recommending at this time, is dependent upon some off-site creek channel improvements on a neighbor's property to handle the extra water that's coming off of the lots along the entrance road. The adjacent property owner's name is Mr. Raab, or Raab, R-a-a-b. He's here in the audience with a representative that may wish to speak. Basically, what I'm saying is that there is a little additional water that comes off of a development, after development, that doesn't occur as an open field, and the plan proposes to discharge this directly on to Mr. Raab's property, in a creek channel that needs some improvement. The design engineer has shown the improvement that needs to be made to the channel, that's part of the plan. If they can come to an agreement with the adjacent property owner to acquire a temporary construction easement to accomplish the work, then this plan will work. If they can't do the work on the adjacent channel, then they will have to go back to the drawing board, and come up with some detention or some sort of way to slow the water down so that the existing channel can handle it without any damage. Again, at this time, what I'm recommending approval of is the plan. However, in order to implement the plan, they have to come to an agreement with the adjacent property owner.

President Mosby: Is—

Stephanie Brinkerhoff-Riley: Hi, my name is Stephanie Brinkerhoff-Riley. I don't know if you want an address, 400 Court Street is the office. I represent Mr. Rudolph Raab. On this issue, specifically we wanted to, and I appreciate how clear Mr. Jeffers made the actual issue, specifically if you look at the review comments regarding Asbury Pointe Subdivision, I think they were submitted to be put into the minutes at a previous meeting. Specifically number eight, number 10 and 11, specifically speak to Mr. Raab's property. They also specifically outline that there will be increased drainage. Mr. Raab at this point is not willing to grant either an easement, a 20' drainage easement, or is he interested in a temporary construction easement. This property right here, it is zoned commercial. This is the property belonging to Mr. Raab. Here is the proposed, well, actually the drainage ditch that exists now. This currently is an open field. It also, right here is the lowest point of

this whole development. On Saturday, and I know the rain on Saturday was pretty intense, but the majority of this field and this area right here was completely under water. When you, I know, I see how this is drawn on this plat, is that what that's called? I was out there today. This ditch, in places, is already 20' across. It's 5' deep, the ditch already does not control the drainage. If he were to give an easement for them to do the work...see he has a section of trees back here that provide kind of a visual break between him and the subdivision that is going to be put in. Granting the easement they're asking for, that would eliminate, he would lose most of his trees back there, which, this is a fairly rural setting at this point, but, I mean, this is 93 homes, he would be pretty much smack dab in the middle of a big subdivision. He likes the trees back there, you know, it provides a break for him on top of....instead of being, you know, surrounded, I mean, these lots are very small, they are only 60' wide. There is going to be 93 houses here. There is already erosion control problems. He already has some trees that he is in the process of losing because the ditch continues to get wider and wider. It's generally through the bulk of this area, it's 10' across. Twenty feet across in places, and at least 5' deep. We think it's a significant problem to begin with. We think that the drainage could be moved on to the developers property. I'll just leave that there. I just wanted you to have an idea of the property that we're talking about. I spoke with the developer just a few minutes ago, and it's my understanding that their position is now that there will be no additional drainage, and, in fact, that the drainage is going to be less after this development is done. I think that is an issue that needs, that's between Mr. Jeffers and the developer, because if you look at eight and number 10 of the review, I mean, to quote:

“Abatement of the increased storm water run off anticipated.”

So, the Vanderburgh County Surveyor has made it very clear that there is going to be more drainage from this development. So, I mean, we've also...Mr. Raab has spoke with the developer on several occasions, we don't know at this point if there is any potential negotiations that could take place, especially with the new position that the developer just took this evening. We're not sure where that is going to go, because I think that clearly outlines a disagreement between them and Mr. Jeffers. So, we, of course, would ask that the drainage plan not be approved. I understand the plan itself complies with the statute, but in carrying out the plan, they require an easement from my client, and he's not...and for the reasons I've outlined about losing his trees and then the development already being on top of him, he's not interested in providing that easement. Mr. Raab, would you like to speak? Would you like to add anything?

Rudolph Raab: (Inaudible).

Stephanie Brinkerhoff-Riley: I understand Wayne, who is also....do you want to point out to them what your property (Inaudible)?

President Mosby: What is his name, just so we can get it for the record?

Unidentified: Wayne Fehd.

President Mosby: Wayne Fayne?

Unidentified: Fehd. F-e-h-d.

President Mosby: F-e-h-d.

Stephanie Brinkerhoff-Riley: This is his property.

President Mosby: Okay.

Unidentified: Do you want me to go over there?

President Mosby: No, you don't have to. She just showed us where your property was. I just wanted to get it into the minutes of the record.

Wayne Fehd: We have six acres there on Hornby Lane and Green River Road, which is on the north side of the entrance road going into the subdivision that they're proposing. The ditch on Hornby Lane has a 36" pipe in it, and this ditch, when it rains the water on the north side of Hornby Lane goes over the top of the road there about 10" deep, it's not near sufficient to carry that water off that field. That's why I say the drainage plan is wrong there. I spoke to them about relocating the ditch through my property to my west line, and straighten it out and come down through theirs. It changes their lots, puts the ditch over further west, make it align with Mr. Raab's ditch, but we haven't gotten anything done. I spoke to them before the Area Plan Commission meeting, and nobody's called me back and said anything. If Mr. Raab hadn't called me tonight, I wouldn't have known there was a meeting tonight.

President Mosby: Okay, thank you. Is the developer here? Did you want to say anything?

Ron London: I'm Ron London with Morley and Associates. I'm the engineer on this project. I would like to just rebut what they are saying there. I have gotten the response from Mr. Jeffers. I've done a full rebuttal to his office. I've shown by calculations that by no means are we increasing any run off going on to Mr. Raab's property, from what was going on there prior to this development. I have calculations showing that. I'm a licensed, registered engineer in the state of Indiana. I can only state my case that we're not increasing any run off going on to Mr. Raab's property. So, by no means do we feel like we need to get an easement on his property. We have offered to come on to his property, and help him with his ditch, but by no means are we increasing any run off, or increasing any detriment on to his property whatsoever.

President Mosby: Okay.

Ron London: I've shown the calculations to Mr. Jeffers. I've sent them to him.

President Mosby: Do you want to speak?

Wayne Fehd: Mr. London didn't address my part there though. I'm saying the 36" pipe doesn't carry the water. The water goes over Hornby Lane 10" deep. The pipe he's got going through underneath that road, I think, it shows a 36" inlet, and it's back up water on my property if that pipe isn't increased. Now, what he's saying about Mr. Raab's property, I'm not speaking to that effect.

President Mosby: Okay.

Wayne Fehd: I'm talking about mine now.

President Mosby: Okay.

Ron London: I would like to say that the pipe that we're putting into that ditch was sized for the 100 year storm event. It will pass the 100 year storm event. So, not only a 25, but a 100 year storm will pass through that pipe.

President Mosby: Okay, are there any other remonstrators?

Stephanie Brinkerhoff-Riley: Have the Commissioners seen the request for the easement received by Mr. Raab? I know that the developer has indicated that they were never interested or asked for an easement.

Commissioner Fanello: Go ahead and show it to us. I don't recall.

Stephanie Brinkerhoff-Riley: This is specifically what he received, which pretty much insists that he sign it and return it, and then if you look at...here is the 20' drainage easement that they're looking for, but they actually want 30', because you can see where their temporary construction easement is a significant, you know, piece of his property. It wasn't until they were denied an easement that I think they developed the argument that they didn't need one.

President Mosby: Okay, so, are there any questions by any member of the board?

Ron London: This is Ron London with Morley and Associates. I would like to state one more thing is that the easement, we have offered them, we have offered to do the work on their property. It's an offer by Jagoe to help Mr. Raab, but by no means are we increasing any flow on to his property. So, I have given those calculations to Mr. Jeffers. You may want to ask him if he's received them and looked at them, but we have done that. So, it is an offer out there, it's not something that we thought we had to do, but we offered to do it.

Bill Jeffers: Unless those calculations came to our office over the past couple of days, I'm operating off submittal from March 11th, March 12th I got a rebuttal from Mr. London. I believe that's the probably the latest thing I got. Let's see, we have some sheets here that were received on March 12th in the afternoon. What I'm concerned about, and what all my review notes have spoken to is lots one through 13, and lots 79 through 91. So, you have 26 lots with 26 new homes, facing on Asbury Pointe Drive, which is a 30' wide new street, with sidewalks, again, approximately 26 houses, plus that street, draining into inlets on this project and being point discharged from the end of a pipe directly on to Mr. Raab's property. I don't think there is any calculations that have come to me to show me that the five acres occupied by those 26 new homes, and that new street, can possibly discharge less storm water, after construction, than they do as an open grass field today. In addition, the water that arrives at Mr. Raab's northwest corner, which is where the channel is located, now arrives as basically sheet flow across the land, over the bank of the ditch in many points, and I submit more slowly arrives at that point. After a development of 26 new homes, sidewalks, driveways, patios, plus the 30' wide street, which is approximately 700, 850, almost 900' long, that there will be substantial more storm water coming off the new hard surfaces. In addition they will be brought to this discharge point in a more rapid fashion, higher velocities. They will be discharged from point discharge directly into this channel, that the peak discharge that occurs in agricultural land, generally occurs over a period of 30 to 60 minutes. You reach peak, it lasts for maybe five or ten minutes, and then it goes back down to post peak conditions, and any water that is outside the channel, gets back in the channel, and flows on it's merry way. In a development of this magnitude, what occurs is you have collection and discharge within 10 or 15 minutes

rather than 30 to an hour, and the peak discharge generally occurs over a longer period of time, so, that water is pumped into that ditch over a longer period of time, causes a greater amount, or a potential for scour. It saturates the embankments, and I simply ask for that to be addressed. Our ordinance requires, our code requires all storm water to be detained and released at pre-development cubic feet per second. I don't see how that can be accomplished without detention. The reason I was willing to forego detention, or a recommendation for detention is, at this point, is if they improve this little, short stretch of channel to accommodate the extra flow, it goes right back on to their property, and they have such a substantial detention basin for the rest of the...I can't remember how many lots altogether, 80 something, 70, 80, what is it? 91 lots. The rest of the lots have such a high magnitude of detention, that they are reducing the overall flow back to about 25% or 30% or it's pre-development rate down here at the subdivision's discharge point. So, that offsets this little five acre parcel I'm talking about that has accelerated run off. Yes, there is a much lower rate after development from the final discharge from the subdivision, but we still have the issue of these 26 lots. I don't see how they could possibly discharge less storm water after development than before. Having said that, Ron London, as he pointed out, is a registered engineer with the state of Indiana, and it's his liability, not mine. My recommendation is to approve this plan, if...I mean, the plan is approvable. It can sit there forever. I mean, you can approve this plan, it sits there forever. It can't be implemented until they go off-site and deal with the fact that local code and state law requires that downstream channels be fit to receive discharge from new development without the peril of erosion or sedimentation.

President Mosby: Any other questions by any member of the board? Seeing none.

Ron London: I would just like to make a rebuttal. I believe in the drainage ordinance, correct me if I'm wrong, Bill, but what we have to show is that there is a pre-development rate before this development is done. We have to show the amount of water that is coming down through this ditch. Then I have to show what the rate would be after the development is done, which is the post-development rate. What we've done in this development, is that a portion of the water that goes on to that property there has been cut off and taken down into our retention basin. So, by shutting off, cutting off some of that water, what we've done is lessened the amount that's going to go through Mr. Fehd's property down in through that ditch, through our pipe, and on to Mr. Raab's property. I've proven that with calculations that are post-development, which is after this development is finished, is less than, this is for the 25 year storm, which that is what we're required to size this pipe for, is less than what is going over there now.

Commissioner Fanello: And that is where I would ask the County Surveyor how he feels about that comment. If he agrees with that comment.

Ron London: And I would like to say that these rebuttals were sent on March the 11th. I've also talked with Mr. Stoll about this.

President Mosby: You can if you—

(Inaudible discussion taking place out of range of microphones.)

President Mosby: Bill, I guess, I want to ask you a couple of questions.

Bill Jeffers: Okay, Mr. London has pointed out an area that I overlooked as having been diverted to the interior, and pointed out where he made the rebuttal in his March 11th rebuttal to me. He's correct. I will say that if any erosion or sedimentation or scour or anything like that occurs on Mr. Raab's channel, Indiana state Rule Five will require that repairs be made or alterations be made to the plan, and that could come in as a modified final drainage plan. As to Mr. London's calculations of the 36" pipe as pointed out by Mr. Wayne Fehd, I don't have any record of the water going over the top of Hornby Lane, however, I don't doubt Mr. Fehd's eyewitness account of it happening. As I don't dispute the eyewitness account of the legal, or Mr. Raab and his legal attorney here. I just wasn't there to witness it. Again, Mr. London's calculations were performed in accordance with the ordinance using our rainfall data and our method of calculation. They do conform with the ordinance in the code, and, again, he is a registered civil engineer, and the responsibility for those calculations are his. The recommendation is still to approve the plan.

President Mosby: Are you taking out of your recommendation the upgrade to the ditch?

Bill Jeffers: I would like to see the ditch upgraded, and I think it would be a benefit to everyone, including Mr. Raab. Mr. Raab has a C-4 piece of property that undoubtedly will be developed in the future, being at the corner of 57 and Green River Road. I think he should look to his future as well as the future of the neighborhood. I think he should maintain that piece of property. He shouldn't sell it outright, he should maintain access to it, because when he or his heirs or assigns come in to develop that acreage of his, it's already zoned C-4, they are going to need an outlet, and they are going to have to improve it. If he doesn't want it improved now, it's going to be improved later at this expense. So, yes, I'll take that out.

Ron London: I would just like to restate that we have offered to, you know, fix, or to upgrade that ditch. The offer is out there. It will remain out there, you know, as long as they are doing the work, they will do that. The offer is still good.

Stephanie Brinkerhoff-Riley: What is your developer's response to the issue of his trees? There is probably 30 fully developed trees lining that ditch that if you go in with a constructive, with a temporary easement for construction, what's going to happen to his trees? I mean, one of his primary issues has been he doesn't want to lose those trees.

Ron London: Well, Ron London, with Morley and Associates. If we go in there to upgrade the ditch, I mean, we've got to be able to cut the banks back. I can't go in there and do that without taking out some trees.

Commissioner Fanello: I was just going to say, that's really not something that we have any control over.

President Mosby: I guess, my question, oh, go ahead.

Wayne Fehd: I'm Wayne Fehd. I know Ron London hasn't addressed my issue there, but if he's going to assure us that he's not going to back any water up on my property, or he'll be liable for it, and have to take corrective measures by using that small a pipe from under his entrance road. I just don't see how he's going to get that 36" pipe through under his entrance road to carry the water that's going to be coming

off my property, six acres, plus what's on the north side of Hornby Lane. When now, Hornby Lane's pipe is 36" diameter, doesn't carry the water, it's going 10" over the top of the road there. I addressed this matter with him on the site, and we still haven't gotten it corrected. My father-in-law bought that property in 1958. We've been there a long time. I bought it from my mother and father-in-law, we've been there 20 years already. The water does back up on Helen Inglehart's, a third of the way up on her yard, then it goes across Hornby Lane, 10" to 12" deep. This pipe's not big enough to go underneath that road. If he's going to assume the liability and you're going to put it in the minutes, it's up to him.

Bill Jeffers: On that issue, I would like to point out that the pipe under Hornby lane is a corrugated metal pipe put in by the county. I have no earthly idea of what the inlet control is on it, what the head is on it, head pressure. I have no idea what the grade on it is, which affects the flow rate. All these things affect the flow rate. Mr. London presented to me a plan that shows that a 36" pipe will pass the 100 year flow. He's only required to pass the 25 year flow. On top of that I asked for, and I did receive an emergency overflow channel on top of the pipe, paved. Is that correct? Paved?

Ron London: Correct.

Bill Jeffers: It's a paved overflow channel, so that if the pipe becomes totally plugged, how's that guy on My Cousin Vinnie go, "totally plugged", the overflow from the 100 year storm will jump up and go down the overflow channel between the houses without flooding. They are on slabs, not on crawl spaces. I did that because Mr. Fehd's property upstream is wooded, and there is a good deal of forest litter, and downed logs and limbs and firewood and so forth that could be washed into the pipe and plug it. So, I asked Mr. London to provide an emergency overflow to handle the 100 year flow, and he's showed that. We're not in the business of preventing acts of God, or acts of nature. I would also like to point out that anything can happen in that regard, and I would like to also point out that the Soil and Conservation District did review the plans, which include the location, under new Rule Five, include the location of all drainage improvements, including pipes, and asked for pre-development and post-development discharge rates. So, it's been reviewed in accordance with Rule Five as well, which takes it to the state level.

President Mosby: John, did you want to comment on the pipe?

John Stoll: Yeah, Mr. Fehd called me last week with the concerns about the water flowing across the top of the road, and I'm having Valerie Harry look into it. If it is undersized, we can replace that pipe. I haven't looked at it personally myself, and I don't think Valerie has gotten out there yet, as of yet, but, like Bill said, the capacity on the corrugated metal would be less than the capacity on the concrete pipe that's in this subdivision. So, this would have a larger capacity, just because it's not corrugated. But, anyway, we'll look into that. If it needs to be replaced, I'll come back to you with a quote, or we'll have the county crews replace it.

President Mosby: Okay, thank you, John. Did you have a question? Mr. Raab, I mean, do you want to—

Rudolph Raab: Yes, I would like to make a statement. It was my understanding that it's more than 23 homes, is the way I'm reading the blueprint, unless I'm reading it wrong. I would like to have that discussed, because I think the homes on the west side of Fehd's ground, and also on the south side of Fehd's ground is also going to

be discharging in that pipe. That's the way I'm reading it. Now, unless somebody can tell me different, he's saying 23 homes, and it's a lot more than that.

Ron London: The other homes in the development, besides the 23 or 21 that are going there, the rest of them are all going down into the retention basin, so they are bypassing Mr. Raab's ditch. That basin has been sized, it's double the size that it needs to be. The flow rate coming out of that basin, we were allowed to run 28 cfs out of that pipe, we're running it at six. So, we've not only doubled the storage that we need, we've reduced the flow rate by four times.

Stephanie Brinkerhoff-Riley: I think one of the problems is that we're setting this up so that the plan gets approved, and if it causes damage later, then they'll be responsible for it and have to fix it. The problem is, is that what we're trying to prevent initially is, you know, six of one, half a dozen of the other, if we let them come in, they are going to cut down all his trees, and make a bigger ditch, and if the plan's approved and we don't let them come in, then once it causes significant damage, then the remedy is for them to come in and cut all his trees down and make the damn thing bigger. You know, how is that possibly going to put him, I mean, their remedy directly flies in the face of what Mr. Raab is trying to preserve and trying to protect. You know, their whole drainage plan is based on, you know, shaving off the top of a hill, and moving that dirt over to the low spot. It all seems to be a great calculation of future, you know, suspected rainfall and all that kind of stuff, but at the end of the day, if the plan doesn't work, then he's caught with the same event happening, you know, that he's trying to prevent now. I don't think saying if it causes problems later that Morley will be responsible for repairing it is a solution. You know, we still seek for the drainage plan not to be approved.

President Mosby: Well, according to the County Surveyor, I mean, with the calculations he has been given, and he admitted to overlooking a calculation, he is saying that it will work in accordance with the same thing Mr. London is saying.

Stephanie Brinkerhoff-Riley: Well, he's also saying, look, it's on him if it doesn't work.

President Mosby: Well, I understand that. It's always on somebody.

Stephanie Brinkerhoff-Riley: Then we're stuck with the same thing we were stuck with before, which is removal of his trees, and loss of more of his property. I mean, it is zoned commercial, we know, all of this leads to loss of his property for the happiness of the Jagoe Home Industry.

President Mosby: I am not an engineer, so I can't say that it's not going to work. The Surveyor is an engineer and he says it will work. He's reviewed it. Their engineer's reviewed it, they've still made the offer to upgrade the ditch, if you want to accept that, it's up to you, and we can pass that tonight.

Stephanie Brinkerhoff-Riley: I would have to talk to my client about that issue.

Commissioner Fanello: Do you want to take a few minutes to talk to your client, because I really don't have any basis to deny the drainage plan. It meets the code.

Stephanie Brinkerhoff-Riley: Alright then.

Commissioner Fanello: Why don't we give you about five, ten minutes, and then we'll come back to you.

President Mosby: We'll come back to this. I'll give her time to talk to her client.

**Lot 91, Eagle Crossing, 2009 Championship Drive
Modification of Final Plan**

President Mosby: We'll move forward to Lot 91 of Eagle Crossing, 2009 Championship Drive, modification of final plan.

Bill Jeffers: Okay.

President Mosby: You might want to go with them and listen to what they have to say.

Unidentified: We don't represent them.

President Mosby: Well that's okay. Represent yourself. Go for it.

Commissioner Fanello: It's a public building. You can listen.

President Mosby: Tell them we okayed it.

Bill Jeffers: Okay, this is a situation where Lot 91, and I believe the address is 2009 Championship Drive, needs to install a drainage pipe and re-route some drainage to the benefit of that lot and the adjacent golf course, which is Eagle Crossing Golf Course. All the property owners are in agreement with this, and have indicated that they will send letters stating so, but the engineer is on spring break and I promised him I would bring this and tell you that the plan will work. Mr. Roland Brinker, the owner of the golf course, is in agreement with it. The work will be performed by Steve, real good, starts with a b, Blankenberger. Blankenberger Brothers is going to do the work, the contracts already been let to them, and they will come in with signed letters to be recorded stating everybody is in agreement with it. It does not become the maintenance of the county, the letters will indicate that the individual property owners will maintain and repair and replace any damaged pipe that results from this project. The Surveyor's recommendation is to approve.

President Mosby: Are there any remonstrators? Anybody that would like to speak? Seeing none.

Commissioner Fanello: I'll make a motion to approve the modification of the final plan for Lot 91, Eagle Crossing, 2009 Championship Drive.

President Mosby: Second and so ordered.

Bill Jeffers: I've lost my agenda.

Ditch Maintenance Claims

President Mosby: That's okay, ditch maintenance claims. We'll move down to ditch maintenance claims.

Bill Jeffers: Oh, here it is. Ditch maintenance claims have all been properly made out and documented and so forth by our office. The County Surveyor recommends paying those ditch maintenance claims that are in front of you at this time.

Commissioner Fanello: So moved.

President Mosby: Second and so ordered.

<p>Encroachment Agreement: Woodward Realty: White Castle Burkhardt Crossing</p>
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Bill Jeffers: Encroachment agreement for Woodward Realty on behalf of White Castle, located in Burkhardt Crossing. We have an engineer here who will speak to that, Matt Wallace, from Morley and Associates. Very briefly what you're trying to do, do you have the agreement with you?

Matt Wallace: I do have the agreement. I also have the exhibit drawing. The exhibit drawing illustrates the property descriptions of lot 15 and lot 16 of Burkhardt Crossing Subdivision. The, we show the previous existing 75' right-of-entry line for Kelly Ditch. We are requesting that that be relaxed as described on the exhibit to 35' along the parking row, and 25' for the two proposed dumpster enclosures. The 25' would be the minimum we can ask by law. That would prevent one of the dumpster enclosures from falling within the right-of-entry. It minimizes the encroachment on the second, more easterly, westerly. Yes, westerly, I'm sorry.

President Mosby: I mean, Bill, do you have any—

Bill Jeffers: Commissioners, what you have in front of you, and in the hands of your attorney at this time is the standard encroachment agreement form provided by Kevin Winterheimer for use in this case. What the motion would require is the relaxation of the right-of-entry for Kelly ditch, as shown, on exhibit A, B, and C attached to that agreement. Your signatures on the agreement indemnify the county, when it's recorded, against any loss or damages incurred on that strip of ground forever. The County Surveyor recommends approval, and execution of that form.

President Mosby: Are there any remonstrators? Seeing none.

Commissioner Fanello: I'll make a motion to approve the encroachment agreement that was presented.

President Mosby: I will second and so order that.

Bill Jeffers: Thank you, Matt.

Matt Wallace: Thank you.

President Mosby: No problem. Any petitions?

Bill Jeffers: Now, you guys need to bring a check for the recording of that. We don't pay for the recording.

Matt Wallace: Correct. Previously, the last one I worked on there was discrepancy in the amount the check was made out for. I can never quite guess the exact dollar amount—

Bill Jeffers: Right, it will be available at the Auditor’s office after it’s execution. You bring a check to the Auditor’s office and they’ll walk you over to the Recorder’s office and see to it that it’s recorded.

Matt Wallace: Yes, sir.

Bill Jeffers: You can call Madelyn. When will Madelyn return? Next week.

Charlene Timmons: Yeah.

Bill Jeffers: Okay. Thank you, Matt.

Matt Wallace: Thank you, Bill.

Petitions to Remove Obstructions

Bill Jeffers: I don’t know of any petitions, and the Auditor didn’t receive any, I don’t believe.

Other Persons Wishing to Address the Board

Bill Jeffers: Other persons wishing to address the board should do so at this time. Seeing none, we should go to the reading of the bids into the minutes.

Reading of Bids for 2004 Annual Ditch Maintenance

Bill Jeffers: Which is rather lengthy, I apologize.

Commissioner Mosby: Okay, well, they don’t look ready, so you can go ahead and start.

Jay Ziemer: I’ll go ahead and start reading the bids:

BIDDER	DITCH	AMOUNT
RR Rexing Farms	Pond Flat Lateral A	\$743.54
RR Rexing Farms	Pond Flat Lateral B	\$391.58
RR Rexing Farms	Pond Flat Lateral D	\$641.06
Rexing Enterprises	Singer Ditch	\$367.50
John Maurer	Hoefling Ditch	\$557.10
John Maurer	Baehl Ditch	\$861.25
Shideler Spray Service	Sonntag Stevens-Dormant	\$642.17
Shideler Spray Service	Keil-Dormant	\$280.12
Shideler Spray Service	Henry-Dormant	\$397.38
Shideler Spray Service	East Side Urban-South ½ Dormant	\$2,704.91
Shideler Spray Service	Eagle Slough-Dormant	\$6,548.72

Shideler Spray Service	Aiken-Dormant	\$372.00
Shideler Spray Service	Sonntag Stevens-Broadleaf & Brush	\$642.17
Shideler Spray Service	Kolb-Broadleaf & Brush	\$416.18
Shideler Spray Service	Keil-Broadleaf & Brush	\$280.12
Shideler Spray Service	Harper-Broadleaf & Brush	\$274.35
Shideler Spray Service	East Side Urban South 1/2-Broadleaf & Brush	\$2,704.91
Shideler Spray Service	East Side Urban North 1/2- Broadleaf & Brush	\$1,964.81
Shideler Spray Service	Eagle Slough- Broadleaf & Brush	\$5,257.00
Shideler Spray Service	Aiken-Broadleaf & Brush	\$921.72
Shideler Spray Service	Harper Sterilization	\$200.60
Shideler Spray Service	Kolb Sterilization	\$304.30
Shideler Spray Service	East Side Urban South 1/2- Sterilizing Bottoms	\$1,472.20
Union Township Ditch Assn.	Kamp	\$334.80
Union Township Ditch Assn.	Edmond	\$461.85
Union Township Ditch Assn.	Happe Helfrich	\$380.94
Townsend	Sonntag Stevens - Dormant spray	\$552.40
Townsend	Keil - Dormant spray	\$225.90
Townsend	Sonntag Stevens - Broadleaf spray	\$552.40
Townsend	Kolb - Broadleaf spray	\$322.20
Townsend	Keil - Broadleaf spray	\$225.90
Townsend	Harper Broadleaf spray	\$206.50
Townsend	ESU South Half - Broadleaf spray	\$2,326.80
Townsend	Aiken - Broadleaf spray	\$901.90
Townsend	Eagle Slough - Broadleaf spray	\$4,506.00
Townsend	ESU North half - Broadleaf spray	\$1,584.53
Townsend	Henry - Dormant spray	\$381.48
Townsend	ESU South half - Dormant spray	\$2,035.95

Townsend	Eagle Slough - Dormant spray	\$7,510.00
Townsend	ESU South half - Soil sterilant	\$995.90
Townsend	Kolb - Soil Sterilant	\$214.80
Townsend	Harper - Soil sterilant	\$141.60
Townsend	Aiken - Dormant spray	\$364.00

Jay Ziemer: And that is the end of Townsend’s bids. If you want to take a break and go back to the other folks.

President Mosby: Thank you, Jay.

Reconvene Asbury Pointe Subdivision Discussion

President Mosby: At this point we will reconvene on Asbury Pointe Subdivision.

Stephanie Brinkerhoff-Riley: We stand with our original position. We’re going to go back and film the area extensively, and he’s going to keep his trees.

President Mosby: Okay. Thank you very much. At this time the chair would entertain a motion on Asbury Pointe Subdivision.

Commissioner Fanello: Upon the Surveyor’s recommendation, the final plan does meet the code, so I will move approval of the final drainage plan.

President Mosby: I will second that and so order it. I do thank you for your time and participation. Thank you very much.

Reconvene the Opening of 2004 Ditch Maintenance Bids

President Mosby: At this time I will let the attorney reconvene reading the bids into the minutes.

Jay Ziemer: This is the hardest part of my job. The next five bids were given by Terry R. Johnson.

BIDDER	DITCH	AMOUNT
Terry R. Johnson	Aiken - Mowing	\$796.65
Terry R. Johnson	Kolb - Mowing	\$1,073.55
Terry R. Johnson	Sonntag-Stevens - Mowing	\$1,259.72
Terry R. Johnson	Harper - Mowing	\$1,563.21
Terry R. Johnson	East Side Urban - South half mowing	\$557.70
Eldon Maasberg	Maasberg Ditch	\$198.54

Eldon Maasberg	Wallenmeyer Ditch	\$1,253.25
Eldon Maasberg	Kneer Ditch	\$349.14
Eldon Maasberg	Baehl Ditch	\$1,033.50
Eldon Maasberg	Kneer Ditch (Maintenance)	\$410.40
Naas & Sons	Bonnie View & Bonnie View Extension (Silt Dipping)	\$5,240.00
Big Creek Drainage	Barr’s Creek	\$4,058.60
Big Creek Drainage	Buente Upper Big Creek	\$3,837.05
Big Creek Drainage	Maidlow Ditch	\$2,613.94
Big Creek Drainage	Rexing Creek	\$2,051.52
Big Creek Drainage	Pond Flat Main	\$6,264.84
Accurate Underground	Bonnie View & Bonnie View Extension (Silt Dipping)	\$12,009.00
Darrick Construction	Harper	\$1,681.50
Darrick Construction	Sonntag Stevens	\$1,724.80
Darrick Construction	Aiken	\$987.00
Darrick Construction	East Side Urban South half	\$780.00
Darrick Construction	Sonntag Stevens	\$6,423.00
Darrick Construction	Kolb	\$1,745.25

Jay Ziemer: That is the end of the bids. I would certainly recommend that they be reviewed for their accurateness, and for their responsiveness.

President Mosby: Do I have a motion?

Bill Jeffers: Yes, echo that recommendation that they be taken under advisement for two weeks, sent, carried down to the Auditor’s office tonight to be stored overnight, and taken to the Surveyor’s office in the morning to begin the review.

President Mosby: I have a motion by Surveyor Jeffers.

Commissioner Fanello: I will make a motion of Mr. Jeffers recommendation.

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

Bill Jeffers: Now, are you meeting on Monday, April 5 for a regular Commissioners meeting?

Commissioner Fanello: Yes.

President Mosby: Is that a holiday?

Commissioner Fanello: No.

President Mosby: Okay.

Bill Jeffers: No, Passover is on the 6th.

President Mosby: Okay, yeah, we'll be meeting.

Bill Jeffers: Okay, so, what I would recommend at this time is that you adjourn this meeting until that day, Monday, April 5th, on which day you would resume this meeting—

President Mosby: Let me, we want to recess, right? If we adjourn—

Bill Jeffers: You can do two things, you can recess this meeting—

President Mosby: Right.

Bill Jeffers: —and set a certain day, under 36-9-27. You can set a date certain and a time at which you'll reconvene to finish this matter of awarding the bids. Or, you can simply adjourn and advertise that you're going to have a special meeting, whichever you prefer.

President Mosby: I would say, at this time, that we accept a motion to recess this meeting until April 5th.

Commissioner Fanello: So moved.

President Mosby: Second, and so ordered. We will stand in recess.

Bill Jeffers: Thank you, sir. I'm finished with my portion.

President Mosby: That's it, we're in recess.

(The meeting was recessed at 7:16 p.m.)

RECONVENE: APRIL 5, 2004

The Vanderburgh County Drainage Board meeting was reconvened on Monday, April 5, 2004 at 7:25 p.m.

President Mosby: Call to order special drainage board, or I take that back, we recessed, so I would like to reconvene the drainage board meeting. At this time—

Bill Jeffers: Bill Jeffers, County Surveyor. To bring everybody up to speed, we opened the bids on March 22nd, Jay Ziemer read the bids, all the bids that were opened into the record of that meeting. Then a motion was made to take the bids under advisement for two weeks and return today with our recommendations for awarding the bids for 2004, which we're ready to do at this time. I would like to thank the Chief Executive Deputy, Linda Freeman, for preparing all the paperwork for our department to present to you. You have it in front of you now. It's all in order. It's been examined by Ms. Freeman and her staff, and the County Surveyor recommends the bids as shown on there. But, what I would like to do is have Ms. Freeman stand up and answer any questions you may have, and make one or two comments, and then I'll confirm the recommendation.

Linda Freeman: Basically, in the letter that I handed to you that Bill signed, there were two bids with errors, one was a double bid from Eldon Maasberg, and then there was a multiplication error on Townsend Tree Services bid for broadleaf brush application on Eagle Slough. It's recommended that the board award a contract to Eldon Maasberg based on the linear footage contained in the specifications for the lowest price Mr. Maasberg bid per foot on Kneer Ditch, so the total of his contract would be \$314.64, which is the 2,736 lineal feet that we mentioned in the specifications, again, this year. His lowest priced bid was 11 ½ cents per lineal foot. Then, Townsend Tree Service, they bid .091 cents per foot at 30,040 lineal feet of ditch, and their bid should have been \$2,733.64, and they had like \$4,500. I don't know where they, but, we're going in favor of the county in both cases. That's the only things that we had. The other thing would be that we recommend the release of the bonds to the unsuccessful bidders. Then, on Shideler Spray Service, they actually submitted bid bonds, so, we'll be requesting performance bonds from them. But, everyone else, we are requesting that the board holds their 5% checks, as their performance bonds, as we have done in the past.

President Mosby: So, Bill, did you want to follow that up?

Bill Jeffers: We always have a few errors every year, because of the people we deal with sometimes don't use the same calculator that we might use. But, we always make the recommendation in favor of the county, based on the lowest possible bid that we come up with, the factors that they give us to multiply. That's what Linda was explaining. We always have released, we must release all the bid bonds from the unsuccessful bidders within five days, or 30, I don't know, but they'll be released down at the Auditor's office as Ms. Freeman explained. Then, when you approve these bids, we enter into contracts with those successful bidders within five days. The contract form is standard, we'll bring those to you after they've been executed, and you'll approve those at our next regular meeting. We usually keep the bid bond as security, and we've found that to be successful. If you have any legal questions about anything that's in those documents there, you can refer to Mr. Winternheimer. It's been okay with all the previous attorneys, the way we do it.

Commissioner Fanello: I'll make a motion that we accept the County Surveyor's recommendations, and approve, award the lowest bidder.

Commissioner Crouch: I presume I can second it. I wasn't here for the opening.

President Mosby: Yeah, but you've got the recommendations, so.

Commissioner Crouch: Yeah, I'll second.

President Mosby: I have a motion and a second to accept the Surveyor's recommendation. So ordered.

Bill Jeffers: Thank you, and unless you have any questions or comments, we have no further business. We'll bring the contracts to you executed at the end of the month.

Commissioner Fanello: Motion to adjourn.

Commissioner Crouch: Second.

President Mosby: So ordered.

(The meeting was adjourned at 7:30 p.m.)

Those in Attendance:

David W. Mosby

Jay Ziemer

Jon Kipling

Ron London

Others Unidentified

Catherine Fanello

Charlene Timmons

Stephanie Brinkerhoff-Riley

Matt Wallace

Members of Media

Bill Jeffers

Loretta Roberts

Wayne Fehd

Linda Freeman

**VANDERBURGH COUNTY
DRAINAGE BOARD**

David W. Mosby, President

Catherine Fanello, Vice President

Suzanne M. Crouch, Member (Not present for 3/22/04 meeting)

3/22/04 Meeting was recorded by Charlene Timmons. Transcribed by Madelyn Grayson.

4/5/04 Meeting was recorded and transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY
DRAINAGE BOARD
APRIL 26, 2004**

The Vanderburgh County Drainage Board met in session this 26th day of April, 2004 at 6:33 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

Call to Order

President Mosby: Call to order Vanderburgh County Drainage Board meeting for April 26, 2004

**Approval of March 22, 2004 Drainage Board Minutes &
April 5, 2004 Reconvened Drainage Board Minutes**

President Mosby: Linda, we'll let you go from here.

Linda Freeman: Yee-haw! Linda Freeman—

President Mosby: I'm sorry, previous, I need approval of the minutes of the previous meeting from—

Linda Freeman: Approval of minutes.

President Mosby: —March 22nd and reconvened on April 5th.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

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

Sign Contracts for Annual Ditch Maintenance: Bids Awarded April 5, 2004

President Mosby: Old business.

Linda Freeman: Okay, old business. We have the contracts for the annual ditch maintenance that was awarded on April the 5th. We have received some of those, but we don't have all of those. Basically, I was just going to ask your permission for Madelyn to stamp those when we get all of them for you guys, if that's—

Commissioner Fanello: Because we approved them in a—

Linda Freeman: Yeah, you approved the bids and stuff—

Commissioner Fanello: Okay.

Linda Freeman: —for the contract awarding.

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

Commissioner Crouch: Second.

President Mosby: I have a motion to stamp contracts as they come in, and a second. So ordered.

Blue Heron Estates: Preliminary

Linda Freeman: Under drainage plans, we have Blue Heron Estates, and that's a preliminary plan. The preliminary drainage plan and report was submitted April the 12th by Morley and Associates. The plan was reviewed today, April the 26th by Douglas McDonald in our office. I've got a review summary and review comments, if you would like for me to read those into the minutes. It doesn't look like we have any remonstrators here. Basically, we can forward a copy of the comments to the engineer. Is that fine?

Commissioner Fanello: Yes.

President Mosby: That's fine.

The following comments from the County Surveyor's office were to be added to the record per the Vanderburgh County Drainage Board.

1. Blue Heron Estates, PRELIMINARY.

Preliminary Drainage Plan and Report, submitted April 12, 2004, by Morley and Associates. Plan reviewed April 26, 2004, by Douglas McDonald, Vanderburgh County Surveyor's Office.

Review Summary

The Preliminary Plan conforms in intent to the county drainage ordinance and the county surveyor's office endorses "preliminary" approval at county drainage board meeting, April 26, 2004 .

Review Comments:

The following comments will be forwarded to James Morley, at Morley & Associates. In lieu of reading the comments aloud at the drainage board meeting, the County Surveyor respectfully requests the board to enter the comments into the minutes of the meeting, and making the comments available to interested parties.

- 1) This plan is only preliminary in nature.
- 2) Other plan sheets necessary to complete review of a final plan, Erosion Control Plan (ESC), and the Storm Water Pollution Prevention Plans (SWP3s) are absent from this submittal.
- 3) The County Surveyor recommends the final plan and the ESC/SWP3 demonstrate that disturbed land will be graded and temporarily or permanently stabilized as quickly as possible using appropriate control measures and seed mixtures, fertilizer applications, and mulch types and rates of application per USDA/NRCS recommendations for specific conditions at the project site. All disturbed areas that will remain idle for 15 days or longer must be seeded, mulched, or otherwise temporarily stabilized with approved methods by the end of the 14th day.
- 4) The County Surveyor recommends the final plan and the ESC/SWP3 demonstrate that all disturbed land be finally stabilized and all permanent management practices installed and operating in accordance with approved designs and with state and local rules before NPDES permits are terminated and local letters of credit released.

- 5) The County Surveyor recommends the final plan and the ESC/SWP3 demonstrate open, vegetated spaces within the project and adjacent to its boundaries be preserved or established in native trees, native background vegetation, or NCRCS approved grasses, shrubs, and trees wherever applicable to provide natural habitat or corridors, and sight barriers.
- 6) The County Surveyor strongly recommends speedy and complete excavation and final or permanent stabilization of the detention basins as part of the initial construction phase. The detention basins should be fully operable as a temporary silt control and storm water detention basins before streets are paved and homes built.
- 7) The County Surveyor recommends the final plan and the ESC/SWP3 include details and specifications for management practices and control measures from the Indiana Erosion handbook and other standard reference manuals for the application of appropriate construction phase and post-construction practices throughout the project site.
- 8) The County Surveyor recommends that any grassy swale with design grades less than 0.80 % be provided with "at grade" or "subgrade" provisions that prevent chronic wetness. The county surveyor will recommend sufficient retention letters of credit to guarantee final permanent vegetative stabilization of open grassy swales with evidence of chronic wetness.
- 9) Show design of swales for each segment in change of slope, including width, side slopes, channel slope, erosion control measures, velocities, etc. Show velocities at all discharge points with appropriate erosion control measures from aforementioned reference manuals.
- 10) Show all pipe designs, including size, material, inverts, elevations, cover, etc., and velocities at discharge points with appropriate erosion control measures from aforementioned reference manuals.
- 11) Show all pond elevations, pond discharge elevations, etc. on plan view.
- 12) The County Surveyor will withhold his approval of any subsequent subdivision plat submitted for recording until the ECP/SWP3, and Street and Drainage construction plans for the project are submitted to and approved by the Vanderburgh County Engineer.

Linda Freeman: Then we have Clear Brook Manor, the P.U.D., and that is a preliminary plan that the Surveyor is also....I'm sorry, I didn't say that on Blue Heron Estates. The preliminary plan conforms in intent to the county drainage ordinance, and the County Surveyor's office endorses preliminary approval at county drainage board meeting. So, if you guys would like to approve the preliminary.

Commissioner Fanello: For Blue Heron?

Linda Freeman: Blue Heron Estates.

Commissioner Fanello: Motion to approve Blue Heron on preliminary.

President Mosby: I'm going to formally ask first, is there anybody here for Blue Heron Estates?

Unidentified: I am.

Linda Freeman: As a remonstrator?

Unidentified: Oh, as a remonstrator?

President Mosby: Yeah.

Unidentified: Oh, no.

President Mosby: Come on up.

Unidentified: I would be happy to talk, but–

President Mosby: Once you raise your hand, you're locked in. No, yeah, if there's any remonstrators. Seeing no remonstrators, I have a motion from Commissioner Fanello.

Commissioner Crouch: Second.

President Mosby: And a second from Commissioner Crouch. So ordered. Approval on preliminary.

Linda Freeman: Yeah, and then, like I said, just would like to enter those minutes, or the recommendations and comments into the record. I could give that to Madelyn in electronic format.

Clear Brook Manor, P.U.D: Preliminary

Linda Freeman: Okay, Clear Brook Manor, the P.U.D., the plan was submitted April the 8th by Morley and Associates, reviewed April 23rd by Bill Jeffers, the Vanderburgh County Surveyor. He's got a report here, basically, he recommends that the preliminary plan substantially conforms to the drainage ordinance, and that we endorse preliminary approval from the board.

The following comments from the County Surveyor's office were to be added to the record per the Vanderburgh County Drainage Board.

1. Clear Brooke Manor, P.U.D, PRELIMINARY.

Plan submitted April 8, 2004 by Morley & Associates. Reviewed April 23, 2004 by Bill Jeffers, Vanderburgh County Surveyor.

Vanderburgh County Surveyor's Report - April 23, 2004

Title 17, Vanderburgh County's Land Use and Zoning Code, requires the developer of a planned unit development (PUD) to preserve environmentally sensitive areas and establish common open space.

According to today's rules and technologies, open space should provide recreational uses, natural resource conservation, storm water quality/quantity control, and curb appeal.

Section 17.32.040(A)(1) requires submittal of a preliminary plan containing information regarding types of land use within the PUD, structural locations, storm water drainage facilities, and other pertinent development details.

The preliminary plan should pass through the Subdivision Review Committee before coming to the Area Plan Commission rezoning hearing. The preliminary plan should be substantially complete in accordance with 17.32.040.

Section 17.32.040(A)(1)(h) requires covenants as a part of the preliminary plan.

Section 17.32.040 advises, “the covenants, to be enforceable, should be made part of the preliminary plan and the detailed site plan.”

By code, the covenants may relate to:

- v “Provisions for the ownership and maintenance of areas held in common” (and presumably the structures established within those areas, including drainage facilities).
- v “Remedies available to the county if deterioration of these (commonly held) areas occurs.”

County Surveyor’s Recommendations:

Due to space restrictions associated with roadways and parking areas in PUDs, the preliminary plan for Clear Brooke Manor should maximize placement of storm water quality/quantity control facilities in common easements and common spaces outside of county-maintained easements and road rights-of-way.

The preliminary plan for Clear Brooke Manor PUD should contain covenants that clearly transfer all responsibilities for long-term maintenance, repair, augmentation, and replacement of the storm water drainage system on the PUD (Homeowners) Association in accordance with “Plan A” provided in Chapter 13.04, Storm Water Drainage Code.

The provisions of the covenants should provide legally binding remedies by which the county is protected from loss, damage, or costs associated with the future ownership, condition, or deterioration of the commonly held and maintained storm water drainage system and the land areas on which the system is constructed.

President Mosby: Is there anybody here, as a remonstrator, on Clear Brook Manor, P.U.D.? Seeing none, chair would entertain a motion.

Commissioner Fanello: I’ll make a motion to approve Clear Brook Manor, preliminary.

Commissioner Crouch: Second.

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

Linda Freeman: Okie-doke, and I’ll make those available to Madelyn and to the respective engineers and developers.

<p style="text-align: center;">Encroachment Agreement: Delta Properties, LLC: Expressway Commercial II-B, Lot 5</p>
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Linda Freeman: Under other business, we have the encroachment agreement for Delta Properties Limited Liability Corporation at Expressway Commercial Sub, Section Two B, Lot 5. If you guys, Madelyn’s got the original. Clearing the crowd.

Unidentified: I’ve got my hand in my pocket.

President Mosby: I was just going to tell you to get with the Surveyor, register your complaints—

Unidentified: I buy more things at auctions like that.

Linda Freeman: Oops!

Unidentified: Thanks.

President Mosby: Thank you.

Linda Freeman: Basically, this is the old Dog 'n Suds on the west side, and they are going to be encroaching with additional pavement into the drainage easement. So, I think, in order for them to build as they've got planned here, I think they've got a little bump out in (Inaudible) the building's bumping out, so they are trying to bump out to make sure they have a way around the building there. I sent a copy of this home for Bill to look at, and he didn't have any, apparently didn't have any comment on it. So, I think we're okay with that one too.

President Fanello: Okay, I'll make a motion to approve the encroachment agreement with Delta Properties.

Commissioner Crouch: Second.

President Mosby: Is there any remonstrators? Seeing none, I have a motion and a second. So ordered.

Ashley Place Subdivision: Revised Drainage Plan (36" Pipe)

President Mosby: Ashley Place Subdivision.

Linda Freeman: Ashley Place Subdivision, we're looking at a revised drainage plan for the 36" high density polyethylene pipe. That one I'm going to let, maybe, John Stoll address.

John Stoll: I don't know if you will recall this issue, but out in Ashley Place there is a large ditch on the southbound (Inaudible) of the subdivision, which is shown in one of those pictures. In that ditch, across two lots, as well as in one area in Vectren's utility easement, there's been a 24" plastic pipe installed in the ditch. Previously it was discussed that the 24" pipe was too small to handle the 100 year rainfall event, and that's basically what lead to this plan. The property owners have wanted to see a final solution to the erosion problem that's continued out there for a number of years, and the property owners that have the existing pipes, obviously, don't want the pipes removed. So, this latest plan was to remove the 24" pipe on two lots, and replace it with a 36" pipe, as well as replace the 24" pipe in the Vectren easement with a 36" pipe. Then, I assume, the developer will stabilize the ditch banks. That is all reflected in that plan that Linda just passed out to you. When I received a copy of this, I sent a letter to the designer, and the designer is Andy Easley, and the developer is Rick Broerman. I sent a letter to Andy when I saw this plan stating several concerns. I've got a copy of it here. I know I've got one, I just can't find it right now. We had asked Andy to provide a bedding detail, which he has since done on the plans. I'd asked about what the intent was in regard to the erosion control fabric, whether or not the material specified would handle the velocity of water that

the ditch was designed for. Andy had responded back that it would work. The original plan showed gravel in the bottom of the ditch, and that has since been removed. Let's see, oh, one of the concerns that I'd identified was that given the fact that that ditch is severely eroded, there is not top soil left on there, so stabilizing that with grass growth is going to be extremely difficult, and his plan did not address doing that, providing any top soil or anything like that. That has not been addressed as of yet. Don't know what the intent is there. Another issue was the 36" pipe that is being installed on lots 47 and 48. The way the plan was submitted, there was really no good access to that pipe without tracking through other people's lots, or through the emergency overflow spillway for the detention area in this subdivision. If I've got the right plat I'll show you what (Inaudible) there. The pipe is behind these lots, and this is the large ditch that eventually drains over here, and the emergency overflow spillway actually flows across Eickhoff Road. The only way to get to these pipes would either be through drainage easements located on other people's properties, or come up through the detention easement. If the county was going to accept this pipe for maintenance, I don't think that's an acceptable way of accessing a pipe. I don't see why, for the benefit of two property owners who don't want an open ditch in their backyard, why we should obligate the county to run equipment, regardless of the size of the equipment, across other people's lots. I think that if the county is to accept the pipes, then, as a minimum, the property owners need to provide an access easement. Otherwise, I think they need to maintain the pipes. One other item I asked about, and I didn't get a chance to talk with Andy this afternoon whenever we talked, but I had questioned whether or not the installation of this new pipe would create any kind of swale that would need to drain across the top of the pipe and down to the existing ditch. If a swale is not created, I guess my concern would be, will water be funneled up towards the patios of these houses? Maybe Andy can address that.

Andy Easley: It's on the plan.

John Stoll: Oh, did I overlook that?

Andy Easley: The swale.

John Stoll: Okay. I guess, I overlooked that then. That was the comments that I sent to Andy. I don't know if you heard anything from Bill in regard to that.

Linda Freeman: Bill's concern was the water heading toward the patios, but if that's on the, if that's covered. One of the other things was the pipe will handle the proposed flow rate, but it's going to have a high velocity coming out. One of the concerns would be erosion control measures that the, you know, with that coming out, possibly like a gabion mattress or something like that.

Andy Easley: We have rip rap. We could (Inaudible. Not at the Mic.)

Madelyn Grayson: Mr. Easley, can you make your comments at the Mic. please, so that we can get them on the record.

Andy Easley: The present discharge has been handled with rip rap. We could have a gabion mattress if that was, you know, strongly recommended.

John Stoll: (Inaudible).

Andy Easley: (Inaudible) that's not (Inaudible) plan, I don't think. Here's the new one. Here, this is supposed to be...see that note?

John Stoll: Will that be offset from the pipe to protect the cover?

Andy Easley: It shouldn't affect the cover, and it could be offset from the pipe. We'll put it in (Inaudible).

John Stoll: This cross section (Inaudible) the areas where (Inaudible) open ditch too.

Andy Easley: This is the open ditch. We think that, you know—

John Stoll: This detail's (Inaudible), this is only for between the pipes and the swales (Inaudible).

President Mosby: Mr. Easley, did you want to address, I guess, the concern of the, I'm reading your comments here about the easement between lots 41 and 42. I guess, you've got new, small rubber tread crawler mounted hydraulic excavator/backhoe to be used for accessing large drainage easement. I mean, is there any reason why we can't get an easement access somewhere near lots 47 and 48?

Andy Easley: Susan Helfrich owns one of those lots, I think it's the eastern lot, I would think that she might be willing to grant an easement, but I can't speak for her. I was hoping that she might be here tonight. I think those two owners would probably grant a maintenance easement between their houses. There's about 10 1/2' between the houses, between those two lots.

President Mosby: Okay.

Andy Easley: I still think that a small, you know, rubber tread excavator, which I've seen more and more of them, and they've been used on several projects that I've been involved with, could get in there if maintenance work had to be done, and it would not damage....there is a, the whole backyard is a drainage easement. Granted, they might have to, if they had to use the existing easements, without a new easement, they could come in from the 25' easement that is between the lots towards the west, and they really wouldn't damage the yards with that small piece of equipment.

President Mosby: I just say that because I'm not sure we have anything like that at the garage.

Andy Easley: Well, but the county could rent that. There was a day in this county when they didn't have any, what's the name of the piece of equipment that excavates ditches?

President Mosby: Gradalls?

Andy Easley: The gradall, when you didn't have a gradall, and eventually they bought a gradall. They might very well decide that it would be a good piece of equipment to own, but in the meantime, if you had to get a contractor in there for a day that owned a piece of equipment like that. It's possible. That shouldn't prevent, you know, talking about maintaining something that probably is not going to have to be, require any work.

President Mosby: Is there any questions?

Commissioner Fanello: I was just going to ask John if you feel like your concerns have been addressed, or do you still have—

John Stoll: If it was installed properly, and an easement was provided, I would be okay with it. The big issue is whether or not the plan is going to be followed, because Andy drew up a plan on this subdivision years ago that's never been followed correctly. So, if this was followed correctly, it could work, but I would still be reluctant to recommend the county accept that pipe for maintenance, simply because I think if the people want the thing piped, then they should provide us an easement. Previous contractors have gone through the overflow spillway, and they have torn it all up. At one point when the overflow spill way, where it dumps into Eickhoff Road, was originally constructed it had been graded out, they had seeded it and put the erosion control mats on it, but the grass hadn't taken off, but between the time the grass started growing and the time that the, before we ever got out there again, a contractor had gone out there with a backhoe and they just ruined it. It's a mess. I don't want to see the county be in that same position where to maintain a pipe we have to go out and tear up quite a bit of property across several lots. Granted, like Andy said, it probably won't be maintained, won't need any maintenance for as long as any of us are around here, but sometime, somewhere in the future somebody is going to get to deal with it. I still think they should provide some easy access to it if the intent is for the county to accept it.

President Mosby: Kevin, can we accept the plan subject to the work being done in the easement from the two property owners?

Kevin Winternheimer: Yeah, as long as you delineate what you want, you can do that. Recognizing that (Inaudible).

President Mosby: Would you be comfortable with that, John? I mean, if we would accept this plan? I mean, you say it's a workable plan.

John Stoll: Right.

President Mosby: So, if we accept the plan contingent on the work being done as the plan said, and we get an easement from the property owners, is that okay?

John Stoll: If the easement is not provided, then the property owners have to maintain the pipe.

President Mosby: Yeah.

Andy Easley: Or the pipe's taken out.

President Mosby: Or the pipe's taken out.

John Stoll: Yeah, if the pipe's taken out, that's fine with me as well. But, there again, we're back to the ditch stabilization issue, which that's been an on-going problem for a number of years now.

Commissioner Crouch: John, where we looked at it, it is a problem. So, I guess, I just have to (Inaudible).

John Stoll: Andy's plan does provide the foot plus of cover over the plastic pipe, as is required by the ordinance. The velocities of the water do meet the manufacturer's specifications for the erosion control mats that he's using. Things like that, it is an approvable plan, it's just whether or not it's followed through and done properly more than anything else. There have been several attempts out there to stabilize that area, and none have been successful at this point. I still think there's a good possibility that we'll be talking about this, this time next year, because if those steep banks aren't addressed with any kind of top soil, then we'll never see grass grow in it. You can see that from the picture that I circulated a while ago. There's nothing there for grass to grow in. So, the pipe's are part of the problem, but there's still quite a bit of other work that needs to be done on that ditch.

Commissioner Crouch: So, if I'm understanding you properly (Inaudible).

John Stoll: No, I don't have a problem with this plan. It's, we won't release any letter of credit until everything is stable, in a final, finished condition, matching the plan, and having as-builts on the plan. Because that would be required by the drainage ordinance as well. The plan, I don't see a problem with you approving the plan, subject to following it properly, and the fact that the property owners either need to provide us an easement, or they need to maintain the pipes. Or like Mr. Broerman said, the pipes can be removed.

Andy Easley: I will make every effort to see that we get the two easements, and we, I will talk to the developer, and, if necessary, we will put top soil on the banks, and make a concentrated, sincere effort to implement the plan. All we want is a chance to implement this, and seed it to John Stoll's satisfaction.

President Mosby: Is there anybody else that would like to speak? Any questions by any member of the board?

Commissioner Fanello: I'm hesitant, but I'm going to go ahead and approve based on John Stoll's recommendations, and as long as the measurements he talked about are, take place with the easement and the following through with the plan.

Commissioner Crouch: So, his stipulation of—

Commissioner Fanello: Stipulation, that's the word I was looking for.

Commissioner Crouch: —the conditions are worked out, would all be a part of the record, and that will be a part of what has to be done.

Commissioner Fanello: That would be my motion.

Commissioner Crouch: Second.

President Mosby: So, I have a motion and a second on a motion that I understand to be that the stipulations that the engineer has put on this plan is that we put the pipe into the plan that we received today, and that we get the easement, and we get the top soil and coverage on the ditch. Did I miss anything?

John Stoll: If the easements aren't acquired, then we get the property owners to maintain the pipe, or the pipes will not be installed and it will be a grass banked ditch.

President Mosby: Madelyn, you can add that to the rest of my motion. So, okay, I have a motion and a second. So ordered.

John Stoll: We're not trying to hit John Stoll's specifications, we're trying to hit the county drainage ordinance. It requires a stable bank, so, that's the only thing that we're shooting for.

President Mosby: I should have stated that, but we rely on you to tell us what all this says. Andy, thank you, and we appreciate it, Mr. Broerman. Thank you.

Andy Easley: Thank you very much.

President Mosby: Okay.

Rick Broerman: Appreciate it.

Linda Freeman: Okie-doke. Thanks, John. Thanks for being understanding with everything that's going on with Bill, it's been kind of hectic.

President Mosby: We totally understand.

<p style="text-align: center;">Stonecreek Sections 1 & 6: Lake Maintenance & Storm Detention Easement</p>
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Linda Freeman: The next item that I had under other business is the Stonecreek Subdivision, Sections One and Six. There is a lake maintenance and storm detention easement that had been given to the county.

President Mosby: Andy, Andy, did you want these back?

Andy Easley: If you don't want them, I'll take them.

Commissioner Fanello: I don't know whose this is.

Andy Easley: I may want one of them, but—

Commissioner Fanello: Who's is this?

President Mosby: Okay, well, then that's two different one's then, I think. Okay.

Commissioner Fanello: That's John's.

President Mosby: I'm sorry to interrupt you there, but—

Linda Freeman: That's fine, I'm trying to get it together myself. Basically, I have a lake maintenance and storm detention easement that was granted to Vanderburgh County, Indiana, and the homeowners association, December 3, 2001, it just came to Bill and I's attention when we were reviewing some site plans. Basically, we wanted to make sure that this wasn't giving something to the county that we didn't really want.

Kevin Winternheimer: Do we want it?

Linda Freeman: Well, (Inaudible) basically, right off the beginning here it says that they are conveying and warranting unto Vanderburgh County, Indiana, and the homeowners association to be formed pursuant to the terms and provisions, but, basically, then if the homeowners association isn't formed, I guess, that would put it on the county, but, the county didn't agree to that. I mean, the county hasn't, there's no signatures from the drainage board accepting, nor from Vanderburgh County. It was something that we wanted to bring to Mr. Winternheimer's attention for his review and counsel.

Kevin Winternheimer: Is this something that has to be decided tonight?

President Mosby: I was going to say, why don't we hold this.

Linda Freeman: No, yeah—

President Mosby: Okay, okay.

Linda Freeman: —it's something that we wanted to bring to your attention, and then let him have time, so, because they are looking....I'm sorry they're looking at developing that lot in section six, which is where they've got that note.

Kevin Winternheimer: So, is the question whether or not this is valid? Or, what is the question?

Linda Freeman: We were talking about (Inaudible) that this gets (Inaudible) that this would be reconveyed to Jagoe and their homeowners association for section one up here, and that, apparently, they overdug the lake, and then they've made an easement on this property on lot one of section six, and granted this to the county, this strip here, as you can see in the—

Kevin Winternheimer: And they want it back? Or want part of it?

Linda Freeman: No, I don't think we want it.

Kevin Winternheimer: Oh, I see.

Linda Freeman: See, they're conveying this strip to the county, and it was something that Bill, with everything that's going on, it was overlooked when he was looking at the plan for this subdivision, and when we noticed it, it was one of those, oops, you know, so, basically, we're wanting a legal opinion on, you know, that we didn't, you know, the county doesn't want anything that they, a lake maintenance.

Kevin Winternheimer: I'll get with you. This is dated—

Linda Freeman: Yeah, December 3, 2001.

Kevin Winternheimer: —December 3, 2001, so, I assume it can wait a week or two.

Linda Freeman: Yeah, basically, they were looking at, they were drawing up some site plans for this lot, and we just wanted to make sure that the drainage board was made aware—

Kevin Winternheimer: I'll call you.

Linda Freeman: –and that you could comment on it, and possibly we could, maybe in the May meeting ask them to take that back.

Kevin Winternheimer: Okay.

Madelyn Grayson: You can be pretty sure we didn't have drainage board on December 3rd, because they always fall on the fourth Monday, and it shows that they paid \$20, if we would have accepted it, there would have been no charge for the recording either.

Linda Freeman: Right, so, it's one of those things that, they've given it to us, but–

Kevin Winternheimer: We may not have accepted it.

Commissioner Crouch: (Inaudible. Mic. not on.)

Linda Freeman: That we, you know, therefore we want, maybe, this changed to reflect that.

President Mosby: Chair would entertain a motion to hold this–

Linda Freeman: Yeah, I wasn't for any action, just, basically making you aware–

President Mosby: –and have the counselor look it over.

Commissioner Fanello: I'll just make a motion to pass it on to Kevin for review.

Commissioner Crouch: Second.

President Mosby: I have a motion to pass on to Kevin for review, and a second. So ordered.

Petitions to Remove Obstructions

President Mosby: Receive petitions, do we have any petitions?

Linda Freeman: No.

Other Persons Wishing to Address the Board

President Mosby: Any other person wishing to address the board?

Linda Freeman: No remonstrators or any other person?

President Mosby: Comments, questions or directions?

Commissioner Fanello: I've got a direction, motion to adjourn.

Commissioner Crouch: Second.

President Mosby: I bet that ain't hard to get a second. So ordered.

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

Those in Attendance:

David W. Mosby	Catherine Fanello
Kevin Winternheimer	John Stoll
Madelyn Grayson	Andy Easley
Others Unidentified	Members of Media

Suzanne M. Crouch
Linda Freeman
Rick Broerman

**VANDERBURGH COUNTY
DRAINAGE BOARD**

David W. Mosby, President

Catherine Fanello, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
MAY 24, 2004**

The Vanderburgh County Drainage Board met in session this 24th day of May, 2004 at 6:14 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

Call to Order

President Mosby: Call to order Vanderburgh County Drainage Board for May 24, 2004.

Approval of April 26, 2004 Drainage Board Minutes

President Mosby: Do I have a motion to approve the minutes of the previous meeting.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

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

Clear Brook Manor P.U.D.: Final Drainage Plan

President Mosby: First we will, under drainage plans we will hear Clear Brook Manor P.U.D., final drainage plan.

Bill Jeffers: Okay, that's represented here by Morley and Associates who should come to the podium please. Clear Brook Manor P.U.D. is at the end of Galaxy Drive off of North Green River Road. P.U.D. means planned unit development, it's a method of having smaller lots and townhouse type homes. It has passed through the Area Plan Commission, and, I believe it comes to the County Commissioners for a rezoning during your rezoning hearing. Or has it already been there?

Ron London: It's already been there.

Bill Jeffers: Okay, and been approved by the County Commissioners. The County Surveyor recommends approval of the final drainage plan for Clear Brook Manor, P.U.D.

President Mosby: Is there any remonstrators in the audience? Any questions by any member of the board? Chair would entertain a motion.

Commissioner Fanello: Motion to approve final drainage plan for Clear Brook Manor.

Commissioner Crouch: Second.

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

**Carrington Meadows: Modification of Final Plan
Eliminate One Lake**

Bill Jeffers: Our next drainage plan is Carrington Meadows. This actually has been approved by the Drainage Board previously, but the developer, who's here tonight, would like to modify the drainage plan to eliminate one lake. Elimination of the lake is necessary for making the lots more buildable, and the elimination of the lake does not eliminate detention. There is already sufficient detention in the other lakes on the sight. There is more than adequate detention. The County Surveyor recommends the modification as requested for Carrington Meadows, modification of final drainage plan.

President Mosby: Any questions by any member of the board? Any remonstrators in the audience? Chair would entertain a motion.

Commissioner Fanello: Motion to approve Carrington Meadows modification of final plan.

Commissioner Crouch: Second.

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

**First Christian Church: Hwy 57 @ Windemere Farms
Modified Final Plan**

Bill Jeffers: The next one is First Christian Church, it's on Highway 57 just south of Windemere Farms. This also is simply a modified plan. The church wishes to eliminate a retaining wall and use an earthen berm to guide the water to the lake. Basically there's no other modifications, it's simply a landscaping modification that happened to be part of a drainage plan. Requires your approval. The County Surveyor recommends the modification of the final drainage plan for First Christian Church, as submitted by Reginald Heck.

President Mosby: Any questions by any member of the board? Anybody in the audience, any remonstrators? Chair would entertain a motion.

Commissioner Fanello: Motion to approve First Christian Church, modified final plan.

Commissioner Crouch: Second.

President Mosby: A motion and second. So ordered.

**Windemere Farms, Section Five: Final Plan and
Modification of Section Four: Final Plan**

Bill Jeffers: Windemere Farms, section five is a final plan. It also modifies a previously approved plan for section four, but five is a split off from section four. The plan conforms with the county's drainage code. The County Surveyor has reviewed it and finds it's adequate, and recommends approval of the final drainage plan for Windemere Farms, section five, represented here tonight by Keith Poff from Sitecon.

President Mosby: Is there anybody in the audience, any remonstrators to Windemere, section five? Any questions by any member of the board? Chair would entertain a motion.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: Motion and a second, so ordered.

**Fed Ex Distribution Center; Lots 13 & 14:
Vanderburgh Industrial Park: Modification of Lake**

Bill Jeffers: Next plan is Fed Ex distribution center. That's on lots 13 and 14 in Vanderburgh Industrial Park. This is a modification that requests permission to enlarge the detention lake in order to acquire earth fill to raise the elevation of the facility. The modification will require dedication of an enlarged drainage easement. The County Surveyor has looked at the plan, and finds that it can be done with this modification and still comply with the drainage code. There is a letter here that I enter for the record from the applicant who is represented here tonight by David Schminke of Morley and Associates. Everything is in order. They will then have to come back with some drawings and some dedication of the easement. Other than that, everything is in order at this time. The County Surveyor recommends approval of the enlargement of the lake on lots 13 and 14, Vanderburgh Industrial Park, for the purpose of building a proposed Fed Ex ground distribution center in that industrial park.

President Mosby: Questions by any member of the board? Anybody in the audience, Fed Ex distribution center? Chair would entertain a motion.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered.

**Windham Hill & Wynnfield Subdivision: Modification of Final Plan:
Lake Outlet Design**

Bill Jeffers: The next one is a modification of Windham Hill and Wynnfield subdivisions. This is a very simple modification of the final drainage plan. The lake outlets had called for rock rip rap as armament to protect as an erosion control measure at the outlet of the lakes. However, the developer, represented here by Jon Kipling from Morley and Associates, would prefer using a more modern erosion control fabric mat. The county has used that very same mat on a ditch project that we completed last summer and found it a very acceptable replacement for rip rap. It doesn't move and tumble like rip rap does. That's one of the reasons it's not desirable in a residential subdivision. It allows a dense grass cover to develop through the mat. We found, we happened to use North American Green on ours, and found, and would tell the developer that if you ask a representative from North American Green to come out and examine the installation, they will guarantee it. I'm not recommending North American Green. I'm just telling you that if you have a factory rep on site, they will guarantee it. Because they have the ability to tell the

installers where to staple, etcetera. We found out it was very suitable, and preferable to rip rap in the project we used it on. The County Surveyor recommends approval of the requested modification for Windemere Farms, excuse me, for Windham Hill and Wynnfield subdivision to use the erosion control mat rather than rip rap.

President Mosby: Questions by any member of the board? Anybody in the audience?

Jon Kipling: I'm Jon Kipling with Morley and Associates. I just wanted to make one small correction, it was for all outlets, not just the lake outlets.

Bill Jeffers: For the flared in sections as well?

Jon Kipling: Correct.

Bill Jeffers: Okay. As long as you're using the right material for the right velocities.

Jon Kipling: Okay.

Bill Jeffers: That's all part of the specifications?

Jon Kipling: Correct.

Bill Jeffers: Okay. Correct my motion, or, excuse me, correct my recommendation to include all outlets.

President Mosby: Anybody else in the audience? Seeing none, chair would entertain a motion.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered

**Fawn Creek, Section Two: Modification of Final Plan:
Raising Lake Level about 3.3 Ft.
(Previously known as Leo's Place)**

Bill Jeffers: The next request is for a modification to a final drainage plan for Fawn Creek, section two, previously known as Leo's Place. Basically, what happened here, the developer wanted to resize the lake, make it larger, more picturesque, elevate the adjoining lake front road so that it wouldn't flood with the additional...I have to correct my agenda, it's actually 3.3 feet that they are raising it, not 1.3 feet. They are raising this lake 3.3 feet to make it larger, deeper and more picturesque. They also show on the plans that had been already reviewed by the County Engineer, John Stoll, elevating the lake frontage road. They're elevating the dam. They're elevating the emergency spillway, and the release structure, and they are reconfiguring the release structure. All these elements have been reviewed by the County Surveyor, and we are going to recommend approval of the plan, but I want to make it very clear that we are recommending approval of the design plan done by Mr. Easley's office, not necessarily what's in the field today. The developer has

already preceded this recommendation of approval by doing some work, which may have to be fine tuned to make it comply with the plan that we're recommending approval of. Also, I would like to point out that this is a tentative approval, because they will have to also resize the lake easement to contain the larger lake before the plat's approved. They may have to replat some maintenance easements to incorporate a maintenance pathway to maintain a larger lake, because the other easement may be flooded. They will have to extend an easement on to lot 57 to account for a potential flood hazard, because they backed the lake up on to that lot a little bit more. They will probably have to establish finished, excuse me, flood protection grades on the lake front lots to a new elevation above the top of the dam, because the dam is being raised about 2.2 feet. They may have to extend the maintenance easement on lot 58, because when the new dam gets higher, and the 4:1 side slopes extend out from the new top, the back slope may encroach a little bit more on that lot. So, Mr. Easley is in the audience, and I make those comments as a matter of record. The plan that is on paper, that Mr. Easley has produced, complies, and we recommend approval of the plan. It may have to be fine tuned in the field by the developer, and it will be inspected by the County Surveyor and the County Engineer for correctness to this plan that we're recommending. The developer is also here, and I'm sure all that is well understood. With that, I will recommend tentative approval of the plan.

President Mosby: Are there any questions? Anybody in the audience that would like to speak? Seeing none, chair would entertain a motion.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered.

<p>Wilmes Windows: 2323 N. Burkhardt: Pt. Lot 4, Burkhardt Center Phase I</p>
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Bill Jeffers: Wilmes Windows is a one lot commercial drainage plan on 2323 North Burkhardt. It's part of lot four in Burkhardt Center, phase one. The County Surveyor is not recommending approval of the plan, because the plan appears to impact both adjoining, all three adjoining properties. One property in particular I'm very concerned about the impact that it has on that property with regard to potential off site flooding of the foundation. On another piece of property they appear to want to do some work, even though it's within an easement, it is on someone else's property, and I can't approve that at this time. So, I would like to not approve Wilmes Windows plan at this time, and postpone that until I have a chance to discuss it with the developer and the engineer. However, our ordinance allows all plans that were submitted in a timely fashion to come before the board, and if there is someone in the audience that would like to speak to that plan, they may do so at this time, in fairness to them.

President Mosby: Is there anybody in the audience from Wilmes Windows, 2323 North Burkhardt? Seeing none, chair would entertain a motion.

Commissioner Fanello: You wanted to defer.

Bill Jeffers: To say postpone approval.

Commissioner Fanello: To defer approval.

Bill Jeffers: Defer approval.

Commissioner Fanello: Okay, motion to defer.

Commissioner Crouch: Second.

President Mosby: Would this be until the next meeting? Or do you want to specifically–

Bill Jeffers: I'm not really sure. The engineer is out of town. I have to talk long distance on the phone to communicate with him. I'm not saying the plan is a bad plan, it just has some impact on adjoining properties that I would like for them to address.

President Mosby: We have a motion to defer, so, I have a motion and a second. So ordered.

Ditch Maintenance Claims

Bill Jeffers: We have, I think, three claims for ditch maintenance that's been performed in 2004. All three have been inspected by our inspectors, found to be compliant with the specifications, are signed by the County Surveyor, and have the attached necessary paperwork for payment. The County Surveyor recommends payment of these three maintenance claims.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered.

Encroachment Agreements: Waterford Commons, LLP: Lot 3, Waterford Place

President Mosby: Encroachment agreements.

Bill Jeffers: Encroachment agreements. We have Waterford Commons, section three, 922 North Burkhardt Road. This is adjacent to Kruckemeyer and Cohn's new building. It's a building that has an approved drainage plan on the same lot, however, the building that they would like to build would, crosses an easement, and they are relocating the drainage pipe to be outside the building in the parking lot, as it should be, and they simply would like to encroach this easement with the building so that they have a marketable size building to construct and sell or lease out. Everything is in order. I'm sorry, I apologize to the County Auditor for not running this through your office, but the check is here. It came in late Friday. Everything is in black ink like it's supposed to be to be recorded. The County Surveyor recommends that the drainage board approve the encroachment agreement. It's notarized, and forward it, with the check, to the County Auditor's office for processing through the County Recorder.

Commissioner Fanello: I move approval.

Commissioner Crouch: Second.

President Mosby: So ordered.

**CCX Truck Terminal: Hitch Peters Road
Relax Regulated Right-of-Entry**

Bill Jeffers: Next item is CCX truck terminal expansion at 4000 Hitch Peters Road, city of Evansville, happens to be on a regulated drain, that even though it's inside the city is still maintained by the County Drainage Board, and the County Surveyor. Which means that if they would like to reduce the drainage right-of-entry along Sonntag Stevens Ditch, they have to come to your board and request a relaxation of a regulated drain right-of-way, which is allowed by Indiana Code 36-9-27. It's an urban drain, it was constructed after 1981, therefore you can reduce the right-of-entry to any distance not less than 25' from the top of the bank, and that's what they're requesting. They show their facility adjacent to and along side the ditch with a chain link fence for security of the truck terminal measured 25' from the top of the bank. The County Surveyor has inspected the site, finds it appropriate, and, basically, the same as neighboring properties have done the same thing. We have approved it before. So, the County Surveyor recommends approval of the relaxation of the north bank of Sonntag Stevens ditch to 25' as measured at right angles from the top bank of the ditch as shown on the plan for CCX truck terminal expansion, 4000 Hitch Peters Road submitted on behalf of that terminal by David J. Wanniger, Professional Engineer.

President Mosby: Chair would entertain a motion for relaxation of north bank of Sonntag Stevens ditch.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered.

Petitions to Remove Obstructions

Bill Jeffers: Next item would be to receive petitions, if any, and these are the statutory petitions for removal of an obstruction from a natural surface watercourse or a drain. I'm not aware of any that have come to our office. Have any come to the Auditor's office? There being none filed with either office, I would move on to –

Perpetual Maintenance Agreement: Carpentier Creek Pavilion

Bill Jeffers: –other plans or requested actions that may come from the floor. We have an action request for Carpentier Creek Pavilion. If you'll remember a couple of months ago, or a month or so ago, the board asked the County Surveyor to draft an agreement between the board and the Department of Natural Resources Division of Water for Carpentier Creek Pavilion. It was requested by DNR that we enter into an agreement with them for perpetual maintenance of the relocated channel for Carpentier Creek Pavilion. Basically, you guys, the board agreed that they would send the County Surveyor or the County Engineer out on an annual basis and post-flood basis to inspect the site and recommend mowing of the channel, overbank

areas, keeping the channel banks and overbank area clear of debris from a flood, etcetera. Make sure that the flow through the channel was unimpeded, and to come up with a list of maintenance items that would have to be performed by the owners. We did that, you approved that, DNR approved that. Now we're coming back with a perpetual agreement between the board and the owners of the property so that the county is not encumbered with any costs to perform that maintenance. This agreement was drafted using the same documents and same parameters that you have previously approved between yourself and DNR, but it puts the responsibility and the cost on the owner of Carpentier Creek Pavilion for all this maintenance. In other words, the county will say what needs to be done in their report, and the owner of the property will do it. It also, the owner at this time being Dennis V. Owens, and his successors and assigns down through the chain of title will also have the same responsibility after Mr. Owens sells the property to successors or assigns. This legal document was drafted by Les Shively at Shively and Associates of Evansville, Indiana. It appears to be in proper legal form, but not being a lawyer, I would recommend that you move this to your legal staff for their expedient approval, and I would recommend that you enter into this agreement to protect the county from any money costs that are associated with performing the maintenance. Time is of the essence with regard to occupation of the property by a commercial venture. That's the original, here's five copies for any person or agency who would need them.

President Mosby: I know Kevin had to leave, and I had talked with a representative from Carpentier Creek Pavilion earlier today that this request was coming forward. I would ask for a motion that we approve this request upon the approval of our attorney. That we could go ahead and act on it and then have Kevin look at it right away.

Commissioner Fanello: I'll make a motion to approve contingent upon legal counsel's approval.

Commissioner Crouch: Second.

President Mosby: So ordered. Thank you.

Stone Creek P.U.D.

Bill Jeffers: Another requested action from the floor is Stone Creek P.U.D. It's a, there was a 10' easement, basically, for an emergency overflow channel between two homes...again, this is a P.U.D. that has very small lot sizes and nice, well built little town houses, and space is very critical in a P.U.D. The 10' easement is between two homes, and what happens there is that whenever the street may fill up with water because let's say an inlet were clogged, the water would go over the top of the sidewalk and flow between the two housing units and back to the ditch behind the homes. So, we have these emergency overflows for extreme events that might occur, but usually are very infrequent. Because P.U.D.'s are so crowded and so critical to get everything spaced just exactly right, there was an inadvertent oversight of less than one half foot and a house had to be offset one half a foot to accommodate this oversight. The developers for Stonecreek P.U.D. represented by Ron London from Morley and Associates are requesting that one half, what was it, .46, or are you going for the full half a foot?

Ron London: The whole half foot, if that's possible.

Bill Jeffers: Okay, one half foot of the easement be vacated. Now as you know, as the board knows vacations have to go, vacation of an easement has to go through the County Commissioners, but it generally comes to the drainage board, and then the drainage board asks if the County Surveyor finds everything to be copasetic, which I do. I don't see any problem whatsoever with this. Vacating a half a foot will not interfere with proper drainage or emergency overflow through this channel. It's necessary for the person to take title of the house that the half foot be vacated. I just wanted to express that at this time and ask the board to move this matter in an expedient way to the County Commissioners for whatever period, generally it's a 45 day period of notification and hearing to vacate an easement in the county. Kevin Winternheimer may know of a more expedient method, but the last time we did this several years ago it took about 45 days. Of course, someone is trying to take title on that house. So, if we could move that through the legal staff and the County Commissioners, I would say at this time that the County Surveyor recommends that the drainage board allow it, on the basis that there is no problem with doing it.

President Mosby: Chair would entertain a motion, I guess, to move it forward to the Commissioners.

Commissioner Fanello: Okay, and the County Attorney?

President Mosby: Yes, and the County Attorney.

Commissioner Fanello: I'll make that a motion.

Commissioner Crouch: Second.

President Mosby: So ordered.

Bill Jeffers: Is that sufficient for your purposes, Mr. London? Thank you. Are there any other plans or requested actions to come before the board at this time that have been formally presented somehow or another?

Other Persons Wishing to Address the Board

Bill Jeffers: If there are not, the board at this time generally takes comments, questions, etcetera from other persons wishing to address the board.

President Mosby: Yeah, come on forward, state your name and address.

Jerry Arnett: This is my first public format, so you'll have to excuse me.

President Mosby: That's fine. We don't harm anybody.

Bill Jeffers: We're not as formal as we appear to be.

Jerry Arnett: Okay. My name is Jerry Arnett. I live at 3221 North 12th Avenue. We have a problem with our P.U.D.'s, but I want to read a statement if it's okay with the board. Dear County Commissioners, I humbly ask for your service. My name is Jerry Arnett, and I live at 3221 North 12th Avenue, to be exact lot number 31. I bought this property mainly because it has a half acre of land, room for my children to grow and to play. I have, or should I say we in our neighborhood have, a drainage problem. None of my neighbors seems to know for sure who's responsibility it is to

keep our easement, creek, embankment, or what have you, or whatever it's called there, P.U.D., clear of brush, trees, weeds, and overall woodlands. I've spoken to some of my neighbors saying that I am new in the neighborhood. I just moved in there in November, and I have taken it upon myself to be spokesman, or spokes person, for the neighbors and to bring this issue to your attention. I have two children ages three and eleven months. This is our first home we have ever owned, and was bought without knowledge of the water problem. Again, I bought it in November of '03, and there was no water back then, you know. But, this spring I have noticed that when it rains, the area of issue, embankment, easement, or P.U.D., fills with water and has no way of draining because of the woodlands that are obstructing the drainage. A lot of neighbors have taken it to themselves to clear their area directly behind their homes, however, some have not. Mainly because either they are renting, or don't realize where their property responsibilities start or stop. There are a number of children in the area, and it's a great neighborhood to raise a family, but so far it's been hard to enjoy our new home when you can't step out of your home and go into your yard without fear of being attacked by mosquitos, ticks, or fleas. The water stays in the embankment for weeks on end, at least, depending, of course, on the amount of rain that we get and for how long it rains. It stretches about two football fields to my north, and that's where it's all cleared. Moreover, it stretches another two football fields to the south going towards Allen's Lane and it is all filled with brush. I haven't ventured enough, ventured far enough into the woodland myself to know how deep the thickets are. I'm not that brave. Please all I ask is for you to look into it, and if enforcement is needed again, please, do so. Why should I have to pay \$100 in order for you to just take a look. I don't understand that, but if that's what I have to pay you for a fee for a petition, then, that is what I'll do. If I find out that it's not a county issue, or, you know, it's not an issue with you guys at all, then I'm just out \$100, I guess. Because I haven't spoken to anybody else about paying anything, I was taking it upon myself. It hurts when you're trying to raise a family with bills to pay, plus to keep up the property anyway. I'm not the only person with this problem, I'm just not the kind of person that sits back and does nothing, which is why I'm here. So, please tell me what options do I have besides losing \$100. You know, I have another statement from one of my neighbors, she couldn't make it tonight, she has to work. Her name is Connie Brassard. She lives two doors south of me. To be exact, her address is 3213, and, again, her name is Connie M. Brassard, B-r-a-s-s-a-r-d. She's lived there since 1987, and the easement in the back of her house has never been completely cleared. The previous owners did not clear it. She's never been able to afford to clear it, and cannot physically clear it. She is a divorcee, and feels that it is a health hazard with standing water and have seen many children playing in it over the years. If someone would clear it, she would most definitely, and I think the rest of the neighbors also agree would most definitely maintain that they would keep, they would maintain at least their portion from that point forward. Maybe we could all work together as a neighborhood to see to it. We want to thank you for listening to us, but we would like for somebody to please come by and look at it. I mean, all we are asking for is a look. I've brought some video if you would like to see what it looks like. I would be glad to present that for you. I don't know how this works, you know, so, I spoke to you, Ms. Crouch, and thank you for calling me back. I just don't know where else to turn. I've called everybody, I've called the County Surveyor's, I had a gentleman by the name of Mike Wathen from the County Engineer's, he came out and took a look at it. He was probably there a total of three to five minutes, and he's not sure if it's a county problem or not. We do know that the drain is clear, that's good, but if the water can't get there, then there's a problem. I talked to Vectren to see if they had any responsibility, seeing that there is telephone poles and electrical lines and so forth, and they said it is a P.U.D. easement, Jean Ashby is who I spoke

to. This is in the back of our house, I have a half acre lot, so do most of my neighbors on that side of the street, and they don't, some of them don't know where their property ends or where it begins. I do know where mine is. I've made sure of that, and it is on to the other side of this easement. My area is cleared, and the areas to the south are cleared, or to the north are cleared. The areas to the south is where the problems lie. There is brush and thicket that is, like I said, woodlands. So, if you could give me some direction and some guidance, I would appreciate it.

President Mosby: Bill, what role do we play in this?

Bill Jeffers: Before I forget, Connie Bussard, B-u-s-s-a-r-d?

Jerry Arnett: B-r-a-s-s-a-r-d. Brassard.

Bill Jeffers: B-r-a-s-s-a-r-d. And her address again please, sir.

Jerry Arnett: 3213 North 12th Avenue. I also have a Ron Jarvis, he is my next door neighbor at 3215 12th Avenue, 17, excuse me, 3217 12th Avenue. I live at 3221 12th Avenue. It starts from Connie Brassard's yard and heads south towards Allens Lane.

Bill Jeffers: Right. This particular drainage problem is a chronic drainage problem that has existed for decades at this location. It has existed ever since I've worked for the county. We've been called out on occasion every few years to address this problem. It's all on private property. The easement that Mr. Arnett's speaking of is a 4' public utility easement, which is why the abbreviation is PUE, public utility easement, adjacent to a 6' alley that was platted contemplating another six feet to make a total of 12' on it, on the adjacent property. That never happened. So, basically, back there you have a 6' alley way and a 4' public utility easement for underground and above ground electric utilities, etcetera, making it a total of 10' easement. That's still private property owned by the private property owners. There was, at one time, a swale, a very shallow ditch all along through that easement that carried water both to the south to Allens Lane, and at some point it breaks and goes north to Hobart Avenue. There's a vacant lot at the very end of Hobart, because that's one of the lots that was not divided with a house. In other words, these lots used to be 104' wide. Mr. Arnett's home is on the north half of lot 31, and Mr. Jarvis' is on the south half of the same original lot.

Jerry Arnett: He's right next door to me.

Bill Jeffers: Right. So, those lots were all split up. When you get up to lot 25 at the very north end of 12th Avenue, there's an empty area that used to have a ditch that went through it along the north end of Hobart, and adjacent to the south end of the industrial subdivision. Mr. Easley, who was here owns that subdivision, and they dug a ditch along Hobart to drain that water out to St. Joe Avenue back years ago. I worked for Mr. Easley in the late '70's and that's when that ditch was dug. It used to drain.

Jerry Arnett: Used to.

Bill Jeffers: It used to drain, right. The residents of North 12th Avenue, in the case of Mr. Arnett and Mr. Jarvis, for example, in this aerial photograph you see they keep their ditch nice and clean. I'll pass it down if you would like to see it, but where it says 3221 on the rooftop, that's this gentleman's home. To the south of him is the

man he named as Mr. Jarvis. To the north of him he has a neighbor, all three of those people keep theirs clean, but then you see trees growing in the rest of the easement. That's pretty common all up and down through there. Most likely the water from Mr. Arnett's property is intended to go south to –

Jerry Arnett: Allens Lane.

Bill Jeffers: –Allens Lane, where there is an inlet, and that last lot or two down there, at Allens Lane, is also clear, but there are a variety of obstructions along the way that I've viewed over the years; raised gardens, people put railroad ties back there and had a garden at one time, you go north of you and there's a guy that built a garage back there right on the easement, whether or not it's permitted I do not know, just letting blackberry bushes grow up, there's some brambles that grow up back there. All of these things are obstructions, but they all exist on private property. Our state code 36-9-27.4, which was passed in 1996 allows for you to petition for the removal of an obstruction on private property if you have already asked the owner of that property, if you've made a request to that owner to remove it, and not received a satisfactory response from that property owner in a reasonable time, like 30 days let's say, he hadn't initiated any removal, then you can bring a petition down here to the drainage board. None of these drainage board members who are sitting at this time were sitting on the board in 1996 when this statute was passed by the legislature. But at that time when it was first passed the drainage board received a lot of requests that were very neighborhood squabble oriented, or spite, you know. The first one I went out on was a wheel barrel full of dirt some guy just spitefully dumped in a ditch. The drainage board became a little perturbed with spending several hundred to a thousand dollars for hearings and legal proceedings to go out and settle a wheel barrel full of spite dumped in somebody's ditch. So, just one hearing cost \$100, just one single hearing, that doesn't count the mailing, the time spent by the lawyer, time spent in the field by staff. I don't like permit fees, I don't like legal fees anymore than anybody else does. We resisted that, but we were getting too many of the frivolous complaints. Yours is not frivolous. Yours is a legitimate complaint. I think there's been an instance or two where the board for reasons of, for one reason or another refunded the \$100 after the proceedings. We've also had cases where the county went through with the hearing and ordered a removal, no one removed it, I mean, you know, the people who were ordered to remove it didn't remove it. So, the county board, this board here had to order the County Surveyor to seek a contractor and go remove it at our expense, and then we have to go over to the court system to recover our money. That's very expensive. So expensive, just in legal fees, that we often don't do it for a small amount, because it would cost the taxpayer more to recover the money than it did to spend it in the first place. So, those are the reasons why we have the fee. This is not a perfect system, certainly, but constitutionally also I cannot trespass on private property over a private civil matter without some kind of warrant, and the petition itself serves as my warrant to conduct the investigation. If I were to go on to your neighbors property without a warrant and without some due process, I would actually be trespassing.

Jerry Arnett: I understand that.

Bill Jeffers: Because it is a civil matter until you file this.

Jerry Arnett: Okay.

Bill Jeffers: So, I do have here a copy of instructions along with the legal backing, the statutory backing for this process, and you can consult, there's a fill in the blank

form. You can also, at any time, consult with the County Surveyor's staff to help, you know, or to assist you in anyway filling this out, if you like. I can't do anything other than recommend to the County Commissioners that they waive the \$100, that's up to them totally, this board. I will say, in all fairness, they did not institute the fee, it was three other Commissioners at the time. I also will say in fairness to those Commissioners it was done for a good reason. They may insist upon a \$100 fee. My warning to you would be that because most of this occurred before the law took effect, it may be legally hard to say that it was an intentional obstruction. In other words, it was just natural growth. No one went out there and intentionally obstructed it.

Jerry Arnett: Well, from the looks—

Bill Jeffers: Trees grew.

Jerry Arnett: —of everything, it is natural growth.

Bill Jeffers: Right.

Jerry Arnett: It impedes that drainage.

Bill Jeffers: Right. In that case, the law says that if it's not intentional, if it's a natural occurrence, and the clearing of it would serve all the people served by that drain, that they shall all share in the cost of the project equally, or, as, in your case it would be equal because all the lots are the same size. So, whatever proportionate benefit you get from the clearing of the ditch, you would pay that much. Now, I will say at this time that it's been our experience, all of our experience, that if the government proceeds with a project like this, there is going to be added cost and delay. That's the way the government operates, slowly and clumsily.

Jerry Arnett: Well, I understand—

Bill Jeffers: If you guys get together and do it yourself, I can tell you, I can give you a list of contractors for you to seek bids from that have done this for a reasonable amount of money. I cannot recommend a contractor, that would be unfair, but I can give you a list of contractors we seek bids from that are always low. It would be much cheaper for you guys to do the project yourself, if you can do it as a neighborhood. If you can't, you can file this petition and we'll proceed with the hearings, and we'll do it as cheaply and as quickly as we can, but it's going to be at least 90 to 120 days.

Jerry Arnett: Well, again, if it hasn't been cleared since the '70's, I don't see it being cleared any time soon.

Bill Jeffers: Well, I worked for Mr. Easley up until '78, and it was bad then, and it's worse now.

Jerry Arnett: Yes, sir. I can second that motion. It is, I mean I'm here just to find a solution to this.

Bill Jeffers: I understand.

Jerry Arnett: I've went to some of the neighbors, and this Connie Brassard, where it starts from her area, she was out there trying to clear whatever she could. She

doesn't even know where her property starts and ends. You know, you have my permission to come onto my property and just to look. You can go on to Allens Lane and you can view from there. There is no garage back there, there is no garages back there on that embankment.

Bill Jeffers: Not between your, between your house and Allens Lane there is not.

Jerry Arnett: No.

Bill Jeffers: Between your house and Hobart Avenue there is one.

Jerry Arnett: Yes, and he gets flooded out a lot–

Bill Jeffers: I imagine he does.

Jerry Arnett: –of his garage. You know, however, that is north of my area, and, again, you said there is even supposed to be a drainage ditch over in that area going to St. Joe. Okay, that doesn't work any longer. I don't know who's supposed to fix it. Neither does that gentleman.

Bill Jeffers: The County Highway Department went out and dug it out at our request a couple of years, about four or five years ago from North 12th, from the end of North 12th out to St. Joe, they dug it out, because that is a county road, Hobart. But, then through the private property, back to the backside of your subdivision, we had no permission to do it. There's a large oak tree up at the end of that street that blocks the ditch, and that would have to come out either at the grace of the property owner or by this order right here. If the board were to order it. No one has ever, believe me, sir, everything you say is true. I acknowledge that to the board, everything this man is saying is true, but you are about the eighth or tenth person to come before, or come through our office seeking this very same thing over the past ten or fifteen years. But, without participation of your neighbors or someone filing this petition–

Jerry Arnett: That's what I'm here for now.

Bill Jeffers: –we cannot do a project on private property.

Jerry Arnett: That's what I'm here for now. I will pay that petition right now, if need be. There's no problem with that.

Bill Jeffers: First you need to notify every property owner that has an obstruction between you and where you want the water to go. You have to request that they remove the obstruction in accordance with this statute. That has to occur. I would strongly recommend that you make that request to those property owners in writing.

Jerry Arnett: Okay.

Bill Jeffers: And if you can use a form of mail that certifies that they've received it, it would be best. It's not a requirement of the law, you can hand deliver it to them and come up here and tell us that you did it.

Jerry Arnett: Okay.

Bill Jeffers: And give us copies of that letter, and that's good enough. We all work like gentleman's agreement type thing. There's nothing in the law that says you

have to mail it. But, I would recommend that you do it at least in writing so that there's proof.

Jerry Arnett: Definitely then, there's no problem with that. I just want this cleared for my children. I mean, I just bought the property and I would like to see my children grow up there.

Bill Jeffers: Sure.

Jerry Arnett: Thank you.

Bill Jeffers: Here's your, here's the form. If you need any assistance whatsoever, call our office and someone in our office will assist you with this.

Jerry Arnett: Last time I called (Inaudible).

Bill Jeffers: Basically, right. You got the short and sweet from them, you're getting the long and sugary from me.

Jerry Arnett: Thank you.

Madelyn Grayson: Mr. Arnett, there's a thing called proof of mailing that the post office will do a lot cheaper than certified mail, but they will sign that they all went out and they'll stamp it. It's considerably cheaper.

Jerry Arnett: Okay, and that's done through the post office.

Madelyn Grayson: Yes, it's called proof of mailing, and they'll sign it and stamp it, and it's like two dollars per item cheaper.

Jerry Arnett: Okay, thank you.

President Mosby: Any other questions? Thank you, Mr. Arnett.

Jerry Arnett: Thank you very much.

President Mosby: Is there any other person wishing to address the board? Seeing none.

Bill Jeffers: Seeing none, you've got four minutes, bud.

Commissioner Fanello: Motion to adjourn.

Commissioner Crouch: Second.

President Mosby: So ordered.

(The meeting was adjourned at 7:02 p.m.)

Those in Attendance:

David W. Mosby

Bill Jeffers

Jon Kipling

Members of Media

Catherine Fanello

Madelyn Grayson

Jerry Arnett

Suzanne M. Crouch

Ron London

Others Unidentified

**VANDERBURGH COUNTY
DRAINAGE BOARD**

David W. Mosby, President

Catherine Fanello, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
JUNE 28, 2004**

The Vanderburgh County Drainage Board met in session this 28th day of June, 2004 at 6:45 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

Call to Order

President Mosby: Call to order Vanderburgh County Drainage Board, June 28, 2004. I will at this time turn it over to Mr. Jeffers.

Approval of May 24, 2004 Drainage Board Minutes

President Mosby: Oh, I'm sorry, do I have a motion to approve the minutes of the previous meeting?

Commissioner Crouch: Second.

President Mosby: And I will, how about if you say so moved, and I'll say second.

Commissioner Crouch: Alright. So moved.

President Mosby: And I'll say second, and so ordered to approve the minutes of the previous meeting.

Falcon Ridge Estates: Preliminary Drainage Plan

President Mosby: Okay, drainage plans, Falcon Ridge Estates, North Green River Road, one half mile south of Daylight, preliminary.

Bill Jeffers: Falcon Ridge is, as Mr. Mosby said, one half mile or so south of Daylight on Green River Road. This is a preliminary plan. It's compliant with the conditions of the drainage ordinance. The only comment that I have, comments I have is that we would like to see no increased run off or concentrated flow cast off from the south tier of lots onto the adjacent neighbor's ditch without further planning and consent of that neighbor. The only other comments are that the easements may have to be shown slightly modified to accommodate various ditches and pipes, and that will be shown in the final drainage plan. With those comments, the County Surveyor recommends approval.

Commissioner Crouch: Motion to approve.

President Mosby: Was there anybody in the audience that wanted to speak to Falcon Ridge? Yes, you have to come up and present your, or give us your name and address.

Marilyn Mason: I'm Marilyn Mason—

Mike Mason: Mike Mason, we're the neighbors abutting to the south of Falcon Ridge. We just are kind of concerned, you know, where the water was going and so forth. Every time it rains out there, three quarters of an inch to an inch, that road, as you know, water gets over that there, and we're just kind of concerned, you know.

Marilyn Mason: With all those added houses and so much more water being concentrated there, I, you know, like off their roofs, and off—

Bill Jeffers: Right.

Marilyn Mason: There's going to be a lot more water there. Where is that water going to go?

Bill Jeffers: Okay, the county's drainage code requires that all that additional water be routed through the storm sewer system, which is comprised of open ditches and pipes. The street system and everything is all routed, in this case, up to the northeast corner of the property, which is north of you and away from you. I believe there is around a 60" culvert up there under Green River Road, something along that line. They take all of their water up there and put it into a detention basin, just like a little lake, and they hold it and release it at a lower rate. So, it goes under Green River Road without flooding Green River Road.

Marilyn Mason: Okay.

Bill Jeffers: We were kind of breezing through it, but I didn't know that you were here. So, I'll say it more clearly and more slowly. The row of lots that's along the south line of this subdivision adjacent to you, you have a ditch over on your side—

Marilyn Mason: Right.

Bill Jeffers: — in your farm field. I said that the final drainage plan would show no increased storm water run off or concentrated flow out the end of people's down spouts, that type of thing, they can't put anything in their backyard that would throw water across the line on to you. No increased run off or concentrated flow shall be cast to the south from that row of lots onto the neighbor's ditch, that's you. So, I want to see a plan that they might let their backyards come over on you, if it's just grass. It might, naturally comes across the line as it does now, out of the cornfield, but just the water off the surface of the grass. No rooftop drainage, no swimming pool drainage, no street drainage, that all goes to the interior, and it's carried up to that detention basin and is discharged under Green River Road at a lower rate. You probably do some farming?

Marilyn Mason: No, we're just, we have two and a half acres there.

Bill Jeffers: Okay.

Marilyn Mason: We're the—

Bill Jeffers: Okay, but you've seen these farm basins that have a standpipe in them?

Marilyn Mason: Oh, yes.

Bill Jeffers: Water goes there and slows down and then it's slowly released. It's similar to that.

Marilyn Mason: Oh.

Bill Jeffers: Only it's more residential looking. It looks more like a lake. Now, this is just a preliminary hearing. You've been notified of Area Plan Commission on Wednesday the 7th? You should have been notified.

Mike Mason: This is the first letter we've had.

Marilyn Mason: This is all, yeah, the only one we've gotten.

Bill Jeffers: Okay, well, there's an Area Plan Commission meeting to address other things like traffic and so forth. Then they come back next, a month from today, the fourth Monday of July with a final plan. If you have any additional concerns, Mr. Poff is behind you. He has an office out in your neighborhood, Keith Poff, and he's available, he's the private engineer who's working for this developer, and he's available for you to tell him what you're concerned about with regard to this drainage. He will incorporate those concerns into the final drainage plan, to the extent that they comply with the code. Then if you still are dissatisfied, you can come back to the final drainage hearing on the fourth Monday of July, same time, same place.

Marilyn Mason: Thanks.

Bill Jeffers: Thank you for coming.

President Mosby: Thank you, Mr. and Mrs. Mason. Are there any other remonstrators, or anybody that wants to speak? Seeing none. I have a motion to accept on preliminary.

Commissioner Fanello: Second.

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

Carpentier Creek Pavilion: Final Drainage Plan

President Mosby: Carpentier Creek Pavilion, final.

Bill Jeffers: Okay, as the Commissioners know from your discussions with John Stoll and others, we're trying to keep Carpentier Creek Pavilion on fast track so that Kohl's will locate as an anchor store. The site is being prepared for that purpose, and we don't want to hold up this development in hearings while that's occurring, but we are waiting on DNR, Corp of Engineers and other permitting agencies to finish their review, or regulatory process. So, to keep it on the fast track, so that if it's approved by DNR, Corp of Engineers, etcetera, in the next week or so, we're right on track. John Stoll and I have been staying in contact to stay coordinated with our recommendations. You heard his earlier today in the Commissioners meeting, and the County Surveyor recommends approval of the final drainage plan for Carpentier Creek subject to the following conditions; (A) is the same as John Stoll's (A); (B) is the recommendation for the access manhole, as recommended by John Stoll, and/or vent openings along the tunnel to sufficiently clear accumulated gasses so that workmen can enter to perform maintenance and repairs. I'll pass these down so that you all can read along. I've provided a copy of this to the design engineer and the contractor, and would like for them to be made part of the permanent record; (C) for the portions of Rosenberger Avenue culvert that lie east of the east right-of-way line of Rosenberger Avenue, a maintenance covenant established to ensure that the property owners perpetually maintain the portion of the culvert that lies on private

property in a manner that prevents the structure from deteriorating, or obstructing the flow of water through the structure, and to relieve the county of any responsibility for maintenance and repair of the portion of the structure that lies on private property. That's virtually the same as John Stoll's recommendation. (D) that there's a maintenance agreement between the developer, the owner, and the county regarding the perpetual maintenance and repair of the realigned Carpentier Creek channel. This maintenance agreement has been prepared by Les Shively, has been reviewed by Kevin Winternheimer. We need for that to be executed and recorded in miscellaneous records. I believe Mr. Winternheimer will make a comment on that.

Kevin Winternheimer: That's right. I've reviewed it, I have no problem with it.

Bill Jeffers: (E) all approvals by federal, state, and local regulatory agencies be final; (F) resolution of the contractor and owners right-of-entry and operation on University Center property for the purpose of constructing swale number one. That was not, I don't know if John brought that to your attention, but there is a drainage easement on the University property, which the developer intends on entering and doing construction work. I may have a difference of opinion with others on a person's right to enter on to other people's property, whether there's an easement there or not. I would prefer to see an agreement between University Center and this developer, with an understanding that that work is going to be done on someone else's property. However, if an attorney overrules that opinion, so be it, but I really think someone needs permission to get on someone else's property, whether there's a right-of-entry, you know, whether there's an easement or not. Anyhow, we just need a resolution of that issue, I'm not holding up the project on account of that. (G) relaxation of code requirement for paved channel liners in ditches with less than .8 percent slope. That's a code requirement of ours. I'm prepared to make the recommendation, if the board relaxes that requirement, with the understanding that the County Surveyor recommends that the owner reconsider using concrete liners to address chronic wetness issues. I'm just saying, hey, you've had issues there, but it's on his property, he can do as he wishes. (H), the understanding that in spite of Indiana Department of Natural Resources, or Corp of Engineer requirements, or recommendations, that the County Surveyor does not recommend the box culvert design with rip rap lining. I do not recommend it because of safety issues. When you send your men from the County Garage down inside there, stumbling over that rip rap, and I don't think it's a good idea for long term maintenance and repair issues. Now, I'll only say that IDNR wants it for breeding and living habitats for little critters. That's all fine and dandy, but I didn't know we had cave fish around here that needed protecting. I don't think it's worth the life or limb of a workman. However, it's not our call, if DNR says it has to be, it will be. Those are the conditions of the recommendation, and on those conditions you have your developer and your engineers here if they have any comment. Otherwise, I recommend approval.

President Mosby: Did you have any problem with that? Seeing none. I don't think we've got any remonstrators, so.

Commissioner Fanello: If there are, they're hiding.

President Mosby: Chair would entertain a motion.

Commissioner Crouch: (Inaudible. Mic. not on.)

President Mosby: Yeah, I know. Chair would entertain a motion.

Commissioner Fanello: So moved, based upon the Surveyor's recommendations.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second based upon the Surveyor's recommendation. So ordered.

Metro Center II: Final Drainage Plan

Bill Jeffers: Metro Center II is a small commercial development, part of a greater subdivision. Matt Wallace from Morley and Associates is here to represent it. It's a Spurling Development on Virginia Street near the intersection of Royal Avenue. It's a final plan. It meets the requirement of the code. The County Surveyor recommends approval.

President Mosby: Any questions? Chair would entertain a motion.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

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

McCutchanville Community Church: Final Drainage Plan

Bill Jeffers: The next one is McCutchanville Community Church on Petersburg Road at Kansas. This is a final drainage plan from Andy Easley and Associates, representing the church. What we have here is 11,000 square feet of new church, which exceeds our requirement by 1,000 feet for detention. We're asking that you waive the requirement for detention because the church has terraced the hillside that will slow down the velocity of the water, and there is a very large, about a five acre lake downstream that is in good shape and will serve as detention. With your waiver of the requirement for detention, the County Surveyor recommends approval of the final drainage plan for McCutchanville Community Church.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

Waterford Commons LLC: Modified Final Drainage Plan

Bill Jeffers: Waterford Commons III, that should read LLC, I'm sorry. Waterford Commons LLC, lot three, 992 N. Burkhardt Road is a modified plan, final plan. What they've done is they've rerouted a pipe through the parking lot so that it will not go underneath a building that they want to build. They are dedicating a new easement for that purpose, to carry the water through a pipe, through the parking lot, rather than under the building. The County Surveyor recommends approval of the modified final plan for 992 N. Burkhardt Road.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

Eagle Plaza West: Modified Final Drainage Plan

Bill Jeffers: Eagle Plaza West, lot three, is on Pearl Drive, west of Boehne Camp. This is a modified final. What's going on here is that a company has bought a part of half of lot three and some other lots, four and five, I believe. They didn't want the remainder of lot three, so, the developer, Hahn, Gene Hahn, would like to move the drainage basin in such a way that it will perform the same function, but allow for an area for a cell tower. This is at the end of cul-de-sac overlooking a big valley. There's not going to be any building downhill of this, and it's a good plan, and it finds a use for a spare piece of property that wasn't used for development. The County Surveyor recommends approval of this modified plan for Eagle Plaza West, lot three.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

Wilmes Windows: Modified Final Drainage Plan

Bill Jeffers: Wilmes Windows would like to locate at 2323 North Burkhardt Road in Burkhardt Business Park, lot four, but they need to modify the final drainage plan so that they can more fully utilize their lot. They've already got all the necessary permitting through APC and zoning appeals for full coverage of their lot, and now they need to come to you to modify the drainage plan so that they can cover the lot and pipe the ditch. The County Surveyor recommends approval of this plan, with the provision that the adjacent property owner enter into an easement agreement, for which they have prepared a document. I need to make sure to read this into the record correctly, in order to do this plan, Evansville Missionary and Church Extension Society of the United Methodist Church Incorporated, know as EDMC, located at 5200 Washington Avenue, number B, Evansville, Indiana, has agreed to this, that they can come on to their property and perform the work, and there is a document prepared by their lawyer to grant an easement to Wilmes Windows to finish the ditch on their property, and it awaits signatures. When that's signed, with that condition that the document be signed and recorded, the County Surveyor recommends approval of the plan for Wilmes Windows, 2323 N. Burkhardt.

Commissioner Fanello: So moved, with provision.

Commissioner Crouch: Second.

President Mosby: So ordered.

Gordon Food Service Marketplace Store: Preliminary Drainage Plan

Bill Jeffers: Okay, they've added this to the agenda since Thursday, Gordon Food Service Marketplace Store, Burkhardt Road and Oak Grove Road, on private parcel. Recommend approval of the preliminary plan.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

Ditch Maintenance Claims

Bill Jeffers: I have for you ditch maintenance claims that are in order, signed by the County Surveyor with the paperwork attached. I recommend the payment of those claims.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

Drainage Easement Encroachment Agreements: Wilmes Windows: Burkhardt Center, Phase One, Lot 4 Waterford Commons, LLC: Waterford Place, Lot 3 Redbank Development LLC: Eagle Plaza West, Lot 3 Cayuse LLC, Lot 1, East Pointe Business Park, Section One
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Bill Jeffers: Okay, Universal Design Associates, representative for Wilmes Windows is asking for a drainage easement encroachment on lot 4 of Burkhardt Business Park, 2323 N. Burkhardt, in order to pave a parking lot over a pipe in the easement. The County Surveyor recommends approval of this drainage encroachment easement for which the County Auditor has the original copy for your signature, with a check sufficient for recording.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

Bill Jeffers: Second one, Waterford Commons LLC, Waterford Place, lot three. We have a new drainage easement dedicated to relocate the drainage pipe I've previously talked about. We also have an agreement to encroach the easement and pave a parking lot over that pipe. All in order, and with the appropriate check attached for recording of the documents. I believe the County Auditor has the original copy of that for your signature, and the County Surveyor recommends approval.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

Bill Jeffers: We have Redbank Development LLC, Eagle Plaza West, lot three, which I talked about the building of cell tower. They're dedicating the remainder of lot three

as a drainage easement, and a document to be recorded, and then a subsequent document and an easement encroachment to build the cell tower within the easement, the drainage easement. Everything is in order, the original copies are in the possession of the County Auditor with a check in the appropriate amount for recording. The County Surveyor recommends approval of those.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

Bill Jeffers: The last one is Cayuse LLC, it's a request for lot one of East Pointe Business Park, section one, encroachment of a drainage easement and a landscape buffer at the intersection of the entrance road and Telephone Road for the purpose of erecting a brick sign to let people know where they are. It's in order. The County Surveyor recommends approval, and there is a check attached, and I believe the County Auditor also has the original copy for your signature of that.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

Petitions to Remove Obstructions

Bill Jeffers: We were anticipating a petition tonight, but I don't see anyone present to speak to it. Did the County Auditor receive any petitions?

Teri Lukeman: Not that I'm aware of.

Bill Jeffers: Okay, the water must have dried up, the petitioner went away.

Other Persons Wishing to Address the Board

Bill Jeffers: The last two bullet items are yours.

President Mosby: Is there anybody else wishing to address the board? Not everybody at once. If not, I will take....oh—

Comments/Questions/Direction from the Board

President Mosby: —comments, questions...we just did that—

Commissioner Fanello: Motion to—

President Mosby: Adjourn?

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: If I don't say anything, are we still in session?

Commissioner Fanello: No, because Suzanne and I are leaving.

President Mosby: So ordered.

(The meeting was adjourned at 7:05 p.m.)

Those in Attendance:

David W. Mosby

Catherine Fanello

Suzanne M. Crouch

Bill Jeffers

Kevin Winterheimer

Teri Lukeman

Marilyn Mason

Mike Mason

Others Unidentified

Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

David W. Mosby, President

Catherine Fanello, Vice President

Suzanne M. Crouch, Member

Recorded by Teri Lukeman. Transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
JULY 26, 2004**

The Vanderburgh County Drainage Board met in session this 26th day of July, 2004 at 7:41 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

Call to Order

President Mosby: I would like to call to order the Vanderburgh County Drainage Board meeting, July 26, 2004.

Approval of June 28, 2004 Drainage Board Minutes

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

Commissioner Crouch: So moved.

Commissioner Fanello: Second.

President Mosby: So ordered.

Havenwood Meadows, Sec II & III: Final Plan

President Mosby: First we have Havenwood Meadows, section two and section three final plan, Hillsdale Road, quarter mile east of U.S. 41, major residential subdivision plan.

Bill Jeffers: On both this subdivision and the Spring Lake Valley, which is the second subdivision, because the, we're in a transitional period between the state rule that governs erosion control, etcetera, and the local MS4 operator, John Stoll, taking over later this year, we haven't really gotten to a point where all our plans mesh together in a logical way. We're getting one interpretation from the state, another interpretation here locally, etcetera. I don't want to go into any great detail, but Havenwood Meadow, section two and three final drainage plan presented on behalf of Elpers Development, Incorporated, by Sitecon, Incorporated, the consulting engineer, essentially complies with the local drainage code. There will have to be some certain details of erosion control, some certain details... a street plan has already been approved, but some things may have to be incorporated in at the office level, not requiring board approval. Unless they represent substantial modifications, I would bring them back here, but, otherwise, they will just be incorporated in over the next development period. The County Surveyor recommends approval of the final drainage plan for Havenwood Meadows, sections two and three.

President Mosby: Are there any remonstrators? Seeing none, chair would entertain a motion.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered.

Spring Lake Valley, Section I: Final Plan

President Mosby: Next we have Spring Lake Valley, section one, final plan, Mohr Road between Darmstadt and St. Joe Avenue, major residential subdivision plan.

Bill Jeffers: Again, with the same comments, although this particular plan is going to require some details sent to and approved by the Corp of Engineers, it does not have an approved erosion control plan by SWCD at this time, but that's pending. Some of those details may, again, change details here, mostly with regard to outlet of pipes, whether they're going to use a rock chute, or a rock mat or what have you. Some final grading details along the east line of the subdivision will have to be presented and approved to the Building Commissioner because they lie within a flood plain, and I want those details to be incorporated into this plan. All that can be done in the office. Again, the plan substantially complies with the county's drainage code, and would otherwise be immediately approved, but we're still trying to mesh those street details, and erosion control details, etcetera into this plan at a later date. The County Surveyor recommends approval at this time.

President Mosby: Are there any remonstrators for Spring Lake? Seeing none, chair would entertain a motion.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered.

**Fed Ex Site Plan: VIP on SR 57:
Requests Variances from Code Requirements**

President Mosby: Next, Fed Ex site plan, VIP on state road 57, requests variances from code requirements.

Bill Jeffers: The drainage plan for Fed Ex distribution center in the VIP Industrial Park, the plan itself complies with the drainage code and the approved plan for the entire park. That's already been approved at site review, as customary. What I have this on the agenda for is that I was told by the developer's consulting engineer that may be here tonight to request this variance, they didn't want to pave the bottom of the ditches. Is there someone here representing Fed Ex for that request?

Jim Morley, Jr.: That would be me.

Madelyn Grayson: Jim, do you have an extra one for the record? When you're finished?

Commissioner Crouch: You can have mine.

Madelyn Grayson: Never mind.

Jim Morley, Jr.: What you see in front of you is part of the on-site drainage, draining the parking lots and everything, nothing public, in public right-of-way or anything like that. I don't know if you've seen this or not, Bill. It has less than a .8 percent slope. Your drainage ordinance requires anything with a .8 percent or less to have a

concrete ribbon in the bottom of them. Generally, these swales, I mean, we see a lot of concrete ribbons inside of a subdivision or something where they carry water across different people's lots and stuff like that. This is all on site to this particular development, and the developer at the Fed Ex facility is asking to have that concrete waived. The concrete ribbon requirement waived. In truth, if the concrete ribbon is not there, the only one that would ever, I mean, if anyone could be damaged it would be Fed Ex, the people asking for it. I don't see that it's a problem, but it's different than what the code requires, so, that's why we're here tonight.

Bill Jeffers: The County Surveyor's comment is that the code does require the concrete ribbon. It's used for two purposes, it establishes the grade on a flat ditch, so that if that ditch is every silted up, a person could go out there with a square point shovel and simple scrape off the concrete ribbon and re-establish the flow line. So, you know where it is. The second reason is because it addresses chronic wetness. In a ditch that's so flat sometimes you have standing water, and this acts as a trickle ribbon for low flow. The water will run down that ribbon instead of standing in the grass and killing the sod. That's been a long standing requirement, since 1994, part of the drainage code. When we say Fed Ex, that's fine you can say Fed Ex, that's the person that's asking, supposedly, but in actuality what we have here is a leasing corporation that came in and bid against other companies, local companies, who we have always asked to comply with the code. The local company lost the bid to an out of town company, the out of town company is asking for this as an economic, for economic reasons. They don't want to pay several thousand dollars for a concrete ribbon, and thereby making their bid more attractive. If Fed Ex comes in and they experience chronic wetness, they are going to ask why we didn't enforce the code, or subsequent owner. I might ask the same question. Therefore, the County Surveyor does not recommend the variance, but you may, as the board, do as you wish on individual cases. The code does allow you to make discretionary decisions on an individual case by case basis.

President Mosby: Are there any remonstrators, or anybody that would like to speak to this variance? Seeing none. Does the chair have a motion?

Commissioner Fanello: I would make a motion to accept the Surveyor's recommendation without the variance.

Commissioner Crouch: Second.

President Mosby: Does that mean I have a motion to deny?

Commissioner Crouch: Did you make a recommendation?

President Mosby: I think I have a motion to deny.

Bill Jeffers: You can always make your motion in the affirmative and vote however you wish.

President Mosby: It's that or just not have one.

Commissioner Fanello: That is correct. It's all in how you word it, I guess.

President Mosby: So, it's dies for lack of a motion. I don't know. Do I not have a motion? I'm waiting.

Commissioner Fanello: Motion to deny.

President Mosby: Okay, I have a motion to deny.

Commissioner Crouch: Second.

President Mosby: So ordered.

Crowne Ridge: Modified Final Plan

Bill Jeffers: Next item is Crowne Ridge at the northwest corner of Kansas Road and Green River Road. It's under construction, this is a modified final plan to move the storm water discharge pipe to avoid a city water line. Perfectly legitimate, submitted by Morley and Associates on behalf of Bruce and Bob Hatfield, operating as Baywood Development. They went to put in a pipe, hit a water line. It needs to be moved. It has been taken to Herb Butler, the engineer at the Water Department and Gary Leek at the Water Department, and I believe John Stoll had some forewarning on this, and is awaiting a set of plans. With that, the County Surveyor recommends the modification to the final drainage plan for Crowne Ridge, so long as it conforms to the County Highway Engineer's recommendations for street plans.

President Mosby: Are there any remonstrators? Anybody that would like to speak to the petition by Crowne Ridge? Seeing none. Chair would entertain a motion.

President Fanello: Motion to approve.

Commissioner Crouch: Second.

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

Ditch Maintenance Claims

President Mosby: Next we have the ditch maintenance claims.

Bill Jeffers: I've laid on your table a mess of ditch maintenance claims. They are out there mowing, spraying and otherwise completing the projects in accordance with the contracts. All of the paperwork is attached, and the County Surveyor recommends approval of those claims at this time.

President Mosby: Chair would entertain a motion.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered.

Encroachment Agreements

President Mosby: Encroachment agreements.

Bill Jeffers: I would ask Madelyn if there are any encroachment agreements coming forward?

Madelyn Grayson: None.

Easement Dedications

Bill Jeffers: Or easement dedications?

Madelyn Grayson: No.

Petitions to Remove Obstructions

Bill Jeffers: Petitions to remove obstructions may be coming from the floor, or coming from the Auditor's office.

Madelyn Grayson: None from the Auditor.

Bill Jeffers: Any petitions by individuals to remove an obstruction from the floor?

President Mosby: I've got one right behind you.

Bill Jeffers: Okay, and that's Mr. Bob North. He may also want to speak under others wishing to address the board, unless he has actually filed a petition with a \$100 check. Either way, he's welcome to speak.

President Mosby: He has not. Okay, then we'll go ahead and no petitions received.

Others Wishing to Address the Board

President Mosby: We'll go with others wishing to address the board. You can come forward.

Bob North: Good evening. My name is Bob North. I'm a property owner residing at 4707 St. Joe Avenue. With the recent rain event that we had on the 17th of July, my neighbor and I both experienced major flooding of our property and our houses. The purpose for being here tonight is to ask for relief from the property owner known as Vintage Park, which is directly due south of us. The owner has built up a three lot parcel piece of property, and I can't give you exact dimensions or the vertical elevation of the property, but I can stand out in certain parts of it and it is equal to my height. We had, what, two feet of water? Mr. Smith who resides at 4703 St. Joe Avenue, his whole house was flooded. I had to have the fire department get me out of my house, so. Some of the points that I would like to make are right on the top here. We're claiming that, excuse me for speaking in that so close, but the Vintage Park owner has deposited materials into the flood way, obstructing the natural watercourse, which has caused flooding of our individual properties as well as our dwellings. We claim that this did not exist prior to build up on this property. There is a bleeder ditch directly due east, which runs on the back end of our property, and it serves to drain the water out. It's a very small ditch. It wouldn't handle the volume of water that we had. Had the land not been built up so high, it would have all, my claim is that it would have drained throughout the whole property, like if you were in a tub. Rather than our two pieces of property being flooded, it would have dispersed

equally over the entire property. I notified the property owner, Mr. Johnson, midday about a problem. He did come out and assisted Greg with the problem that he had. I really did not talk to Mr. Johnson other than that. We are concerned because we came about a year ago and expressed concern about building, depositing materials, this is a flood way, and there's a flood plain, and there's some dispute about where it all is. It's platted out on the maps, but unless you live there you don't know how the water flows. So, our fear is that our property will not appreciate, we'll have a difficult time selling it, we may have disclosure problems due to that fact, and we're going to have continued losses, personal property losses. So, we're looking for some kind of relief. I'm not sure, I'm not familiar with this process, I'm new to it, but that's why I'm here. There's mention in some of the correspondence that I've had with Mr. Jeffers, and I must thank him for all his assistance, that if they grade the swale, which runs the north line of the property, that would help with drainage. Well, I have to disagree because the swale is five feet below in certain spots of where the water would run across the flood plain. So, I don't know that that would help. It drains nowhere, it goes back to the creek, but it doesn't drain to a storm sewer in front. Finally, if you look at the pictures, the pictures clearly show the flood even that we had. Mr. Smith's property is on the third page, and the flood was 382.4, .6 something like that. It actually flooded to the top of St. Joe Avenue, which was right at that measurement too. There's another page further in the back that just shows the extent of the flooding. So, had that water been able to flow south, like it normally would have, our properties would have been flooded, but our houses probably wouldn't have been. So, thank you, that's all I can say.

President Mosby: Are there any questions?

Greg Smith: My name is Mr. Smith and my property is directly north of Vintage Park. I wanted to tell you that I had six inches of water in my house, and 15 inches of water in my garage, which cost me \$15,000 last year to build. I don't know what the answer is, but I would appreciate you all looking into it for us. We're just two property owners there. I've lived there for seven years and the water never came nowhere near my house. When I first moved there, the first question I asked Susan, Mr. North's wife, had the water ever come up there, and she told me no. She's lived there approximately ten years. Before Vintage Park starting filling in that was a cornfield. You know, water would flow off towards the creek. I just feel that was part of the problem that caused this. Maybe not all of it, because we did have a substantial rain. He was required, I guess, to put in an erosion control device around the sewer, which I have a ditch in front of my property, and Mr. North does too, and that kept that water from going down that sewer. You know, the erosion control thing is probably this high, and it backed the water up into the ditches, because of that it would not go down that sewer. It kept the water from going down there. I think this is part of what caused it to come up into our houses. Thank you very much.

President Mosby: Is there any questions?

Bob North: If I may, I would like to ask, on here, I'm not aware of a fee for petition to modify. I'm not familiar with that. I did ask that we, let's see, petition the Drainage Board to remove remedy and alleviate the obstruction. So, we are asking for action. I don't know what I need to do.

President Mosby: Right. Bill, does he have to come to your office to do this?

Bob North: If I might ask one other question, Bill had so kindly referenced that there are state and local rules administered by the IDNR and the county Building

Commissioner. I don't know what those are, and I don't know how they might help us.

President Mosby: Okay, that's what I'll have Bill address.

Bill Jeffers: Okay, I'll try to address most of the comments, that I can. Mr. North is claiming that it's possible that the Vintage Park owner has deposited or caused deposits of fill in the flood way. That needs to be determined by Indiana Department of Natural Resources, Division of Water, who's been notified, and I have the e-mail that went to both Jim Hebenstreit and Marv Thompson in that department. Marv Thompson replied last week, I believe on Wednesday, that he would forward that to the southern sector inspector from IDNR Division of Water to come down and look at that. Further, the approved drainage plan, approved by this board a couple of years ago, or last year, the County Surveyor insisted, and Mr. Easley who developed the plan clearly showed that there would be, where the flood way lay on that property, and there were notes and narrations to the extent that no fill shall be placed in the flood way. Furthermore, the plan stated that the flood way would not be disturbed, that it would be left natural. I believe John Stoll asked that any drainage improvements that connected to the roadway, or any other utilities that were punched into the property would be bored underneath the road and not disturb St. Joe Avenue and not disturb the flood way. So, that flood way was, extra care was taken to protect that flood way from any fill or disturbance in the drainage plan that you approved last year. There is a surface watercourse across Mr. Smith and Mr. North's property. That surface watercourse does drain both their properties free of all standing water, as witnessed when I went out there on Sunday following the flood. There was no standing water on their property, it was drained off by that watercourse. The drainage plan that you approved last year specifically prohibited any change in that watercourse, either on their property, or on Vintage Park's property. That watercourse was to be left as it exists or improved across Vintage Park. It couldn't be obstructed or moved. In addition, there would be an additional swale on Vintage Park's side of the property line that did the same thing. So, that it also intercepted any water coming off of Vintage Park, but should the watercourse on Mr. Smith's and Mr. North's property ever become obstructed by anything they or subsequent property owners did themselves over there, there would be another watercourse on Vintage Park's property that would serve the same purpose, to convey all storm water from both properties to the creek, as it does now. That also takes care of the bleeder ditch comment by Mr. North, that's to be left as is, or improved. Mr. North claims the fill raised the flood elevation. That needs to be determined again by IDNR, Division of Water. Those comments also have been conveyed to Mr. North by a Thursday e-mail, extensive e-mail that I have a copy for the record. That that has to be determined by the Indiana Department of Natural Resources, Division of Water. Mr. North and Mr. Smith were both previous remonstrators on the drainage plan that this board approved for Vintage Park. I've made comments on that plan. I'll make further comments that state law allows fill in the flood plain to the extent that that fill does not raise the flood elevation greater than 15 hundredths of a foot. Whether or not it raised it to that elevation must be determined by the Division of Water again. There is calculations showing that it wouldn't submitted with the plan. You voted on a plan and approved a plan that indicated that there would be no additional increase of elevation due to this fill in the flood plain. That fill only covers a couple of acres, and, of course, the watershed is several square miles in size. So, it had a minimal effect, on paper, by those calculations. There has been substantial correspondence between the Surveyor and Mr. North. Mr. North continues to disagree with the drainage plan, of course, that's his privilege, and he and Mr. Smith both seem convinced that what's being done on

Vintage Park has caused the problem, blocked drainage to the creek, and raised the flood elevation. Again, that is their conviction, and the County Surveyor would have them take up those issues with the Division of Water, who has been notified and all the e-mails that have been sent to Mr. North have been sent to the Division of Water. Mr. Smith says he had six inches of water in his house. I believe a check of his house, which I can have our crew perform at Mr. Smith's, with Mr. Smith's permission, to determine the elevation of his house, the finished floor. But, I would say his finished floor elevation is below flood elevation of 382. Federal flood elevation, federal flood plain maps clearly show 382 feet above sea level to be the flood elevation on that property. I believe this house is below that, because it was built before 1979 when the requirement to elevate above was passed by the federal government and state government in '81. Mr. Smith says he has 15 inches of water in his garage. I know for a fact his garage is below flood elevation, because we did shoot that. His allegation is true. There was approximately 15 inches of water in his garage. That garage was built, according to Mr. Smith, in 2003, it should have been built above flood elevation. It is below flood elevation. Mr. Smith feels the fill is part of the problem, again, that's his determination, and that can be addressed to the Division of Water. The sediment fence was placed around an inlet in the right-of-way for St. Joe Avenue because Rule Five requires it, requires a sediment control measure to be placed around there while that construction is going on. I don't think a silt fence is the appropriate measure. It is in the right-of-way for St. Joe Avenue, and you and the County Engineer can order it removed. It was constructed in such a way, and was substantial enough that water stacked up to go over top of it, and did back water up, and does represent an obstruction to that inlet. If you wish, I would say an appropriate measure should be placed around that inlet or no measure at all. That goes back to what I was saying earlier in the meeting that we don't always agree with DNR, or their measures. I will, okay, as to, I also included this in my memo to Mr. North that there is a state statute that allows him to petition the Drainage Board to order the removal of an obstruction to a natural surface watercourse, which he is convinced has happened there, after he requests the owner of the property to remove that obstruction. That's what the statute says. If he requests Mr. Johnson to remove that obstruction, and there's no action taken, he can file a petition with you, like everyone else has done that's done that. It costs \$100 to file the petition. That was a determination made by the board before any member of this board sat on the board to discourage frivolous actions, and to pay for the cost of the hearing. Mr. North can do that. He can join with another property owner and do that \$50 each, then we'll take up that hearing. I'm discouraging him from doing that because I don't believe a natural surface watercourse has been obstructed. I do believe a drain has been obstructed by the erosion control measure. I do not believe that a natural watercourse has been obstructed. I do think there's a possibility that there's some fill laying in the flood way, and I have asked the inspector, through Mr. Hebenstreit and Mr. Thompson, to come down and determine that. I also included in my rather lengthy e-mail to Mr. North, I have answered, I think, every question that was in his e-mail to me. It is substantial, and I submit it for the record. I ask Mr. North to continue to communicate with me if he feels I have not adequately addressed his concerns, and that the County Surveyor joins with him, his wife, and the rest of government, and all the people of Vanderburgh County in hoping that such a natural disaster never happens on his property, or any other property in Vanderburgh County again. If he doesn't feel that he has had everything adequately addressed to continue his inquiries and comments. So, I submit that for the record. If anyone would like a hard copy, I will provide it to you. Otherwise, it will be available in the Auditor's office.

President Mosby: Are there any questions of Bill? I think the first thing I heard is chair would entertain a motion to have the silt fencing removed from the drain. I guess it's a beehive in a ditch, right?

Bill Jeffers: Yes, it's an unattended beehive blocking one of your roadway drains. Something better is certainly available.

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

Commissioner Crouch: Second.

President Mosby: So, I have a motion and a second. I'll say so ordered. Who do we contact? Does this go to John?

Bill Jeffers: Your Highway crew could go out there and do it. Or if you want my crew to do it, I'll do it. Either way.

President Mosby: Would you have to notify—

Bill Jeffers: I'll go out there with Mike Wathen—

President Mosby: I was going to say should we—

Bill Jeffers: — us two will do it.

President Mosby: Why don't we have you and Mike go out and do it. That a way Mike will be aware of it.

Bill Jeffers: I'll do the pointing, and he can do the jerking. How's that?

President Mosby: If you need assistance, Dennis is right down the road.

Bill Jeffers: I'm sure I could go get somebody from the County Garage that would be happy to participate. I would say that the property owner needs to mow that ditch. I'll be happy to send them a letter to that effect.

President Mosby: Okay.

Bill Jeffers: I think the property owner needs to notify that there may be some fill in the flood way, and he damn sure better get it out of there before DNR shows up down here, or he'll be in court with them.

President Mosby: That's fine.

Bill Jeffers: I'll be happy to send that letter. I think you have two men and their families that suffered loss and have a great anxiety that it may happen again, or are convinced that that fill has caused this. I'm not as convinced as they are, but I would say that they should definitely pursue this through the Division of Water. The Corp of Engineers has already been out there the very next day after I sent them the e-mail. By the way, I sent the Corp of Engineers these same e-mails, and a representative from the Newburgh division came down and determined that there is no wetlands involved and that their jurisdiction does not extend. They say the Division of Water.

President Mosby: Okay.

Bill Jeffers: So, as soon as we can get them off dead center, and get an inspector down here the better.

President Mosby: Are there any other questions of Bill? Do you have any other questions? We will remove the fencing, ask him to cut the grass, ask him to remove any fill from the flood way.

Bob North: (Inaudible. Not at mic.)

Madelyn Grayson: Mr. North, can you make your comments at the mic? We have to get these on the tape.

Bob North: I'm sorry. The north swale contains a ditch. It's got construction sediment in it, concrete block, bricks, etcetera. We would more than gladly mow it, I'd maintain it. I think my wife and I own the majority that abuts that property there, so. The question I would like to ask, should we contact IDNR, or wait for them to contact us?

Bill Jeffers: They've told me that are coming, but the greasy wheel gets the grease.

Bob North: Okay, understood. Thank you.

President Mosby: Thank you. Any other questions?

Bill Jeffers: Excuse me, the squeaky wheel. A greasy wheel doesn't squeak, or something like that.

President Mosby: We still knew what you—

Bill Jeffers: The squeaky wheel gets the grease.

President Mosby: We knew what you meant though. Is there any other—

Bill Jeffers: That puts the cement on the cake as Frank McDonald used to say.

President Mosby: Any other participant wishing to address the board?

Don Gillies: Thank you. My name is Don Gillies. I am the president of a condominium phase out at Oak Meadow. I've been in this area for about 17 years now, and about, oh, seven years ago a developer bought the land that was behind us from the bank, developed it and built condominiums. Because of it, however, we have suffered a lot of water damage due to that, due to the way the land has been laid out, and the way that the drainage provisions that were in there are no longer effective. I have been working with Mr. Jeffers and Mr. Wathen, and they feel they know the solution, but we need help in effecting the solution, because the developer simply will not do anything. He walks away from us. I guess, I'm looking, we're not allowed to beg in the building, but I'm looking for some help in how to do this, okay. I don't have the privilege of a lot of architects and CAD drawings and everything else, but short of a pen and pencil set I'm going to ask Mark to give me a hand. One of my neighbors here, to grab the other side there. This is basically the area here, the street, this is our condominium buildings, and this is where the other new condominiums were all built up in here. This land is taken from a slope like so, to

a slope like so, okay. Because of that, not only, we get water, but we get water at one heck of a rate higher than we would have in the past. The gallons per minute coming down there are very destructive. I have photos here of how it has scoured the land. We have cables coming up from the t.v. box. We have the electrical boxes are scoured out, it has fallen. There is really just a mess back there. There was supposed to have been a pond here to collect drainage, and the black arrows indicate the way the drainage plan that was submitted was supposed to work. The water now goes like so. This area here, the black dotted line is the actual ditch. That ditch was put in there prior to the developer buying the land, it was put in by the bank because of the flooding, okay. Now, the problem becomes, is that this blue line is the property line, it's not on our property, we can't do a thing with it. Mr. Jeffers and Mr. Wathen have been out there and said all they need to do is clean this out, this ditch, keep it clean, and give the water someplace to go. They are stopping about 15 or 20 feet from a drop off that goes into a pond. This area is used for egress by the condominium people to bring in product. This is now a big flower garden. They use that. This is just one big bloody malaise by here now. So, what needs to be done, we feel, is that ditch has to be cleaned, a culvert pipe put in there to dispense the water, just dump the water down into the ponds down there, and that would cure it. That would absolutely cure it. But, we can't get it done. Like I said, we've asked, this is not, it's like a crayon drawing, but there is the ditch, that blue line is the property line. It's not to scale, but it's to perspective, okay. I've got, as I say, I've got a number of drawings, a number of photos that we submitted in a report to Mr. Jeffers and Mr. Wathen and others showing the...well, there's an example of the scouring that takes place. Just the flow of the water. It just erodes the ground. So, if we can somehow get it cleaned out and have it in the manner in which it can be kept clean, everybody would be happy, but we are getting flooded. We have spent somewhere in the neighborhood of about \$12,000 already to take care of the water that comes down on the other end that's knocking down a retaining wall for us. We've put in small drainage, small drains to siphon, keep the water away from the homes. It's kind of like fighting a losing battle. So, we are begging for some help. Thank you.

President Mosby: Thank you. Are there any questions before I ask Bill. Okay, Bill?

Bill Jeffers: There was a very simple drainage plan submitted for this as an apartment project, because condominium lots are treated as apartment projects. For the new condominium adjacent to Mr. Gillies' property, which is also a condominium. It showed a swale, pretty much in the place that he shows a swale exists, or a ditch exists. It was to carry the water in the direction that Mr. Gillies' drawing shows it carrying. The last time that Mike and I were out there together a couple of years ago, there was a pipe at the bottom of the hill that carried it off into the woods, and subsequently into some ponds down the way in Oak Meadow. It may not have been a big enough pipe, but there was a pipe down there. The problem is that the ditch is filled with willow trees and other trees and brush that obstructs the full flow of water, and it causes water to spill out, and it goes down grade onto Mr. Gillies' and other homes that lie on that subdivision, or, excuse me, that condominium lot to the east. So, and it's all pretty much as shown on his plan there. Both condominium lots have condominium associations that are supposed to take care of their property. The one on who's property the ditch lies should be taking care of the ditch. There are other drainage associated problems out there. Some are of the making of the individuals who own condominium properties there, have gone out and tried to improve or correct situations, and using corrugated plastic pipe and have subsequently run over it with lawn mowers, crushed it or mowed across it and ruptured it. The retaining wall was put in before our review, and not a part of any

drainage review, it was put in with the original Oak Meadow condominium, which was not reviewed by our agency or any agency. I don't know what the problem is there, but what I viewed was water simply coming over the top of the retaining wall and spilling into their patio areas. I'm not sure what the drainage board can do. We can't send a crew out there to maintain a ditch on private property. I suppose you can send a notice to the condominium association who should maintain the ditch, that they should maintain the ditch. I don't know if we can force them to do so. The ditch was shown on the plan, and it was put in, or it was mostly there to begin with. It was utilized, it just hasn't been maintained.

President Mosby: Is the pond gone?

Bill Jeffers: There are ponds on down the way. It runs through the woods, and then there's a fella who has a big landscape pond into which all this water runs. It's part of his condominium lot. The water goes where it's supposed to go, as long as it stays in the ditch. But, during heavy rainfalls when the trees and so forth force it out of the ditch, because it can't carry it all, it runs on these two fellas patio areas.

President Mosby: So, if we send them a letter, and they refuse to clean it out, what's the next step? Can they file a petition with this board and we go clean it out for them?

Bill Jeffers: I don't agree with the petition to redirect water, this, that and the other, but two of the previous board attorneys have interpreted, and some of the previous board members have interpreted that statute to allow downstream property owners to petition for the removal of obstructions in a ditch that would result in better drainage on a downstream property. I always thought of it as removing a petition to improve drainage from an upstream property. I'm getting ready to go testify in court on one that went through the board, when none of you were members, that has languished around and no one has done anything because the removal of the obstruction was intended to fix a problem downstream rather than upstream. It's really one of those issues where a person should treat their neighbors in a neighborly fashion and fix the ditch. Then we're put on the point, you know, we're put on the point of playing Solomon to people that won't do their neighborly duty.

Don Gillies: May I comment on that?

Bill Jeffers: Sure.

Don Gillies: Jim is somewhat correct on that, that I wish there was a neighborly duty. But that's not yet a condominium complex. That is not a registered condominium complex with the state, with the county. So, that's still owned by Bauer Homes. As of yet that is not a registered, they do not have a declaration of condominiums registered with the county. So, it's the developer who is still there. In fact, the developer is living in one of the homes, temporarily, I understand. But, this just gives you an idea too of some of the things we've talked about. You can see what we had to do at the bottom of the hill that was created to gain enough elevation to build the condominiums. I mean, it just pours down from the hill. There's a picture of what (Inaudible. Away from mic.) They have PVC pipes sticking out of the side of the hill that has water running out of it that is coming from their down spouts, okay. So, that's coming down into our retaining wall. On the drawing that they submitted, their drainage plans, it shows the arrows for the direction of flow towards this pond that's supposed to be here. That pond is not there. That is a garden. That is a flower garden, okay. We get all...they installed sprinkler systems, but we get the water

from the sprinkler systems. It's not so much the water, but the integrity of the ditch is no longer viable. I mean, it just doesn't do it. If it was the condominium association behind us was doing that, I would sit down with the people, try to talk to them, and, you know, as you say, a good neighbor policy. That's the best way to go. We could solve it ourselves. But, when we talk to the developer, he turned his back to us and said, well, I won't tell you what he said, but it was not—

President Mosby: Are there any questions of Mr. Gillies?

Bill Jeffers: The board can direct the County Surveyor, if they wish—

President Mosby: I was getting ready to.

Bill Jeffers: —to write a letter to Buddy Bauer, asking him to complete the drainage plan, as submitted and approved by your board.

President Mosby: That's exactly what I was getting ready to ask you to do. So, I would entertain a motion to that effect, that we have the County Surveyor—

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

Don Gillies: Thank you very much.

President Mosby: You're welcome.

Don Gillies: Thank you, Jim.

Bill Jeffers: Yes, sir. I have no other business to come before the board at this time, unless you have questions, comments or inquiries.

President Mosby: Seeing none.

Commissioner Fanello: Motion to adjourn.

Commissioner Crouch: Second.

President Mosby: So ordered.

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

Those in Attendance:

David W. Mosby	Catherine Fanello	Suzanne Crouch
Bill Jeffers	Kevin Winternheimer	Madelyn Grayson
Jim Morley, Jr.	Bob North	Greg Smith
Don Gillies	Others Unidentified	Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

David W. Mosby, President

Catherine Fanello, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
AUGUST 23, 2004**

The Vanderburgh County Drainage Board met in session this 23rd day of August, 2004 at 6:19 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

Call to Order

President Mosby: I would like to call to order Vanderburgh County Drainage Board, August 23, 2004.

Approval of July 26, 2004 Minutes

President Mosby: Do we have a motion to approve the minutes of the previous meeting?

Commissioner Fanello: Second, yeah, motion. Sorry, I've got to change positions here.

President Mosby: I have a motion.

Commissioner Fanello: And she seconded it.

President Mosby: Second, so ordered.

**Receive Update on Donald Gillies Drainage Complaint:
Oak Meadow Condos**

President Mosby: Old business, update on Don Gillies drainage complaint.

Bill Jeffers: Okay, this is the complaint from a citizen at Oak Meadow condominium. I sent a notice to Mr. Bauer on August 2nd, and I have a copy of the notice to enter into the record. Mr. Bauer referred this issue to his consulting engineer. Jim Morley, Jr. called the County Surveyor to confirm that the issue is going to be addressed by Morley and Associates on behalf of Mr. Bauer. I spoke with Mr. Bauer at 1:00 this afternoon, at which time Mr. Bauer confirmed that it's in the hands of Morley and Associates, and he will call Jim, Jr. to find out what the status of the field investigation is and advise, and ask their advice concerning resolving that issue.

**Receive Update on Bob North's Drainage Complaint:
Vintage Park**

Bill Jeffers: Okay, on Bob North's drainage complaint, being next door to Vintage Park and claiming flood damage from the July 17th storm. I forwarded notices and information to all affected or jurisdictional agencies, including Army Corp of Engineers, Department of Natural Resources Division of Water, the Building Commissioner, and SWCD. The complainant and the drainage board have received copies of all the correspondence by e-mail. The Corp of Engineers and the Division of Water have inspected the site and report no jurisdictional violations regarding their regulations. The Building Commissioner indicates no violations regarding building codes. The developer conveyed a message through the Building Commissioner that the site would be handled with more care regarding the quality of the fill, and that

three drainage swales will be cut across the project to relieve storm water from Mr. North's property. Mike Wathen removed the inlet control measures that Mr. North believes caused some flooding in front of his home. I gave the board two pictures of Mike Wathen removing that, as you ordered us to go do. On a related matter, Mr. Howard Wells, owner of Mill Creek, the trailer park that was flooded on July 17th, on the north side of Mill Road. Discovered a large log jam in Locust Creek up stream of Mr. North's property on the east side of the railroad line. The log jam is lodged against the railroad trestle, and Mr. Wells and the family who farms the ground along the east side of the rail line are concerned that the log jam caused or contributed to the flooding on July 17th. I also got a call from Mark Wilson of the Courier & Press asking if we had looked at this issue. The County Surveyor and Mike Wathen inspected the site, took a picture of the log jam. I don't believe this log jam had any effect on Mr. North's property, however, I am referring this issue to the Corp of Engineers and the Division of Water for their opinion and action related to the log jam. Hopefully, they will have it removed from Locust Creek, which is under their jurisdiction.

East Pointe Business Park, Section Five: Final Drainage Plan

Bill Jeffers: On drainage plans we have East Pointe Business Park, section five. It's a final plan for a commercial development of the lot, three lots in that section. The County Surveyor recommends approval of the final drainage plan for East Pointe Business Park, section five. The plan is on the table if anyone wishes to view it. The County Surveyor recommends approval.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered.

**Hawthorne Estates; Seib Road North of Eagle Crossing:
Preliminary Drainage Plan**

Bill Jeffers: Hawthorne Estates is a proposed single family residential development located on Seib Road midway between Kansas Road and Boonville-New Harmony Road about a quarter mile west of State Road 57. It lies immediately north and adjacent to Eagle Crossing Subdivision. All the water, storm water run off from Hawthorne Estates will flow into and through Eagle Crossing storm water system. Hawthorne Estates will have one large and one small lake to detain storm water from the development, and from agricultural land that lies north and east of the development, before discharging the storm water in a controlled fashion according to the drainage code. In addition, there will be a small detention facility at the southeast corner of Hawthorne Estates to control the discharge from five lots on to one of the adjoining lots in Eagle Crossing. There may be some adjacent property owners in the audience who wish to speak to the drainage plan for Hawthorne Estates. The County Surveyor recommends preliminary drainage plan approval, and encourages the developer, Mr. Jack Tubbs, and the consulting engineer, Mr. Andy Easley, who's here in the audience tonight to represent the plan, to work closely with the adjoining neighbors to ensure that all their concerns regarding storm water, erosion control and sediment control are addressed in the final plan, and handled appropriately during construction. Again, there may be persons in the audience who wish to speak, and after they speak the County Surveyor recommends approval.

President Mosby: Anybody wishing to speak to Hawthorne Estates? Seeing none, chair would entertain a motion.

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

Commissioner Crouch: Second.

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

**Indoor Soccer Facility on the 5.5 Acre Proposed Parcel of the
Former Metro Centre East**

Bill Jeffers: We have some other drainage plans that do not appear on the agenda that I printed Thursday, but which have been resubmitted to our office with corrections sufficient to obtain a positive recommendation, after the plans were reviewed by the County Surveyor on Friday and on Monday. The first one is the indoor soccer facility located on a 5.5 acre proposed parcel that's part of the former Metro Centre East Subdivision north of Virginia Street, east of Royal Avenue in Knight Township. What happened is the plat for Metro Centre East expired, and the owner of the property is selling 5.5 acres to developers of an indoor soccer facility who wish to break ground as soon as possible to get under roof for the next soccer season this winter. In order to facilitate the construction of the soccer complex, the County Surveyor has reviewed the drainage plan prepared by Matt Wallace of Morley and Associates, who's here in the audience to represent the plan. The County Surveyor finds that the plan substantially is compliant with the drainage code, but that certain details must be included in the final version of the plan. These additional details must address street construction, and must contain a Rule Five compliance storm water pollution prevention plan satisfactory to the County Engineer's requirements. When those additional details are added to the plan, along with other details required by the County Surveyor for a final plan. The plan will be approved in our office by the County Engineer and the County Surveyor to the extent that the contractor can get a foundation release, if you so move. Then the plan will come back to the board for final approval next month. Additionally, the board will have to include in their motion a reaffirmation of the relaxation of the right-of-entry for Stockfleth Ditch to a distance of 25 feet from the top of the bank of that regulated drain, as was allowed for the now expired plat of Metro Centre East. If those two terms are satisfactory to the applicant, and to the drainage board, the County Surveyor recommends approval of the plan for the soccer facility from a 5.5 acre parcel of the former Metro Centre East. So, what I'm saying, if you find that this is satisfactory, the board should make a motion to approve the preliminary plan with the provision that the County Engineer and the County Surveyor can recommend approval of the soccer facility to Area Plan Commission and the Building Commissioner so they can get a foundation release and break ground, but with their understanding that it's all contingent on them coming back to us with code compliant plans on street details and erosion control, pollution control details. Just like everybody else has to do, get a permit from IDEM for Rule Five activities, and you will have to reaffirm what a previous drainage board granted back in the 80's, a relaxation down from 25 feet from the top of the bank of the regulated drain, Stockfleth Ditch. I have no problem with any of that. I was a part of all of it previously. Mr. Wallace is here to answer any particular questions about the urgency of this request.

President Mosby: So, the board has to reaffirm the relaxation?

Bill Jeffers: Yes, sir.

President Mosby: And that needs to be included in our—

Bill Jeffers: In any account, that has to be done in any account.

President Mosby: Okay.

Bill Jeffers: Because the plat expired.

President Mosby: And that needs to be approved in the motion?

Bill Jeffers: Yes, sir.

Commissioner Fanello: Do I need one motion? Can I do all that in one motion, or should I separate it?

Kevin Winternheimer: You can do it in one.

Commissioner Fanello: Okay. I'll make a motion to reaffirm the relaxation, and approve the plan with the provisions as stated by the Surveyor, Mr. Jeffers.

Commissioner Crouch: Second.

Kevin Winternheimer: Before you vote, do you want to ask for any comment from the audience?

Bill Jeffers: Are there any comments from the audience?

President Mosby: Anybody in the audience that would like to speak? So, I have a motion on the floor and a second, and I will say so ordered.

Heritage Park Commercial Subdivision

Bill Jeffers: The last drainage plan I have to bring before you, unless there is another to come from the floor, from the audience, is Heritage Park, a proposed commercial subdivision at the northeast corner of Green River Road and Lynch Road. Heritage Park lies on approximately 22 acres of land north of the new Schnuck's market and across from Evansville Day School at Green River Road and Lynch. The Black Buggy restaurant proposes to locate in Heritage Park. The preliminary plan substantially complies with the drainage code, although substantial details must be included in the final drainage plan before ground breaking and street construction commence. The plan's represented here tonight by David Stallings, the engineer, and the County Surveyor recommends approval of the preliminary plan for Heritage Park. Are there any comments from persons in the audience?

President Mosby: Anybody that would like to speak to Heritage Park? Seeing none, chair would entertain a motion.

Commissioner Fanello: Motion to approve preliminary plan.

Commissioner Crouch: Second.

President Mosby: So ordered.

Ditch Maintenance Claims

Bill Jeffers: Okay, ditch maintenance claims. The ditch maintenance claims are in order with the appropriate paperwork. The work's been completed and inspected. The County Surveyor's recommendation is to pay the claims.

President Mosby: Do I have a motion to approve the claims.

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: So ordered.

Bonnie View Extension Project

Bill Jeffers: One of the projects is Bonnie View Extension, which was full of all kinds of debris and grass clippings, etcetera, holding water, breeding mosquitos, and the residents of Sutton Place? Summit Place. Summit Place II and their homeowners association had begged for years for us to clean that out. It's just south of the Target project, and we finally saved enough money in our account to accomplish that ditch cleaning. That straw is a mulch that's covering the grass seed. That should be a nice, dry ditch when the grass grows.

Encroachment Agreements/Relaxation Requests

Bill Jeffers: Okay, encroachment agreements. I'm not aware of any. Relaxation, you know, maintenance right-of-way relaxation requests, I'm not aware of any.

Maintenance Agreement: Carpentier Creek Pavilion

Bill Jeffers: Other agreements, Dennis V. Owen, Carpentier Creek Pavilion presents an agreement here to maintain a box culvert under Rosenberger Avenue, or, yes, Rosenberger Avenue, prepared by Robert Rheinlander and reviewed by Kevin Winternheimer and John Stoll. The County Surveyor recommends approval of this agreement by this board, contingent upon, because it's part of the drainage plan, contingent upon Mr. Winternheimer's and Mr. Stoll's recommendation of the same document. I believe you all have seen it.

Kevin Winternheimer: Yeah. We had, both John and I had a couple of suggestions, he incorporated that in there. I have no problem with it, it's fine.

President Mosby: Chair would entertain a motion.

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

Commissioner Crouch: Second.

President Mosby: So ordered.

Correspondence

Bill Jeffers: Okay, correspondence, I didn't get, I got this on the phone, but I'm going to call it correspondence, okay. Mr. Richard Jobe, or Rick Jobe, who owns property south of the new Wal-Mart west. Mr. Jobe believes that Wal-Mart or others have rerouted storm water from lot 23, on which sits the Old National Bank on Pearl Drive, routed it south to Mr. Jobe's lake. Not exactly in conformance with the approved drainage plan. The plan shows the connection of lot 23 on Pearl Drive to the Pearl Drive storm sewer system, as same as the road plans that were approved by the Commissioners. The County Surveyor just received this complaint around noon today, and plans to investigate the complaint with John Stoll and others, specifically the City Engineers office, and report back to the board and to Mr. Jobe at a later time. I've also found out that this was necessary to do, the County Engineer and the City Engineer found it necessary to do this because of a dilapidated old pipe that went under Red Bank Road, and there is very little water associated with this, and that's all I have at this time, and we'll try to have more information for Mr. Jobe in the next week or so.

John Stoll: Just a quick run down on what happened out there. There is an existing corrugated metal pipe that ran underneath Red Bank Road, it was approximately 12 feet deep, and it was totally rusted out. The contractor working on the Gene Hahn site on the east side of Red Bank contacted my office, and I in turn called the City Engineer's office, because that's right on the line between city and county jurisdiction. We went out there and saw that the pipe was rusted out severely, and the only two things that fed that pipe were a curb inlet on Pearl Drive, an area drain in the Old National Bank property, and two curb inlets that cover maybe a third of the Old National Bank parking lot. At that point, the City Engineer's office and I discussed the possibility of trying to eliminate that pipe, just so it would be one extremely deep pipe that we would no longer have to maintain. Contractors working on the Wal-Mart site and on the Gene Hahn site took some survey shots, found that there was barely enough fall, basically about a tenth of a foot, at best, to go from the Old National Bank inlets to the Red Bank Road pipe, and, at that point we decided, well, it's probably better if we just flat eliminated it. They surveyed and found that the water could go south into the system that Wal-Mart is installing. At that point the contractor then went ahead and grouted the pipe shut underneath Red Bank Road, and there is probably a third of the parking lot that does go south toward the Wal-Mart drainage system that didn't previously go that way. But, it all ends up in the basin that Wal-Mart installed, and that's within the city, and like Bill said, that any changes on that the City Engineer would have to deal with, but it's such a small amount of water that I can't imagine that it could make any significant difference, given the fact that all the acreage that Wal-Mart's paving versus this small parking lot area is minimal. That was run past my office and the City Engineer's office. I just hadn't talked to Bill about it.

Bill Jeffers: Thank you, John.

Crawford Brandeis/Hirsch Ditch Silt Dipping Project

Bill Jeffers: Another report that I have is this photograph, aerial photograph of Morgan Avenue between Green River and Burkhardt, and some pictures showing a large amount of standing water in the ditch, known as Hirsch Ditch, caused by

debris and sediment and so forth that's collected in that ditch. Now, those pictures were taken, it hadn't rained for two or three weeks at that time, so that's a lot of water standing, indicating obstructions. We have some pictures there that show some of the obstructions, but some of it's inside of pipes. This has been going on for about four or five years. It's gotten worse. We didn't have any money in that account four years ago. We've stopped mowing several ditches along there to save approximately 65 to 75 cents per foot, per year, anticipating doing this. We've maintained ditches sufficiently without mowing. We've done quite a bit of herbicide spraying, which is much cheaper, and we haven't had any complaints, except from Summit Place, and we have mowed them three times a year, because it's a residential area. The places where I have not mowed are either agricultural or heavy industrial or commercial, and they mow their own, if they want people to see their building. So, consequently, we have saved a substantial amount of money, in excess of \$100,000, anticipating this project. I wanted to let you know, with your blessing, I'm going forward with a full blown project to dredge about a mile and a quarter of that ditch pictured in the aerial photograph and in those packet of photographs. We'll be dredging the bottom out, cleaning the pipes, laying some of the eroded bank back, and revegetating the bank with grasses, and making it look like it's supposed to look and should have looked. Now that we have over \$100,000, I think we can do a good job. I won't read the rest of that into the record, I'll just ask you to read it and pass it to the Recording Secretary. I'm not giving an engineer's estimate at this time. I don't want to influence the bids. I'm just telling you that you have enough money, and asking if I can go forward. I think I'm finished, unless there are other persons wishing to address the board.

Madelyn Grayson: Bill, I just had a question. Does that mean that I need to advertise a notice to bidders for that project?

Bill Jeffers: We'll try to bring that to you next meeting. I just want to make sure that everybody understands that when they see a substantial project in the middle of the year, that's why you're seeing it, because we finally have enough money to do what's needed to be done for the last four years. I didn't want to catch you by surprise in the middle of all these budget hearings.

Other Persons Wishing to Address the Board

Bill Jeffers: Are there any persons wishing to address the board? Or any comments or questions from the board?

President Mosby: Did you want a motion on this tonight?

Bill Jeffers: No, no motion.

President Mosby: Oh, okay.

Bill Jeffers: Just want to let you know what we're up to so it doesn't....why do they want to spend money in the middle of the year, well, we finally found that we have enough to do the job.

President Mosby: Is there any other business to come before the board?

Commissioner Fanello: Motion to adjourn.

Commissioner Crouch: Second.

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

(The meeting was adjourned at 6:42 p.m.)

Those in Attendance:

David W. Mosby
Bill Jeffers
John Stoll

Catherine Fanello
Kevin Winternheimer
Others Unidentified

Suzanne M. Crouch
Madelyn Grayson
Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

David W. Mosby, President

Catherine Fanello, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
SEPTEMBER 27, 2004**

The Vanderburgh County Drainage Board met in session this 27th day of September, 2004 at 7:10 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

Call to Order

President Mosby: I would like to call to order Vanderburgh County Drainage Board meeting, September 27, 2004.

Approval of August 23, 2004 Drainage Board Meeting Minutes

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

Commissioner Fanello: So moved.

Commissioner Crouch: Second.

President Mosby: A motion and a second, so ordered.

Oak Meadow Condo Drainage Complaint (Gillies) Update

President Mosby: First, under old business, we have Oak Meadow condo drainage complaint.

Bill Jeffers: This is the issue that was brought to us two months ago by Don Gillies, Oak Meadow condominium. Apparently, there's a ditch running between his condominium lot and the adjacent condominium lot to the west. The ditch, during hard rainfalls, is topped by water, and the water spills over on to Mr. Gillies side of the ditch, and runs down across the area behind his patio. Last month we were still awaiting a response from the developer, Mr. Buddy Bauer, Jr., who is one of the owners in the condominium to the west of Mr. Gillies. He was awaiting the return from vacation of his consulting engineer, James Q. Morley. Mr. Bauer is in the audience at this time, and may wish to make a response. I sent him the minutes of the July 26th board meeting, at which Mr. Gillies brought the complaint. Mr. Bauer?

Buddy Bauer: My name is Buddy Bauer. Currently a resident at 1634 Village Lane, which is one of the condominiums that, I think, has been the topic of discussion. I could just give you a brief history of the condominium project, in that we started in probably 1997, the second phase of the condominiums which we built, and we started up on top of the road near Browning, and then kind of worked our way around to a finishing point on Village Lane, just kind of built them in sequential order, as we had orders for them. Really kind of an interesting and difficult site to work with, because for a long while it was used as a dump for some of the preceding construction, and we found mattresses and construction debris and carpet and a lot of that stuff when we excavated for basements. So, we felt like no matter what would happen we were going to make an improvement in the area in the way it existed pre-us buying it. There was, I think, a plan alluded to two months ago, a drainage plan, I don't know if it was a drainage plan, or it was just an effort to try to show which way water would flow, and, I think, on that plan there was, originally, there was an idea that we would build a small pond as a water feature in the center

of our condominiums. We had done that on the first phase in Oak Meadow, and thought possibly about doing it in the second phase, and as we got to that area to begin building, we kind of changed our mind because water areas are sometimes costly to maintain, and this was serving no function at all as far as retention. It was going to be so small that it really would not have an effect on anybody, including Mr. Gillies condominiums to the east. So, we elected to put in a kind of an elaborate garden area for people to look at, which we thought would be easier to maintain and be just as attractive. Not be a slew for mosquitos, or a constant problem with algae. So, that's the decision that we made, although it did not really effect the way that we intended to move water on the site. There had been an existing ditch that I was not aware of who had installed it. I read the minutes, and Mr. Gillies said that the previous owner had installed it, that joined my property and their condominium project. I would say that we attempted to try to use that, a portion of that ditch, although half of the frontage that we have on that road is now diverted into another direction to the west. So, I think we've actually eliminated a portion of what was draining that area. Although I can't say much about the velocity, because we did add a driveway or two. That ditch now, I went out and looked at it this evening, and that ditch right now still has water running through it, which is kind of interesting since it hasn't rained in quite some time. So, there are natural springs in the area. There's a spring that is feeding somewhere through there that keeps that ditch constantly wet. A couple of years ago when we were beginning to work on this site, we knew, and found out very quickly that erosion control was going to be a real issue, and a real battle. So, we had met on several occasions with Mr. Wathen to try to do everything that we possibly could to keep from losing any soil off of our site and having it go downstream. We spent a lot of money and did some elaborate things in order to be successful at that. Now that project is grassed in, and the condo owners themselves voted to install sprinkler systems, and they put those in. I think this helps make the grass greener. I don't know if I need to go back, I will say a couple of things, I met with Mr. Morley, Sr. a little over a year ago, and we made a site inspection, both looking at our side and also Mr. Gillies side, and we found at the time, in fact, we stopped in and talked to a couple of the residents, and we found at the time that their side of the property line, and even on some of their buildings, they don't really have what we suggest they do today, from the Building Commissioners office, they don't really have six inches of fall in ten feet away from their buildings. There was a couple of people out working in their yards, and we kind of suggested that that was something that they might want to take a look at. It was also a similar time period as now, where it was the dead of summer, no rain, and, yet, somebody's backyard was still wet. That was still, we suggested that they probably put something, a french drain in, or something if they really wanted it to become dry, because that was a spring, it was just popping through the wall. So, there was several areas that really needed some attention and regrading in their project. They also had someone who had gotten water in their basement, and we found that the gutters were clogged with leaves and growing maple trees inside the gutters. So, the water was just spilling over, and then getting into the over cut of the basement, and those had been cleaned out. I would suggest that she, that lady probably doesn't have the problem with her basement at this time, at least due to that spilling over of her gutters. One of the things that I would, that I saw in the minutes was that, just to correct, and I don't really know how important this is, I guess it is very, somewhat important, it's very difficult to deed any condominiums to anybody without it first being declared and taking the legal steps through the Horizontal Property Regime Act in Indiana to form a condominium, and those papers are filed here with the Recorder's office. So, this particular association that we're discussing this evening actually began April 13, 1998. So, it's been in operation since that time. Part of that time I was running it at the request of the condo owners, but for quite, for

at least two years at this point there has been, the owners themselves have had their own meetings and their own officers, of which I am not one. I don't know to what extent the removing of the trees will help alleviate this system, because it is really under, with those kind of hills out there, it is, during a really tough rain, it's going to be difficult to keep a large volume of water from going down there. In fact, in the fronts of their condos, it's a solid sheet of blacktop and asphalt that, I can't imagine what that's like in a really tough rain, because it's just got to be blowing away the very, the end over there blowing over a railroad tie and into a ditch. I would say that there was an existing storm drain in place at the very north end, the very downhill part of our property where there is at least two inlets. We did drain two of those inlets, and there is a concrete pipe, I believe, that actually goes over to a large ditch that then moves water through Oak Meadow. Probably, I had not been contacted for quite some time by Mr. Gillies, and probably, at this point, what I would suggest is that since it might be a matter of maintenance, that I would pass this along to the president of the Oak Meadow Club Condominiums II, and maybe the two groups can work together. I think what both need to do, probably, is to hire an engineer to take a look at what could be done, and I think there might need to be some improvements on both sides. On both properties. So, that's all I have, unless you have any questions.

President Mosby: Are there any questions? Bill, do you have any response? I'm gonna, yeah, we're going to have a comment.

Bill Jeffers: The only two comments that I have are that over a period of time Mike Wathen and I have both been to the site, individually and together, and I'm talking about over six years. We did notice various things, Mike Wathen from the point of view of erosion control and drainage, and myself from the point of view of drainage. Mr. Bauer mentioned a six inch fall away from the foundation being the protective grade that's required by the Building Commission code. There are cases where that's not existent at all, the buildings on the downhill side of the ditch. We also noted ruptured drain tiles, disconnected gutter drains, and other problems of that nature. With regard to the, my second comment, the sprinkler systems that Mr. Bauer points out being out there, sometimes the chronic wetness or running water that one sees in a drain and mistakes for a spring is often sprinkler systems, whether they were correctly or incorrectly installed, or correctly or incorrectly used. Some people over use their lawn irrigation system, and people mistake that for spring water. However, I think it's a combination of both in this case. There are springs in Oak Meadow Condominiums and there probably is excessive use of sprinkler water. I would like to point out that Mr. Don Gilles, Gillies is in the audience, and may also want to respond to Mr. Bauer's comments at this time.

President Fanello: Yes, come on up.

Don Gillies: Thank you. I appreciate this. To start with, to address a few of the comments of Mr. Bauer, as of the first of this year...I am also the treasurer of the Oak Meadow Homeowners Association, which is the master group out there, and Mr. Bauer's group was still paying the assessments, so I felt that he was still in charge of and had legal whatever, if you will, he had authority in that condominium group. I thought it was still his. Normally, a condominium group does not go for a declaration of condominium with the county until it's full. It may be different now, I'm not sure, but as of a couple of weeks ago when I checked there was no declaration of condominium on file with the county. Now, the plans that were submitted back, this was shortly after I first addressed the problem, or first addressed our concern back on June 10, 1993 with Mr. Morley's group, and it was a fella by the name of

Keith Powell, Pole or Powell, and that was the engineer that I was referred to, at that time, after my discussions with Mr. Bauer. I made him aware of our concern of the change in grade, what it was going to do to our group. We were afraid, because what had happened was the bank who owned that prior to Mr. Bauer put that ditch in there to alleviate the problems, the running water down into our back areas. Also, since Mr. Bauer and the other group have been out there several years ago, and pointed out some problems, our condominium group has spent almost \$17,000 to put in drains, to put in easements, if you will, or swales so that we could run the water from the south end down towards the ditch into the north end and into the ditch. We think we've done our homework well. Our only problem now is the fact that the water still traverses down there at a pretty good velocity. We have taken care of it, of a lot of it, as I say, at the south end, but it still traverses or comes down over the north end, overgoes the bank and into our yards. As far as the broken main that they had talked about, Mr. Jeffers pointed out here, what had happened is when we were doing the leaf fixing and the drains and the rest of it, we decided to put t.v. cameras down to make sure we had adequate drainage. When we found that we had a broken drain, or a crushed drain, that ran over to a main storm drain, we dug it out, and replaced it. I believe that's what they saw was the crushed one. So, I think we've done an awful lot on our own. I mean, we've spent a lot of money trying to fix it. I personally have put drains in around my house, or my condominium. We now have about a seven inch rise and then a slope into a drain to take it away from our condominiums too. I have a picture here, this is the north end of the drain, where they said that there was a pipe to take it off into a larger creek, there is no drain, there is no pipe there. I would be glad to show that to anyone. I've tried talking, in fact, I have talked to the president of the other phase, his main concern is he knows it is a problem, it's a major problem, especially the north end where I'm at, his concern is that Mr. Bauer is not going to take care of it and he's going to stick the phase with it. They don't want that to happen. That's why we're trying very hard...I'll work with anybody, but the thing is, all we want is the spirit for the intent of the original plan to be followed. It shows very clearly flow direction of water. That has not been addressed. So, and the ditch, unfortunately, is all on their property. It's not a bit on ours. So, I am stuck with it, as I say, I'll work with anybody that I can. We'll do our part, as I say, we've spent thousands of dollars already. We don't know what else to do. That's why we're here for help. Thank you.

President Mosby: Is there anybody else that wanted to speak on this particular subject?

Buddy Bauer: I would just like to add, I would be happy to show Mr. Gillies the pipe that runs into the main ditch, at the very bottom, because it does exist. You just don't go taking those things out. There's also, he has a large storm drainage inlet on the north end of their property too, and, if for some reason that water would gather enough or pool enough that it couldn't get into this inlet fast enough, it would then overflow into the ditch that the pipe is, in fact, it's like an emergency overflow situation. So, those two things are in place, and I would be happy to meet with him and show you where they're at.

Bill Jeffers: And winding this issue up for tonight anyway, Mr. Gillies told you that the engineer he dealt with at the inception of this was Keith Poff, who, if you'll remember, working for Morley and Associates, Keith Poff, that was eight, ten years ago. He's been a partner in Sitecon for quite some time. Five or six years. That puts it in perspective. Secondly, we're dealing here with two separate lots. We're dealing with, as if there were two apartment lots. These are not single family residential homes as covered by our ordinance. These are two separate apartment lots. They

are condominiums, but you have to think of them as apartment lots under Indiana state law. So, if you boil that down to how that's covered by our ordinance, they are covered as apartment lots. Whoever owns the two individual lots is responsible for the maintenance of the storm water facilities within those lots. There's no funds here at the county available. None set aside, and no maintenance responsibility on the part of the county for that ditch, or any other aspect of the storm water drainage. The plan that was presented, was presented at a time in between two ordinances when the County Surveyor was not on the subdivision review committee to look at apartment projects and condominiums. That plan went through and was approved by Area Plan Commission. It's held in the Area Plan Commission file, it's not even held in our file. I don't believe it came to drainage board. It may have, but to the best of my memory was, that was all handled in subdivision review over in Area Plan Commission. Mr. Bauer has told you that they decided to replace the ornamental pond with an ornamental garden, I don't see that that, that probably would have been approved, there was no detention necessary, because it's held, the detention is existent somewhere else in Oak Meadow development. It's not necessary at that particular point. So, I don't really want to argue whether there should be a pond or a garden. So, it boils down to this ditch. The ditch is the responsibility, for the maintenance and repair of that ditch lies with whoever's lot that ditch lies on. If it's on the condominium lot that Mr. Gillies is a officer in the condominium association, it's his association's responsibility to repair that ditch. If that ditch is on the lot that Mr. Bauer was a member, or an officer in the condominium , then his condominium association, whoever the officers are now, are responsible for the contracting the maintenance, or arranging for the maintenance and repair of that ditch. I do remember at the time that this first came up, if my memory serves me right, and I may stand corrected, Mr. Gillies' neighbors on that condominium side before the Bauer's condominium were constructed, asked that the trees be left as a site and sound barrier. Now they're growing in the ditch. They're willow trees, etcetera. I remember that, that may not be correct, but that's the memory I have is that they didn't want to look over at the other project, while it was being constructed, to leave the trees along that boundary line. Basically, though, that may be a mute issue, the trees are the responsibility of the condominium lot owners association on who's lot the trees grow. So, of course, we always welcome people to come make comment or ask for assistance from the drainage board. I just wanted to give you the perspective that I have on this situation at this time. There are numerous reports, both from our office and from Mr. Wathen's previous office regarding this issue. Site visits that have been conducted over the past six years.

President Mosby: Questions from any member of the board? By any member of the board? Any final comments?

Don Gillies: (Inaudible. Not at mic.)

President Mosby: You're going to have to come to the mic. We can't get you recorded.

Don Gillies: What you're telling me then is that the maintenance of that ditch, and the cleanliness of it, or cleaning it out or fixing it is the responsibility of the owner of the land that that ditch is on?

President Mosby: Yes.

Bill Jeffers: That's correct now, and that has always been correct. From day one it has always been the responsibility of the property owner to maintain and repair the drainage facilities in a condominium and/or apartment project.

Don Gillies: Okay, that is fine, then, because that is not on our land.

Bill Jeffers: Okay.

Don Gillies: That is on their land.

Bill Jeffers: Yes, sir. The determination of who's land it's on would be the responsibility of whoever is interested in finding out. You know, if there's any question as to where the property line is—

President Mosby: Right.

Bill Jeffers: —that would be up to the person who is interested in discovering that.

Buddy Bauer: I might have done my condo owners a disservice, because during the construction process, or trying to build these units, I know that we made a conscious effort to enlarge the ditch, and we did it on our property, because we wanted to save the trees. So, I think they would say we would be happy to maintain it as long as we, the trees are not going to be taken down. Finally, I think, I would suggest that there is nothing that precludes Mr. Gillies from putting another small ditch in his backyard that might possibly, you know, be another conduit to take water to the north off of Oak Meadow. Maybe the two of them together would work in severe situations.

President Mosby: One more comment.

Don Gillies: When I got the new plans and drawings, I talked to Mr. Danny Leek over at Morley and Associates, and he said he was quite familiar with what was going on, and he saw, in fact, he helped us with the plans. His comment was, it would be extremely easy just to clean one side of that ditch, put some rip rap in, and he said that would slow down the velocity and help carry it north.

Bill Jeffers: Yeah, I agree with Danny Leek's assessment. That would have been something we had talked about earlier that one, I would say the side facing Mr. Gillies property could be improved and the embankment built up or reinforced with rip rap would probably serve to keep the water in the ditch. I believe that is something we had proposed at one time, some time ago.

President Mosby: So, Bill, do we need a motion here?

Bill Jeffers: I don't believe so. I think we're just acting as a listening post or sounding board at this time, unless you have some direction. In other words, you as County Commissioners can direct Mike Wathen from the Engineer's office, or Bill Jeffers from the County Surveyor's office to continue to investigate and report to you, with permission from the landowners to enter on their property. Or you can make a motion at your pleasure.

President Mosby: Do you have any suggestions? Okay. There is no motion at this time.

Bill Jeffers: Okay.

President Mosby: Thank you.

Toelle's Place Apartment Complex: Preliminary Drainage Plan

President Mosby: Next we have Toelle's Place apartment complex, Middle Mt. Vernon Road, near County Line.

Bill Jeffers: Okay, this is another apartment project. They will be taking care of their own storm water maintenance after it's constructed. The plan was presented by Andy Easley Engineering, reviewed by the County Surveyor's office with a recommendation to approve the final plan for Four Season's Realty Group proposed development of Toelle's Place apartment project on Middle Mt. Vernon Road.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: So moved. Second.

President Mosby: So ordered.

Spring Lake Valley, Section One: Final Drainage Plan

Bill Jeffers: Second item is Spring Lake Valley Subdivision, Section One, a final drainage plan. This is for section one of a single family residential subdivision development on Mohr Road, previously known as Highland Point. The plans have been previously approved, and these are extensively detailed, more extensively detailed plans presented to both the County Surveyor and the County Engineer's office. The County Surveyor's recommendation is to approve the final plan for Spring Lake Valley, Section One.

President Mosby: Anybody here for Spring Lake Valley? Remonstrators? Seeing none.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered.

Cayman Ridge, Section One: Modified Final Drainage Plan

Bill Jeffers: The next plan is Cayman Ridge, Section One. It has been previously approved as a final plan. This is a modification adding a large diameter plastic pipe in a previously open ditch for the purpose of making the back yards more useable, and removing a rather deep ditch from the side of Kansas Road, which could pose a traffic hazard during times of high water. The County Surveyor and the County Engineer have both reviewed the same plan. The County Surveyor's recommendation is to approve the final drainage report, modified version, Cayman Ridge, Section One.

President Mosby: Cayman Ridge? Did we miss Cross Pointe?

Bill Jeffers: I missed Cross Pointe, didn't I? This is Cayman Ridge.

President Mosby: Okay, yeah, I thought, well, we can go ahead, we'll just accept Cayman Ridge first. Anybody here for Cayman Ridge?

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second. So ordered. We'll go back to Cross Pointe.

Cross Pointe, Section 7C: Final Drainage Plan

Bill Jeffers: Okay, thank you. Cross Pointe, Section 7C is a commercial subdivision on Virginia Street and Cross Pointe Boulevard north of the expressway, east of Burkhardt Road. It is a final drainage plan for a three lot commercial subdivision. Already has it's operating detention basin. These three lots will be piped into the operating detention basin. The County Surveyor has reviewed this report, and the drainage plans, and recommends approval of the final drainage plan for Cross Pointe, Section 7C.

President Mosby: Anybody here for Cross Pointe? Seeing—

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: A motion and a second, so ordered.

**Indoor Soccer Facility, Metro Drive/Royal Avenue Parcel:
Final Drainage Plan**

President Mosby: Indoor soccer facility, Metro Drive.

Bill Jeffers: Okay, you all discussed this at length in the County Commissioners portion of your meetings. This is the indoor soccer facility that is diverting Metro Drive over to Royal. Anyway, this is the drainage plan for that. You just approved the street plan in your earlier meeting. The County Surveyor has reviewed and recommends approval of the indoor soccer facility on Metro Drive/Royal Avenue parcel, final drainage plan.

President Mosby: Any remonstrators? Seeing none.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: A motion and a second, so ordered.

Clark Foods: Final Drainage Plan

Bill Jeffers: Under other drainage plans, I failed to bring Clark Foods to you at the last meeting. It's a boxed food store on Burkhardt Road and Oak Grove Road. I reviewed the plans and recommend approval of the final plan for Clark Foods.

President Mosby: Anybody here for Clark Foods? Seeing none.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered.

Ditch Maintenance Claims

Bill Jeffers: I placed on your desk a folder full of blue claim forms for ditch maintenance work under contract with you by 2004 ditch maintenance contractors. The work is complete. The forms are filled out and signed, and the necessary paperwork required by the County Auditor is attached. The County Surveyor recommends approval and payment of these ditch maintenance claims.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: I have a motion and a second to approve ditch maintenance claims. So ordered.

Encroachment Agreements/Relaxation Requests

Bill Jeffers: The County Surveyor has no encroachment agreements, relaxation requests or other agreements to bring before you at this time, unless the County Auditor has brought some with her.

Madelyn Grayson: We have none.

Petitions to Remove Obstructions

Bill Jeffers: The County Surveyor knows of no petitions to the Drainage Board to remove obstructions from drains or watercourses, unless the County Auditor brought some.

Madelyn Grayson: No.

Report on Complaint from Connie Johnson: Rollett's Lane

Bill Jeffers: Under reports I have a report to file with you, and ask that it be included in the minutes of this meeting on a complaint from Connie Johnson, resident of Rollett's Lane, here in the audience, who I believe spoke briefly at your County Commissioners meeting. Ms. Johnson lodged her original complaint with the

Vanderburgh County Surveyor on Friday, August 27th. A copy of the original response from the County Surveyor is attached to this report. It was also forwarded to Vanderburgh County SWCD, the Indiana Department of Environmental Management, and the Indiana Department of Natural Resources, and the City Engineer's office. The nature of the complaint is, from Ms. Johnson, that the creek behind her home tops it's bank and floods her property nearly every time it rains hard. Initially Ms. Johnson told the County Surveyor that she and her neighbors believe that sediment has accumulated in the creek behind the homes on Rollett Lane to the extent that what previously was a nine foot deep channel is now only three feet deep. Ms. Johnson additionally stated that it was her belief that the sediment originated from past and currently active construction sites in the Red Bank Road and Pearl Drive area up by the expressway. Indiana state rule requires any county department to develop procedures for the receipt and consideration of public inquiries, including complaints that are submitted regarding local construction activities, and to implement a tracking process in which this public information is documented, and then forwarded to appropriate staff for their follow up action. Indiana Department of Environmental Management guidance also requires county departments to process and document public inquiries, and if an inquiry needs investigation, the follow up action by the appropriate agency also needs to be documented. Therefore, the County Surveyor's office has developed such a procedure, and regularly receives, considers, acts on, and refers public inquiries and complaints to the appropriate agencies. We also attempt to track these complaints after their referral to other agencies, but we seldom receive documentation of follow up actions from those agencies, except after persistent requests for documentation. So, some of our files are incomplete, not to our liking. The County Surveyor referred this complaint to the Soil and Water Conservation District, based on Ms. Johnson's allegation that the sediment originated from construction sites. Because, through a memorandum of agreement with Indiana Department of Environmental Management, SWCD investigates, evaluates IDEM permitted construction sites and their impact on off-site properties. The County Surveyor's office referred the complaint on the same Friday of which it was received, August 27th. That referral is attached to this report. Subsequently, the County Surveyor noticed in SWCD's weekly report to the County Commissioners on September 2nd, that SWCD personnel had visited the site, looked at the creek, and filed a report with SWCD's board. Then Ms. Johnson called the County Surveyor on last Friday, September 24th and said that the SWCD board president told her that the problem does not fall within SWCD responsibility, and that she should continue to pursue the matter with the County Surveyor's office. That referral back to the County Surveyor's office by SWCD is the second referral from SWCD to the County Surveyor's office in spite of the fact that the County Surveyor's clearly stated to SWCD personnel on several occasions that the reason why this complaint belongs with SWCD and the County Engineer's office, or, excuse me, the City Engineer's office, because it is inside the city. SWCD did not make their report or their determination available to the County Surveyor's office until a request was forwarded to them on last Friday, September 24th following Ms. Johnson's call. After reading the report today, it does confirm that sedimentation over a very long period of time appears to have reduced the creek's capacity. However, SWCD's report is vague with regard to specific sources of the sediment, vis-a-vis construction site activity. That report is attached to this one. The County Surveyor also referred the complaint to the City Engineer, because the affected properties are within the City of Evansville, and because the city obtained a drainage easement that is recorded and platted, including the creek on the affected property. The city apparently obtained this drainage easement to complete a channel dredging project around about 1985 when Daniel Wertz school was built for the purpose of draining the school property, and other adjacent

properties, and for the purpose of long term maintenance and repair of the completed dredging project. So, should the city have the will or the money to go out and re-dredge the ditch, the opportunity is there, and so is the easement. On Friday, September 24 th, just past, Ms. Johnson told the County Surveyor that although she called the City Engineer's office twice over this month period of time, she has not since heard back from them, nor have I. A copy of the city quarter section sheet, including Ms. Johnson and her neighbors property is here for your viewing, to show you that it includes the creek, in a drainage easement, within the City of Evansville. Okay, what is the extent of the County Commissioners involvement in this complaint? With regard to the County Commissioners, the County Engineer, American Consulting Engineers completed a study recently of this same tributary of Bayou Creek, which passes through Ms. Johnson and her neighbors properties. The recommendations in that study include the construction of a regional detention basin on public property upstream of Broadway Avenue. The detention basin could benefit Ms. Johnson and her neighbors property by detaining and controlling the release of excess storm water during extreme storm events. The County Commissioners and the County Engineer may answer those questions from whomever, regarding the funding and the schedule for completion of improvements that are recommended by the ACE study. What's the extent of the County Drainage Board's involvement in this complaint? The County Surveyor serves as the technical advisor to the County Drainage Board, and since the County Surveyor received these complaints, and Ms. Johnson has expressed that she's not satisfied with the level of response by public agencies to her complaint, the County Surveyor invited Ms. Johnson, and her neighbors, to express their complaint directly to the County Drainage Board so that the board may determine whether the county has any additional interest or responsibilities with regard to the complaint. The County Surveyor also told Ms. Johnson that only two instances, there are only two instances in which the County Drainage Board is likely to be involved with this complaint, and that would be if the creek were a regulated drain, which it is not. I was told tonight by one of the residents that it used to be called Langleston or Langleson Ditch. However, I had already locked my vault, and don't know the combination. Only certain people in the office know the combination. So, I was unable to go back and see if Langleson Ditch has ever been a regulated drain. There are several regulated drains on the west side, which in 1965 the property owners of those watersheds petitioned the Drainage Board over a one year extended hearing to stop maintenance of those drains, and stop collecting the assessment to pay for the maintenance of those drains. Carpentier Creek is one, and if I find record that Langleson Ditch is one, that would explain why this creek looks like a ditch, is straight as a ditch, and is in dire need of maintenance and repair. And that would be because the county no longer maintains it, has no funds to maintain it, does not collect an assessment for those funds, and was asked to cease collecting assessment and maintaining the ditch. The other likely instance where the County Drainage Board might be involved in this complaint is if a property owner files a petition asking the Drainage Board to remove an obstruction from this creek. When I brought that up with Ms. Johnson, she replied that neither she nor her neighbors allege an obstruction at this time. So, there is no petition at this time. The extent of the County Surveyor's independent involvement with this complaint. Since the site of the complaint is not a regulated drain, and lies on property inside the City of Evansville, the County Surveyor does not have the authority to enter the site and make an official investigation until a property owner files a petition with the County Drainage Board. To do so would be considered a trespass. An official, an officially filed petition serves as a warrant for the County Surveyor to enter affected private properties along a creek, investigate alleged obstructions, and make an official report. Without that, I have no statutory authority to trespass. In summary, the

County Surveyor has made the necessary referrals to the appropriate public agencies responsible for following up on Ms. Johnson's complaint. The County Surveyor will continue to try to track the progress of the complaint, dependent upon those appropriate agencies willingness to return to the County Surveyor any documentation of follow up action. Then I've attached those transmittals I've already made to Ms. Johnson and other agencies. The response that came back Friday, at 4:00, from SWCD, and the report that came back from them.

President Mosby: Are there any questions by any member of the board?

Commissioner Fanello: I would just—

Bill Jeffers: I don't have anything coming back from the City Engineer's at this time. That's why that is not attached.

Commissioner Fanello: I would just ask, Commissioner Mosby, that if you could continue your conversations with the Building Commission, and try to identify some funding sources to help relieve this problem. Then I know that we would need to come up with some money as well, and that's kind of tight. But, I don't know how soon they were going to get back with you.

President Mosby: I don't either. I'll call them tomorrow, because I know ACE has stayed in contact with them too, because I've talked to Greg Hennecke and Mack Knowles and them guys up there, and they've all had conversation.

Commissioner Fanello: Okay.

President Mosby: So, I'll stay in contact with them. We had a discussion earlier where I was telling them that American Consulting has done the whole master plan.

Bill Jeffers: Right.

President Mosby: On the Carpentier Creek and all the tributaries. Really has went as far as Hogue Road, I mean, throughout the city. I will apologize for one thing, I didn't know you called my office.

Commissioner Fanello: I didn't either.

President Mosby: I read it on the...well, I read it on this report, as I'm sitting here going through, and it kind of stunned me that I seen you called, and as of the 27 th I hadn't called you back, and I will admit I didn't.

Bill Jeffers: There was some conversation between one of the Commissioners, the County Engineer, and myself with regard to this. That study also recommends a replacement of a couple of bridges with larger structures. I want to caution you, that if you did that first—

President Mosby: That would cause more problems, yeah.

Bill Jeffers: —that would release more water through this channel.

President Mosby: I've had that conversation.

Bill Jeffers: Not only affects these folks here in the audience, it affects Daniel Wertz playground.

President Mosby: That's why we were trying to move in the line of the detention pond first. I mean, the bridge you're referring to is the wooden bridge put on, you know, Broadway.

Bill Jeffers: Right.

President Mosby: And it's not that old, but they are saying to take that out—

Bill Jeffers: It needs to be coordinated.

President Mosby: — and let more water through.

Bill Jeffers: John Stoll is aware of that.

President Mosby: Right.

Bill Jeffers: He's aware of that (Inaudible).

President Mosby: I've talked with John and I've talked to American both. But, I seen that too, and I said, well, let's hold all water back that we can right now until we get the problem solved.

Commissioner Fanello: Well, maybe if you could report back to us at next month's Drainage Board meeting.

President Mosby: I can do that.

Commissioner Fanello: Let us know, if anything breaking becomes available before that, you can let us know.

Madelyn Grayson: Commissioners, would you like for me to include the earlier discussion from the Commission meeting in the Drainage Board meeting?

President Mosby: On this? Yeah, if you could.

Madelyn Grayson: Okay.

President Mosby: Put it over to this one.

Comments inserted from 9/27/04 Commission meeting regarding complaint on Rollett's Lane (Bayou Creek).

Connie Johnson: My name is Connie Johnson, and I live at 1946 Rollett Lane. We have some problems with a creek that runs behind our house, and it is Bayou Creek. I know everyone has heard about Carpentier and Bayou Creek. The problem is, is when it rains we get, the, it cannot, the creek that runs behind our house is not dredged out enough to accommodate that water and take it on. So, it backs up on our property. Okay? So, there is five houses on the east side of Rollett that, when it rains, the geese love it, they have a little pond back there, but we, as homeowners, do not. Like I say, I'm kind of new at this, and I didn't know where to start, so I just

started calling people, and here's just a little summary of people that I did call and contact about our problem.

Madelyn Grayson: Connie, do you have a copy of that for the record that I could have.

Connie Johnson: Yes, I've got some more copies. I'm sorry, I just didn't grab enough.

President Fanello: I'm wondering if we shouldn't hold this until we start our drainage board, we're going to start our drainage board meeting here in a few minutes. Would you mind—

Connie Johnson: Yeah, that's fine.

President Fanello: Okay.

Commissioner Mosby: I was going to say, I know exactly which creek you're talking about. I'm not sure this is a drainage board issue, this is a Commissioner issue, but this is the same project, Mr. Stoll is here. We have got what we call the Carpentier Creek master plan is back. This creek directly flows into Bayou Creek, which Bayou Creek in turn flows over to the east, towards the river, on down to the south towards the river in two different areas. We have identified all this in the master plan, even the area...I mean, I live four or five blocks from you.

Connie Johnson: I know you do.

Commissioner Mosby: I've been down there when Bruce Wilkey and everybody else, you know—

Connie Johnson: Well, we bought their house.

Commissioner Mosby: You bought Bruce, okay, you got Bruce's house.

Connie Johnson: So, we're just continuing the problem.

Commissioner Mosby: You're at the right spot, because this is something that we brought up two or three years ago and American Consulting Engineers has done the whole master plan. They have identified the problems, and we're looking at what is the cheapest, easiest, quickest route. What we have in turn found out is if we go to the east and we cut across, or where Bayou Creek goes across Red Bank, shoot across the tracks into the river through the open field is going to be the quickest, cheapest way for us to get there. One way we're looking at about \$21 million, I believe, John, and the other way we're looking at somewhere in the neighborhood of three and a half to four million dollars. They have also identified a retention pond for Kuester's Field.

Connie Johnson: Yeah, because it floods also. When, you know, it's not just ours—

Commissioner Mosby: Right. They would like to have that property as a, to retain water during heavy rains where it comes down on you, which you're, basically, being use to retain water.

Connie Johnson: We would like our yard back, is what we would....to what I can understand, the kids used to play, I mean, soccer, baseball, all that, and we have, I mean, we're paying taxes on 300, you know, feet of property, and we can only use a hundred. You know, so, it's just, it's an on-going problem, you know about it.

Commissioner Mosby: That's why--

Connie Johnson: It's just that I'm frustrated because everybody that I've called has said that it's not their problem, not their problem, not their problem. It has to be somebody's besides mine.

Commissioner Mosby: No, it's our problem, and that's why we've done the master plan. I'm, you know, like I say, I'm very familiar with what you're talking about, and we have, we've identified like three or four problems. I mean, one problem would be going all the way to the river on the, I guess, you would call it the south end. I mean, which would go through Burdette Park, through Lilly Creek, on out through, you know, all the farmers fields, a long distance. Then we also run into a lot of wetlands and mitigation and things like that that we've looked into. So, we found out to solve it the easiest, I guess, would be go to the east, but we also need to acquire some land where the water is coming from Reiter and DeShields down the creek, cutting out the bank at Kuester's Field coming underneath, that's been identified, and on past you down. So, John, do you want to add anything to this? Or, if I forgot.

Connie Johnson: You can come to my house and start anytime.

Commissioner Crouch: Mrs. Johnson, I did talk to Mr. Stoll about it several times, and I did e-mail you on Thursday and it came back undeliverable.

Connie Johnson: Oh, okay.

Commissioner Crouch: So, I apologize for that, but I did ask John to look into that.

Connie Johnson: Okay. Do I need to sit down now?

Commissioner Mosby: No, you can stay there. We might want to ask you a question.

John Stoll: When Suzanne contacted me about it, I checked and Mrs. Johnson is within the city limits. The projects that, I guess, were recommended in the American Consulting study that would have benefitted her, were either well downstream, like you said, David, or the retention pond. The only downside is, I didn't know where any funding was to pursue the retention pond at this point. That's the biggest downside of all of it. I mean, none of the projects are really funded. We could help out, but, at this point--

Commissioner Mosby: I know we've talked, and that's what I've been trying to pursue with the Building Commissioners. I mean, hopefully, that they're still going to be able to find this funding that....the assistant.

John Stoll: Yeah, Pat.

Commissioner Mosby: No, no, Building Commissioner.

John Stoll: Oh, Steve Fuchs.

Commissioner Mosby: Steve Fuchs was talking about some funding, and that's what we were trying to pursue.

John Stoll: I hadn't talked to him in a while. It was the local match that I was concerned about.

Commissioner Mosby: Oh.

John Stoll: Whether the federal money was there or not, since our Riverboat/Drainage Fund was cut down so much for next year, and things like. So, the biggest problem is going to be coming up with the money to implement any of those. But, if it could be funded, then they would potentially help out Mrs. Johnson's problem, and a number of other one's out there.

President Fanello: Thank you, John.

John Stoll: You're welcome.

President Fanello: So, the issue is money at this point. Like Ms. Crouch said, I think everyone is aware of the issue, and Commissioner Mosby has stated he's talked with others about the issue, so, all we can continue to do, I guess, is to look for the funding—

Connie Johnson: Now, we were told at one time—

President Fanello: —and, you know, see how we can go—

Connie Johnson: —there was funding there, by the Building Commissioner, as far as...our neighbor is Marcia and Fred Dennison, and they were told that there was some money put aside for that. That happened years ago though, and it never was addressed, even years ago. So, like I say, it's not a new problem, it's an on-going problem. You know, I don't, I think if it was your backyard you would want to have something done.

Commissioner Mosby: I agree, I mean, because I've been dealing with this since 1990. I mean, when I was on the City Council I dealt with it. Of course, then, I mean, the same as today, if we came and dredged out behind your house, we would end up with a hole, and nowhere to go, if the city did that. I mean, the county is going to have to clean, I mean, it's our problem. I'm going to admit it, you know, we're going to have to clean out from the river over to give it a place to flow. If we came and cleaned a section from Broadway to the city limits back when I was on City Council, we were going to end up six foot deep trying to go uphill into the county. It will never happen. So, we have to clean the county end first and let it flow. It's our problem.

Connie Johnson: And that's what we were told too.

Commissioner Mosby: Right.

Connie Johnson: That the county was—

Commissioner Mosby: We have dealt with American Consulting. I talked with them last week about this whole thing, and they were still trying to....and they have worked

with Steve Fuchs, you know, to see if he can come up with any money, and then we would have to come up with a match.

Connie Johnson: So, what you're saying is, the problem won't be fixed until there is money? Is that what the bottom line is?

Commissioner Mosby: I'm hoping, I wish Steve Fuchs would call me next week and say he's found a source of funding, you know, the three, or four, or five million dollars that we need.

Connie Johnson: So, what are we supposed to do, nothing? I mean, there's nothing we can do to get that initiated? Or is this too bad, too sad?

Commissioner Mosby: No, I mean, I can see how close he is, because he's trying to identify these sources. If not, you know, we can go back and see if there's something we can do immediately with the amount of money....as John said, I mean, the Council keeps cutting funds, and they've cut our Riverboat funds again this year by half a million dollars, and that's the only money we have to work with. Our next step would be to go to the Council and say, you know, if this was your house would you fund it?

Connie Johnson: Because, you know, of course, with the water standing there, of course, it's just a breeding place for the mosquitos. We can't even sit outside on our deck, our front yard, or anywhere, because the mosquitos are bad. I have called the Health Department, as you'll notice, and they came out and said that....they did spray, but, you know, with....of course, you hear of the West Nile virus and all that, and you're kind of leery about all that. You know, it's just we can't enjoy the outside at all because of the mosquitos, and because we don't have a backyard to enjoy.

Commissioner Mosby: You know, I can talk with them, see where we're at, possibly if we're closer to funding I can have Patty call you this week sometime, but, like I say, if not, it would be go to the Council and we try to get the funding to clear up the problem. We can give them some answers.

Connie Johnson: Okay.

Commissioner Mosby: I mean, we've got the plan, and we know exactly what we need to do. I mean, they've identified everything that there is to identify.

Connie Johnson: Because one of our concerns was, and, I mean, I wrote a letter to the editor, was that with all the construction, of course, you know, I mean, everything goes down stream, I mean, that's a proven fact.

Commissioner Mosby: That's exactly what I was talking about a while ago.

Connie Johnson: And, you know, it's just that, you know, it hasn't been monitored correctly. I mean, they've been dumping, dumping, dumping, and, you know, somewhere along the way, just like my article said, they have to be accountable for what they're doing to homeowners. I'm all for the west side improvements. I'm all for that, I like those. I like the stores and everything that's out there, but they should not be allowed to do some of the things that they're doing. I think it's an oversight on the city's part that it's not being taken care of. It's homeowners like us that can't get any funding because, and we're the one's suffering because of somebody else's mistake. It's not just, you know, everything, it's just a combination of everything.

Commissioner Mosby: I mean, later we're going to have drainage board, you're welcome to stay—

Connie Johnson: Oh, I'm going to stay.

Commissioner Mosby: Okay, that's good.

Connie Johnson: Okay, thank you.

President Fanello: Thank you. Is there anyone else in the audience wishing to address the board.

Unidentified: I'm her neighbor. I would like to maybe say a few comments.

President Fanello: Okay.

Greg Laine: Okay, I'm Greg Laine, I'm 2000, I'm right next door on the very end there. I've been there since '97, December. It's silted in, since I've been there it probably was about four and a half foot deep, and it's probably about half that now. We've got other issues, Daniel Wertz school, when it rains real hard, it backs up, it washes up to their soccer field. I think that's a health condition there. Kids are playing in that, and there's a lot of foul stuff coming out of that creek. I don't know where it's coming from, but every now and then I get a little log jam, I get to cleaning it out, and you find condoms, this that, sewage overflow. There is a pump station up there, and I don't know what's going on, when you get a bunch of rain, the sewer, raw sewage dumps into that ditch. I could get a collection if people want to look at it, to see where it's coming from, but it is a health hazard. That's getting up on school property, children are out there, there's hepatitis and all other kinds of stuff floating around up there. Do you know what I mean? So, it's not just an issue of the mosquitos. There is a health condition going on there, so, you know, that's, basically, all I've got to say.

President Fanello: Thank you. Is there anyone else that needs to speak to this issue? Okay. We can discuss it further in drainage board, if we need to.

Resume discussion held during 9/27/04 Drainage Board meeting.

Bill Jeffers: I didn't know if there were any comments from the audience, or from the other agencies, but, I guess, one of the reasons I'm a little frustrated with this one is because we're getting close to that time when all the county agencies need to be coordinating, very closely, on these issues, because it's required by the state. And for us to be able to report back to the state on an annual basis, what the state is requiring in those reports, these agencies must coordinate their reports, their responses to the public, and their review of plans. Right now there is a lack of coordination, in many regards. That is going to come back to haunt us at reporting time with the state of Indiana. So, e-mails, telephone calls, and fax machines are all available. The County Surveyor does intend to continue to take phone calls from the public, regardless of whether the work has to be done inside the city, or whatever. Because, sometimes these folks just can't get through to some of the other agencies who maybe are short staffed or out in the field or whatever.

Commissioner Crouch: Bill, do you have any suggestions on how to have better communication, or establish better communication between the agencies?

Bill Jeffers: Stop complaining about the workload and just start crunching it out. That would be one way to do it. Stop belly aching and start producing. I'm sorry I have to be that blunt, but, I mean, nobody likes bureaucracy, certainly none of you sitting there appreciate that kind of stuff. The, you know, the equipment is there. Everybody is e-mailing everybody all kind of stuff, it might as well be county business. I mean, I have to go in and take 30, 40 e-mails off my machine every morning that are just junk mail, it might as well be county business. I just, I'm a little perturbed by it today. I hope I'm not being curt with you. It's just, people need to realize that this is necessary. It's necessary to coordinate, unless we want to make up excuses for IDEM and DNR at the beginning of the year. If we want to make up excuses for them, they may accept them, I don't know. I wonder sometimes what their excuses are for not communicating with us. They just lost one of their best guys, Mark Baliss quit at IDEM. I can't believe it. He's one of the only guys that would really communicate with us. So, it's not going to be easy on any of us, I'm telling you. He wrote the rule, he would communicate with you, he was willing to work with you. He worked with Kevin and John and I on the ordinance. He's gone. I don't know what they're going to replace him with. I've taken up enough of your time.

President Mosby: Is there any other questions by any of the Commissioners? I will make a report back to the Commissioners and the Surveyor as soon as I can get—

Connie Johnson: (Inaudible).

President Mosby: Sure.

Connie Johnson: (Inaudible).

President Mosby: That's okay. No problem.

Connie Johnson: I'm sorry, I apologize for jumping the gun there, but I thought that was my cue.

President Mosby: No, that's alright.

Connie Johnson: Again, I just really want to get the point across, don't put the cart before the horse. You know, just like with the, you know, the bridges, please, we don't want anymore water than what we already have.

President Mosby: That won't happen.

Connie Johnson: Okay. If, you know, I mean, it is our five, you know, property that that is, you know, in trouble, but there's a lot more than just our five houses. There's a lot of voters in that area. There is Daniel Wertz that, you know, we've already discussed that with, you know, my daughter played soccer there, no telling what we took home on our shoes, because it was muddy water, and, you know, not very clean. The other thing is with Kuester Field, there's a lot of ball games that go on there, almost every, well, every weekend, you know. So, it's not just the five properties, but it's also the kids, there's a lot of kids that are involved in all of this. So, you know, it's not just us, okay. So, and, like I say, it's not a new problem.

President Mosby: Right.

Connie Johnson: It's something that's been there for a long, long time, and it's time that the city take, you know, the bull by it's horns and do something about it, instead of just saying there's no money, there's no money, there's no money. We find money for everything else in this city. We need to fix the problems, instead of ignoring the problems. Thank you.

President Mosby: I really can address this sewage problem, because I know there was a sanitary sewer put in on Johnson Lane, which all that used to drain directly to the creek, but we corrected that problem back in '95, '96, or '97, unless somebody didn't hook in. I mean, it's a possibility. We can get the Health Department to dye test all them homes. But, I thought they all hooked in. Other than that, we just have an overflow problem there at the pump station. It sits right there at the corner of the creek. So, I'll ask them about that. I'll turn that in to EMC.

Susan Harp: Susan Harp, president of Oak Hill neighborhood. We just happened to hear this tonight, but also I'm a board member of United Neighborhoods, and I whispered a few things to the lady concerning her problems, but I think of this situation, you know, they have the traveling Mayor's town hall meetings, and I think if she would attend those where you have all of those officials there, you fill out a piece of paper, and that complaint would go to the City Engineer, and then she could also go on down a little bit and visit the Mayor and whoever else that she might need to see, because they're all there. So, that is something that might be a possibility for her.

Commissioner Crouch: Good suggestion.

President Mosby: Thank you, Susan. Anyone else wishing to address the board? Seeing none.

Commissioner Fanello: I make a motion to adjourn.

Commissioner Crouch: Second.

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

(The meeting was adjourned at 8:09 p.m.)

Those in Attendance:

David W. Mosby	Catherine Fanello	Suzanne M. Crouch
Bill Jeffers	Kevin Winternheimer	Madelyn Grayson
Buddy Bauer	Don Gillies	Connie Johnson
Susan Harp	Greg Laine	Others Unidentified
Members of Media		

**VANDERBURGH COUNTY
DRAINAGE BOARD**

David W. Mosby, President

Catherine Fanello, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY
DRAINAGE BOARD
OCTOBER 25, 2004**

The Vanderburgh County Drainage Board met in session this 25th day of October, 2004 at 6:29 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

Call to Order

President Mosby: Call to order Vanderburgh County Drainage Board meeting, October 25, 2004.

Approval of September 27, 2004 Minutes

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

Commissioner Crouch: So moved.

President Mosby: Second and so ordered.

Eagle Village Apartments: Final Plan

President Mosby: Drainage plans, Eagle Village Apartments, Lloyd Expressway/Schutte Road, final.

Bill Jeffers: Okay, this project is located at Schutte Road and Lloyd Expressway, just east of the university, south of the Lloyd Expressway. It's designed by Matt Wallace, who's the engineer from Morley and Associates. Mr. Wallace is here in the audience to answer any questions the board may have. It's an apartment project. The County Surveyor has reviewed the plans, which are here for public viewing, if necessary. The plan substantially complies with the drainage ordinance for the county. The only comment that the County Surveyor has at this time is that there may be, not currently, but as things progress, there may be a need for guardrail to protect the public ways, the traffic on the public ways from the drainage basin, which is closely adjacent to the public way. Right now it looks like there is a sufficient separation, but if the decel lanes or the travel lanes are widened, there may be a need for guardrail. Mr. Wallace agrees that, at that time, if the County Engineer deems that a guardrail is necessary for safety, they'll include that. Other than that, the County Surveyor recommends approval of the final drainage plan for Eagle Village apartments.

President Mosby: Any questions? Any remonstrators? Seeing none. Chair would entertain a motion.

Commissioner Crouch: Motion to approve the drainage plans for Eagle Village apartments, final plan.

President Mosby: Second and so ordered.

Heritage Park: Final Plan

President Mosby: Heritage Park, Green River Road and Lynch Road, final plan.

Bill Jeffers: Okay, this one, as you know, is located at Lynch and Green River Road. The anchor industry will be, the anchor store will be Black Buggy Restaurant, just north of the new Schnuck's out there. The County Surveyor has reviewed the drainage plan and the attached report for this project. Essentially, it's in compliance with the drainage ordinance as far as pipe sizes and layout and that type of thing, but there is an extensive punch list that has been developed by the County Engineer, with items on it from the County Surveyor's office, that largely are the result of the engineer having lowered some dirt grades, you know, and adjusted some dirt grades, and I will recommend this plan if that's the desire of the board so that you can either approve this final plan contingent on the street plans being completed and presented to John Stoll. Subsequently, he'll bring them to you, to reflect this extensive punch list that Mr. Stoll and I have developed. Or you may choose to let them return to next month's drainage board meeting at the end of November. The plus would be, if you approve it contingent now upon Mr. Stoll's punch list, and his recommendation to you as the County Commissioners, and your approval of the street plans as County Commissioners, that would probably take a week or two. Whereas, and they are in a hurry. They have done extensive land grading. They are ready to put pipes in the ground. If you ask them to return at the end of the month to the drainage board for official approval, then that would throw them into the month of December for construction, and they might be beyond good weather. Like I said, I'll be happy to recommend approval, contingent upon final street plan approval, and I'll work with Mr. Stoll to that goal. Or you may move otherwise.

Commissioner Crouch: I'll make a motion to approve the final plan for Heritage Park contingent on the street plans being reviewed and recommended by the County Engineer.

President Mosby: Second and so ordered.

Bill Jeffers: Okay, I'll work in that direction. Thank you.

President Mosby: Thank you, Bill, for doing that.

Bill Jeffers: Oh, by the way, the design engineers are here in the, I need to get that on record that the design engineers from Landmark Architecture are here in the audience to represent the plan. That's a requirement of the ordinance for them to be here. Thank you.

President Mosby: Thank you.

Bill Jeffers: Under new business--

President Mosby: Note that there was no remonstrators present for Landmark.

Bill Jeffers: Right, and a note that there's no remonstrators here. This is a commercial development, that's why they're in a hurry to move forward under good weather.

<p>Aiken Ditch Emergency Bids: Levee Pump Station K-2 Outlet Sediment/Obstruction Removal</p>

Bill Jeffers: Under new business we have an emergency in Aiken Ditch, which is on the east side, drains Pollack Avenue, Indiana Woods, all that. Drains down under

I-164 through K-2 pump station, and I have some pictures that I would like you to look at. What's happened out there, we had some extreme high water several times this year, the last one was the result of a hurricane that went up through eastern Ohio and West Virginia, etcetera, and it came at a time that it took a lot of debris, silt, log jams, stuff like that, and threw it up against K-2 pump station outlet, and it's holding their flat gate open. It's interfering with the proper operation of the Levy Authorities pump station there. Mr. Mangold, Bob Mangold who is the Levy Superintendent came to us and said we're in dire straits to get this operating properly. If we have another flood, we're in big trouble. So, we took the liberty to invite DG Construction, Martin Woodward Backhoe Service, and Naas and Sons, Incorporated, three separate excavators known to do this work, excavators who have done this type of work in the past for the Drainage Board, and are currently operating doing this type of work for other municipalities. I have a plan that was put together by Doug McDonald, Chief Deputy, registered engineer and land surveyor. It has his stamp on it. He and Ms. Linda Freeman put together the specifications for this. This is the plan, these are the specifications that were sent out to the contractors. There used to be a provision for emergencies in the statute. Apparently, it was removed, and what's been put in place, instead of declaring an emergency, apparently, is the following;

“Notwithstanding any other provisions of this chapter, if the board undertakes any project to maintain a regulated drain when the total cost of the maintenance project is more than \$25,000, the board shall publish a notice of the hearing in accordance with IC5-3-1, mail a notice of the hearing at least 15 days to each of the property owners, etcetera.”

Then it goes on to say;

“Notwithstanding these sections of the chapter, the following provisions apply whenever the board estimates that the amount of the contract to be let is not more than \$75,000, the board need not advertise in the manner set forth by section 78 of the chapter, but shall mail written invitations to bid to at least three persons believed to be interested in bidding the work.”

We've done that.

“Invitations shall be mailed at least seven days before the date of the board to receive the bids.”

We've done that.

“Must state the nature of the contracts to be let; date and time, etcetera.”

We did that. Or you can authorize the County Surveyor to go ahead and contract for the work. We don't like to do that. We like to do it in public, and some other verbiage. I'll give this to your lawyer to look at.

Kevin Winterheimer: Sounds good to me.

Bill Jeffers: Yeah, so, basically, what I'm telling you is here we've invited the three people, because it is an emergency, the Levy Authority depends on it. I have in this

envelope the engineer's estimate for the project. The Auditor has the three bids to open. I would like to let the contract to the low bidder after Mr. Winternheimer reads the bids into the record.

Madelyn Grayson: Bill, there were actually only two bids turned in though.

Bill Jeffers: Okay, well, apparently one of the bidders is not interested. He stated he was, but apparently he didn't reply.

President Mosby: Do I have a motion?

Commissioner Fanello: Motion to open bids.

President Mosby: I have a motion—

Commissioner Crouch: Second.

President Mosby: —to open bids, and a second. We'll let the attorney open the bids.

Kevin Winternheimer: I only have two. Any more from the audience? They stapled it in the envelope. That's hazardous.

Bill Jeffers: I'll tell them that.

Kevin Winternheimer: Tell them I could hurt myself opening bids.

Bill Jeffers: We don't want that.

Kevin Winternheimer: This first bid is from Woodward Backhoe Service, and let me find their total bid here. They have \$18.63 per lineal foot. Total bid, \$6,799.95. We have one more bid. The next one, the last one is from Naas and Sons, Inc. Theirs is \$19.84 per foot, for a total of \$7,241.60. That's all the bids I have.

Bill Jeffers: Then the engineer's estimate, that's what's in that other envelope. Make sure we didn't exceed that.

Kevin Winternheimer: Do I have another envelope? I'm sorry.

Bill Jeffers: Oh, what did I....I handed it to you.

Kevin Winternheimer: Oh, here it is. I'm sorry, it's covered up.

Bill Jeffers: Watch out, it's stapled.

Kevin Winternheimer: It's got a staple. My knife already left for the evening too. The engineer's estimate is, \$7,500.

Bill Jeffers: So, neither bid exceeds the engineer's estimate. The County Surveyor recommends, all things being equal, to let it to the lowest responsive bidder, Martin Woodward for \$6,799.95, and at \$18.63 per foot. Is that the correct figure?

Kevin Winternheimer: Yeah, I believe that's a three. Eighteen dollars, sixty three cents.

Bill Jeffers: In case there's any extra work.

Commissioner Fanello: Motion to award to low bidder.

Commissioner Crouch: Second.

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

Bill Jeffers: I'll notify the low bidder. Thank you very much for your indulgence in that regard.

Ditch Maintenance Claims

Bill Jeffers: I have the ditch maintenance claims for work that has been completed to this time from our contractors. I recommend approval.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered.

Encroachment Agreements/Petitions to Remove Obstructions

Bill Jeffers: I don't believe there's any encroachment agreements, petitions.

Public Comment

Bill Jeffers: And is there any person wishing to address the board at this time? Seeing no persons. I ask of the board if you have any comments or questions?

President Mosby: Any questions by any member of the board?

Bill Jeffers: Enjoy your Monday evening.

President Mosby: Seeing none.

Commissioner Fanello: Motion to adjourn.

Commissioner Crouch: Second.

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

Bill Jeffers: Thank you, sir.

President Mosby: Thank you.

(The meeting was adjourned at 6:43 p.m.)

Those in Attendance:

David W. Mosby

Bill Jeffers

Others Unidentified

Catherine Fanello

Kevin Winternheimer

Members of Media

Suzanne M. Crouch

Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

David W. Mosby, President

Catherine Fanello, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
NOVEMBER 22, 2004**

The Vanderburgh County Drainage Board met in session this 22nd day of November, 2004 at 6:52 p.m. in Room 307 of the Civic Center Complex with President David Mosby presiding.

Call to Order

President Mosby: Call to order Vanderburgh County Drainage Board meeting for November 22nd. At this time I will turn it over to the County Surveyor, Mr. Bill Jeffers.

Approval of October 25, 2004 Minutes

Bill Jeffers: Our first item is approval of the minutes from our October meeting.

President Mosby: Do you have an agenda? Motion to approve the minutes.

Commissioner Fanello: I'll make that motion, since you're the President.

Commissioner Crouch: And I'll second.

President Mosby: So ordered.

**A.Q. Real Estate: Final Drainage Plan
Discussion of Changes to Drainage Easement to be Resolved Later**

Bill Jeffers: Okay, the only action item on your agenda for tonight is a final drainage report for A.Q. Real Estate, located on Lot 14 and Lot 16 of Cross Pointe, Section Three. It's basically a modification of the existing drainage basin. In order to build the offices that A.Q. desires to build, the orange area of the drainage easement that has diagonal black slashes across it, two little slivers, one on each side of the purple, is to be relaxed and released to allow for a driveway that goes behind the building. The orange part on the top side of the page, that doesn't have black slashes in it remains. Then the purple shaded area, which currently is not within the drainage easement, will be added to the drainage easement to allow them to reshape the basin, which is shown by your dotted and straight line, that's the pool elevation of the basin. They're going to square it up. This is for landscape reasons. So our question tonight is, was intended for our County Attorney. What's the process to go through to relinquish those two slivers of the drainage easement, and add that trapezoid shape that's shaded in purple? What process do we go through to relinquish and dedicate the easement?

Tim Born: I think this matter needs to be looked at by Kevin. While I understand the process, it's going to take a lot more than I can give you in 30 or 45 seconds.

Bill Jeffers: Okay, but that's the question for the County Attorney that these two fellows here tonight, Jon Kipling is from Morley and Associates, he's the design engineer. Mr. Jack Faber, he is from Hafer and Associates, he's the architect. They would like to know what process to go through to to realign the easement so that they can re-excavate the basin for landscape purposes.

Tim Born: Some legals will have to be prepared.

Bill Jeffers: Right, and you have to have some hearings . Next year, I suppose. Advertising for the hearings, and that type of thing. Okay, notwithstanding that, which I knew would take some time, the County Surveyor is going to recommend approval of the final drainage plan for A.Q. Real Estate, located on Lot 14 and Lot 16 of Cross Pointe, Section Three as shown on this plan, which I would like to show you.

Tim Born: And that plan contains the new easements?

Bill Jeffers: No, this plan simply shows the layout of the building that necessitates these changes.

Tim Born: I see.

Bill Jeffers: Morley and Associates will prepare the legal descriptions for these easement changes, along with exhibits for the company that petitioned to change the easement. We'll bring that to subsequent meetings, and then we'll bring that to the County Commissioners, at the appropriate time, for their action, after advertising. Basically, they are building a circular drive around the back side of the building (Inaudible). There will be a 20 foot separation between the new driveway back there and the water. So, that's a safety separation of flat area of 20 feet wide before you get to the water. That should negate any safety concerns we might have by people driving behind there, next to the water. They will also, at site review, we will be requiring a standing curb of a height that would prevent cars from jumping the curb, in lieu of a guardrail. With those comments, the County Surveyor recommends approval of the final plan, knowing that you're gonna be acting on the easement either later this year, or next year.

Commissioner Fanello: Should I make my motion subject to—

Tim Born: (Inaudible).

Commissioner Fanello: Okay. I'll make a motion to approve, based on the Surveyor's recommendation, and contingent upon resolution on the easement issue.

Commissioner Crouch: Second.

President Mosby: So ordered.

Bill Jeffers: Thank you. Did you all have anything to add? Okay. These fellas are here if you needed to ask them any questions. Otherwise, they didn't have anymore comments at this time. We thank you for your cooperation in that matter.

Ditch Maintenance Claims

Bill Jeffers: The only other item that I had on the agenda at this time is payment of claims that are properly executed, and come to you with a recommendation to pay these claims for the maintenance of ditches, as contracted with you earlier this year. They're ongoing maintenance contracts.

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

Commissioner Crouch: Second.

President Mosby: So ordered.

Bill Jeffers: Unless the secretary has brought any additional work for us to process, that's all I have.

Commissioner Fanello: With that being said, I'll make a motion to adjourn.

President Mosby: Anybody else?

Commissioner Crouch: Second.

President Mosby: So ordered.

Bill Jeffers: See you on the 20th of December.

(The meeting was adjourned at 6:59 p.m.)

Those in Attendance:

David W. Mosby

Catherine Fanello

Suzanne M. Crouch

Tim Born

Bill Jeffers

Madelyn Grayson

Others Unidentified

Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

David W. Mosby, President

Catherine Fanello, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY
DRAINAGE BOARD
DECEMBER 20, 2004**

The Vanderburgh County Drainage Board met in session this 20th day of December, 2004 at 7:59 p.m. in room 307 of the Civic Center Complex with President David Mosby presiding.

Call to Order

President Mosby: Call to order Vanderburgh County Drainage Board, December 20, 2004. I will turn it over to the County Surveyor.

Approval of November 22, 2004 Drainage Board Minutes

Bill Jeffers: You need to approve the minutes of the previous meeting.

President Mosby: I'm sorry. Motion to approve the minutes of the previous meeting?

Commissioner Fanello: Motion to approve.

Bill Jeffers: Okay, we've got a--

Commissioner Fanello: We need a second.

Bill Jeffers: I'm sorry.

President Mosby: Second, and so ordered.

Amended Storm Drainage Plan: Lots 3 & 5 Eagle Plaza West

Bill Jeffers: Somebody said we want to make this real quick.

President Mosby: No, that's fine.

Bill Jeffers: Under drainage plans, the first one is part of lots three and five, Eagle Plaza West. It's a final drainage plan. It supercedes all other final drainage plans for this same property. You reviewed and approved three or four final drainage plans for these two lots, but, now Welborn Clinic plans to build a Welborn Clinic west there, and it required new drainage planning to supercede all previous drainage plans for parts of lots three and five, Eagle Plaza West. The Vanderburgh County Surveyor has reviewed it, and recommends approval of the final plan.

President Mosby: Anybody here to speak to amended plan for Plaza West? Seeing none.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

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

Metro Centre East, Section 9: Preliminary Plan

Bill Jeffers: Our second drainage plan tonight is Metro Centre East, section nine. It's a single lot, it's a single parcel that's being divided into ten smaller lots now. It's the one that you previously approved as the indoor soccer facility, just north of Virginia Avenue, and west of Royal Avenue. Now, they are dividing the remainder of the parent parcel into nine more lots. The Vanderburgh County Surveyor has reviewed the plan, and recommends approval of the preliminary drainage plan for Metro Centre East, section nine.

President Mosby: Anybody here to speak to Metro Centre East? Seeing none.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

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

Sticks & Stones Landscaping, Cooper Development: Final Plan

Bill Jeffers: The next plan is a drainage plan for a piece of property at 7700 Morgan Avenue, east of I-164, right near the county line, on the north side of Morgan, and south of Telephone Road. It's a drainage plan for Cooper Development, commonly known as Sticks and Stones Landscape. It's a final drainage plan. You will probably see another plan next year for the remainder of the parcel, but this takes care of the commercial section of Sticks and Stones Landscape operation. The Vanderburgh County Surveyor has reviewed the plan and recommends approval of the final drainage plan for Sticks and Stones Landscape, 7700 Morgan Avenue.

President Mosby: Is there any remonstrators to speak to Sticks and Stones? Seeing none.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: Motion and a second. So ordered.

Withdrawal of A.Q. Real Estate: Cross Pointe, Section 3: Lots 14 & 16

Bill Jeffers: Before I go to the next one, I have request from our office to withdraw approval of A.Q. Real Estate at Cross Pointe, Section Three, lots 14 & 16 from last month, where you approved a request to move forward with the realignment of the drainage basin, and reconfiguration of the easement that contains the detention basin to allow them to build a driveway, and some other associated construction. I told them that they would have to move forward through your legal staff and the County Commissioners with vacating part of the easement they wanted to vacate, and add in the other part. It turns out that they've reduced the scope of their project, and a plan went through site review this morning that did away with the need for these changes. I'm simply asking you to withdraw your approval that was granted last month, and leave them with the previous approval of the final drainage plan, as

it's currently recorded for Cross Pointe, Section Three, lots 14 and 16. This is just a clerical matter.

President Mosby: Do I have a motion to withdraw approval?

Commissioner Fanello: Motion to withdraw.

Commissioner Crouch: Second.

President Mosby: Motion to withdraw approval, second, and so ordered.

Knight Shire Estates: Preliminary Plan

Bill Jeffers: The last drainage plan to come before you tonight is for Knight Shire Estates. It's on your agenda. It's a subdivision off of New Harmony Way, excuse me, New Harmony Road, out in Kasson. You go south on Robin Hood Drive, kind of across from the Old Mill, that neighborhood, and you go back to this subdivision. It has, the way I see it, it has three large lots. We're talking lots that are eight acres, five and a half acres, and one lot that's almost 18 acres. So, these are large lots. There's no need for detention. Basically, they'll be clearing out a spot in the woods to build a home on each lot. By doing so, they're not increasing the run off, because they will have nice grass lawns around the new homes that will absorb any additional run off from the roof. They still have the forested area through which the water will run down to a natural creek. Otherwise, they have complied with the terms of the drainage ordinance. The owner of the property who is developing the property is here in the audience tonight, along with one of their neighboring property owners. Before I make a recommendation, I would ask if any of the parties here in the audience have anything that they would like to tell the board? They should do so at this time, at the microphone.

President Mosby: Is there somebody that would like to speak?

Bill Jeffers: We will hear from the neighbor of the property.

Gil Jochem: My name is Gil Jochem. We're at 3282 Robin Hood Drive. We're actually the last lot at the end of Robin Hood Drive, right now, it's about 2.1 acres. It's where they're going to be putting in the right-of-way.

Bill Jeffers: Mr. Jochem resides at—

Gil Jochem: Right here.

Bill Jeffers: —this large square piece of property here. The other lots that are being developed are lots one, two, and three. You come down Robin Hood to Mr. Jochem's property, and then you go through his property to the entrance of lots one and two, and lot three.

Gil Jochem: Okay, almost starting from the very top of Robin Hood Drive is all down hill. So, that's approximately an eighth of a mile that we get run off from all the upper hill. What I have a concern about is how they are going to be putting in this road here, because of the, all the run off that comes down this. A lot of people have their roof drains, gutter drains feeding on to that road, and this lot here gets a lot of water, because it tilts off. This is like coming from the very front of our house, or of our

yard, and there's a lot of run off this way. This is almost just completely turned around right here. The water comes and runs down this driveway here. And this would be where the road would be coming down straight into this woods. I'm just concerned about what's going to happen right here, because the yard is built up to separate the water to keep it going around our house. If this gets knocked down or anything like that, where's the water going to run coming in to our house?

Madelyn Grayson: Sir, I'm sorry if I missed it, but did you state your name for the record?

Gil Jochem: Gil Jochem.

Bill Jeffers: The plan would be to take any run off that is along the road, down the road to where there is a cul-de-sac that enters the two lots they are going to develop down here, and then run it off in this natural waterway at the end of the cul-de-sac.

Gil Jochem: So, where's this going to start though? Because water comes down right in front.

Bill Jeffers: In the final drainage plan, you have to understand, this is a preliminary plan, and their final plan will include road plans that both the County Surveyor will look at from a drainage standpoint, and the County Engineer's office will look at the structural road itself to make sure it meets the standards. They would most likely have to have a ditch along side the road to take the water straight down through the right-of-way. When it gets down to here, they would probably have a pipe that goes under the neck of the cul-de-sac off into this ravine. They would have to capture, in other words, we're saying the plan would have to show that they're capturing the run off from their project, and carrying it down here as they show.

Gil Jochem: What if it starts before that? Because, there's so much—

Bill Jeffers: Well, they're only allowed to...they're not going to come in and improve the road that's already there. They're going to start where their property starts, right here. So, the improvement will be made from where you show the end of the pavement, where your driveway starts now. The improvement will be made from that point on the property line, then south.

Gil Jochem: So, any other water coming down can still run into our yard?

Bill Jeffers: Which it does now, correct?

Gil Jochem: Yeah.

Bill Jeffers: Okay. Yes, that would be the case.

Gil Jochem: Well, see, that's what, you know, if they take off that angle right now, it's separating it so that it goes around the house. It marches out on this side of our property over here, and it's marching out part of the neighbors along this fence line.

Bill Jeffers: The best we can do is to make sure that they capture that water where it's captured now, and run it straight down the hill. If it already goes on your property, there's nothing we can do to change that, until we get to where the new project starts. There should be a side ditch on each side of this new road that would capture any water, from the road itself, and run it straight down.

Gil Jochem: How much, how big would that ditch be? Because, see we use that right-of-way too to get out now.

Bill Jeffers: Right. I'm sure you'll still have access to that new road where your driveway enters your property.

Gil Jochem: From what I understand, you're going to take the driveway that's out there now? Is that going to come out?

Bill Jeffers: Right, so, your access would be to the extension of Robin Hood Drive, down here, logically, where your driveway now leads that right-of-way. That's where your entrance would be to Robin Hood Drive, after the new one was constructed.

Gil Jochem: How big would these ditches be?

Bill Jeffers: The would be a minimum of one foot deep, and seven feet wide. That would be the minimum size. They will be however large they have to be to hold the quantity of water that's generated during a 25 year storm, but the minimum size is one foot deep and seven feet wide. That should show, in the final drainage plan, which the engineer, Mr. Nicholson, will have to bring to our office, most likely in January, for final approval. We could consult with you and let you look at the final plan to make sure that you're satisfied with the details.

Gil Jochem: Well, like down here, this main ditch down here where they're going to be bringing their road and all, is right on our property line, and that's a deep drop just because it goes right into the ditch.

Bill Jeffers: There may be some ditch improvements that they'll have to make at that point. We haven't seen the final cross sections of the new roadway and the new ditch. That comes in with their street plans that will be submitted to our office, and to the County Engineer's office.

Gil Jochem: Okay.

Bill Jeffers: I'll be happy to take your name and phone number and contact you at that time.

Gil Jochem: Yeah.

Bill Jeffers: You'll have another opportunity to come before this board and tell this board whether or not you're in agreement with the final drainage plans.

Gil Jochem: I'm just concerned about our house.

Bill Jeffers: Sure.

Gil Jochem: You know?

Bill Jeffers: Sure. If you don't mind, if you would put your name and address and phone number, I'll give you a call when the final plans come in. Like I said, you'll have another opportunity to address the Drainage Board, and the County Commissioners, separately, if you like, about the street plans. Thank you, Mr. Jochem.

Gil Jochem: Thank you.

Bill Jeffers: Is there anything else you have?

Gil Jochem: Not that I can think of.

Bill Jeffers: I'm sure, well, take your time, and there will be one more meeting that you can address—

Gil Jochem: I was hoping (Inaudible) said he was going to have a lot better plan that he was going to submit.

Bill Jeffers: Well, these preliminary plans are conceptual, and there will be a much better plan, with much more detail within the next 30 days.

Unidentified: I have a question.

President Mosby: You have to come to the mic., sir.

William Downing: This really doesn't have anything to do with their proposed development back there. It has to do with the present condition of Robin Hood Drive. Robin Hood Drive, as Gil said, is downhill most of the way, and I live on the lot next to Gil, just up above him. When we get a heavy rain, and water comes down Robin Hood Drive, it is not level, it is slanted over toward my lot there. So, all that run off from Robin Hood Drive has come down on my lot over 35 years, and caused my basement to buckle in, and there's a big gully in between my lot and the lot, I guess it would be north of me. When they pave that road, can't they put a berm or something on that side there to keep the water from draining on over into these lots here. This is where my lot is. When the water comes down there, it comes right down...yeah, that's a picture of it.

Bill Jeffers: The picture you are showing me indicates a roadway that, today, would not be acceptable as a county standard roadway. It has no side ditches, it has no shoulders.

William Downing: Yes, sir. That's what brought the idea of raising the ditches.

Bill Jeffers: Right. You would have to discuss with the County Engineer and the County Highway Department, and come back in front of the County Commissioners, rather than the Drainage Board to discuss any improvements to Robin Hood Drive to possibly, you know, improve it's current condition.

William Downing: Well, I think what they have on this side would be a natural drain here. On this side it is lower, so, when they pave that, if they would just make it a little bit higher on this side, and put a berm over there.

Bill Jeffers: But, there's no ditch on this side to carry it. If you cast the water over here, there's no ditch to carry it, so, it would just eat against the edge of the pavement, and undermine it.

William Downing: Which it's doing to my lot now.

Bill Jeffers: Right, so, one way or the other there would have to be some major improvements made to that roadway to make it standard. That would be an item that should be discussed with the County Engineer first.

William Downing: The County Engineer?

Bill Jeffers: Yes, sir.

William Downing: That's where I need to take my (Inaudible).

Madelyn Grayson: Sir, can you state your name for the record, please?

William Downing: William Downing, D-o-w-n-i-n-g.

Bill Jeffers: I'm going to give you the County Engineer's name and phone number. Mr. Stoll is the County Engineer, at those two phone numbers, and he could send an inspector out. If you have any erosion control problems, he also has an erosion control specialist, and that's where the ball should start rolling right there.

William Downing: I'll start with him. Thank you very much.

Bill Jeffers: Okay. Thank you, sir.

President Mosby: Thank you, Mr. Downing.

Bill Jeffers: As I pointed out to Mr. Jochem, especially, this is a preliminary plan. The County Commissioners and the Drainage Board, next year, in January or February, will see a more detailed, final drainage plan from Nicholson, Billy Nicholson, and it will contain details of the issues, particularly that Mr. Jochem brought before you tonight before I bring it to the board. I will not bring it to the board until it addresses those issues about conveying the water down the new roadway, and the depth of the ditch at Mr. Jochem's southeast corner of his property, down by his barn. When it does conform to standards of our code, I will bring it before the new Drainage Board, and they will then act on the final drainage plan. As for the preliminary plan, it substantially meets the requirements of the code. The County Surveyor recommends waiver of the requirement for detention, due to the large size of the lots, and natural drainage pattern, and approval of the preliminary drainage plan for Knight Shire Subdivision.

Commissioner Fanello: I'll make a motion to approve the preliminary plan with the waiver.

Commissioner Crouch: Second.

President Mosby: So ordered.

Ditch Maintenance Claims

President Mosby: Next, ditch maintenance claims.

Bill Jeffers: Thank you for coming. Ditch maintenance claims are in the folder I just put on the table. They are all in order, the necessary paperwork is attached. The

County Surveyor recommends payment of those claims to the 2004 ditch maintenance contractors for work that's been completed thus far.

Commissioner Fanello: Motion to approve.

Commissioner Crouch: Second.

President Mosby: So ordered.

**Preliminary Report: Post Construction Testing
Flexible Storm Water Drainage Pipe**

Bill Jeffers: Under other items, I guess you would call it. I have a preliminary report that I would like to bring to you at this time. I don't really want to discuss it at length, but I would like for you to read it, and I'll be back in January to discuss it more in depth. Okay, the preliminary report addresses post construction testing of flexible storm water pipe. It identifies the type of flexible pipe we're talking about. It addresses some concerns regarding flexible pipe, and makes a recommendation that the County Drainage Board, and the County Commissioners adopt, or rather that they upgrade existing drainage code and applicable construction standards for flexible storm water pipe, revise the codes and standards to ensure proper installation of flexible pipe, and to initiate testing of flexible pipe after construction to avoid some of the phenomena we're experiencing that I show you in three attached pictures where flexible pipe has either cracked, or deflected to the point that it needs to be taken out of the ground and replaced properly. Currently, our standards, and our procedures do not require the kind of testing that would identify this pipe as defective, until long after, well, until it just absolutely fails to perform. Then, rather than pay for it with a letter of credit, or have the contractor install it under his guarantee, what's going to happen is the county will be paying for it out of their General Fund coffers, and I don't think that's right. So, if anyone who's interested would care to read that report, it will come back in a more finished form in January or February with the Surveyor's annual report, and we'll address it at that time.

Closing Comments

Bill Jeffers: In closing I would like to say to Kevin, I've really enjoyed working with you. You've been very helpful to both John Stoll and our office in drainage affairs, legal affairs. To the two County Commissioners that are leaving, I really have enjoyed working with you, and appreciate all that you've done on behalf of the County Drainage Board. I'm going to miss, David, I'll be seeing you around. I'll come to the firehouse if I really want to see you.

President Mosby: There you go. You're welcome.

Bill Jeffers: But, I will miss you on the board, but I will see you around. I'm really going to miss you, Catherine, because you're not going to be here. I'll see you at road school.

Commissioner Fanello: Yes, you will.

Bill Jeffers: Suzanne, I'm looking forward to working with you and the new Commissioners. I know we'll have a good Drainage Board in the future. So, I'm looking very forward to next year and working with you and your associates on the

Drainage Board. Merry Christmas to everybody, and that's all the business I have tonight.

President Mosby: Merry Christmas to you and Brenda.

Commissioner Fanello: You too. Motion to adjourn.

Commissioner Crouch: Second.

President Mosby: So ordered.

(The meeting was adjourned at 8:24 p.m.)

Those in Attendance:

David W. Mosby

Kevin Winternheimer

Gil Jochem

Members of Media

Catherine Fanello

Bill Jeffers

William Downing

Suzanne M. Crouch

Madelyn Grayson

Others Unidentified

**VANDERBURGH COUNTY
DRAINAGE BOARD**

(Not in office when minutes approved.)

David W. Mosby, President

(Not in office when minutes approved.)

Catherine Fanello, Vice President

Suzanne M. Crouch, Member

Recorded and transcribed by Madelyn Grayson.