

**VANDEBURGH COUNTY
DRAINAGE BOARD
JANUARY 11, 2011**

The Vanderburgh County Drainage Board met in session this 11th day of January, 2011 at 5:50 p.m. in room 301 of the Civic Center Complex.

Call to Order

Commissioner Winnecke: At this time we'll call to order the January 11th meeting of the Vanderburgh County Drainage Board. We'll begin with attendance roll call please.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Here.

Madelyn Grayson: Commissioner Melcher?

Commissioner Melcher: Here.

Madelyn Grayson: President Winnecke?

Commissioner Winnecke: Here.

Election of Drainage Board Officers for 2011

Commissioner Winnecke: The first order of business is to elect officers. I would entertain a motion to name a President.

Commissioner Abell: I move that Steve Melcher be President of the Drainage Board.

Commissioner Winnecke: Second.

Commissioner Melcher: I guess, then I'll have a count.

Commissioner Winnecke: All in favor say aye.

All Commissioners: Aye.

Commissioner Winnecke: Opposed?

(Motion approved 3-0)

Commissioner Winnecke: Okay, Mr. Melcher, you may lead.

President Melcher: Okay, we need a motion now for Vice Chair.

Commissioner Abell: I move that Lloyd Winnecke be Vice President.

Commissioner Winnecke: I was just getting ready to say something.

President Melcher: Okay.

Commissioner Winnecke: You need to second.

President Melcher: I'll second it. All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: And Secretary, isn't that Madelyn? I don't remember.

Commissioner Abell: It is now.

President Melcher: Okay.

Madelyn Grayson: Do I have a choice?

President Melcher: Alright, you're up, Bill.

Setting of 2011 Meeting Dates and Times
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Bill Jeffers: I think, traditionally, or customarily for the last many years your meeting dates and times were immediately following the regularly scheduled Commissioner meetings, and the place was this chamber. So, the statute requires that you decide whether you want to continue that.

President Melcher: So, I believe we do.

Commissioner Abell: I move that we continue that.

Commissioner Winnecke: Second.

President Melcher: Oh, yeah, a first and second, all in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Approval of the December 21, 2010 Drainage Board Meeting Minutes

Bill Jeffers: I believe you have some minutes to approve from the December meeting.

Commissioner Winnecke: Motion to approve.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Lincoln Dane Subdivision Drainage Plan

Bill Jeffers: I believe it's 5:50 and we have ten minutes to save ourselves a couple hundred dollars if we finish by 6:00. Oops, nine minutes. So, we have tonight a very simple drainage plan for Lincoln Dane Subdivision, which basically was just a division of some larger lots or parcels on Volkmann Road, but because it involved, ended up being three individual lots after the land swap was finished, the subdivision ordinance requires any subdivision of three lots to be a major subdivision, so it comes to you with a drainage plan. The drainage code requires a certain width of easement along any channels that may be existing or developed within a subdivision, a new subdivision, but the ditch here was already constructed by one of the property owners, Mr. Ray Rexing, who farms the property adjacent and owns some land in this subdivision, and continues to own the strip in which the ditch is located, along the north line, and assures us, in writing, that he can maintain the ditch without an extensive easement, to be platted on lot two, which now will be owned by Randy Johnston. Randy Johnston comes before you tonight, he's here in the audience, if he would like to say, or if you would like to hear it from him, but he would prefer that his lot, being as narrow as it is in one dimension, not be impacted by an unnecessary drainage easement. I'm telling you that this ditch was constructed by Mr. Ray Rexing and has been maintained by him for I'm going to say ten years at least that I remember, and it's in wonderful condition, and he assures us, like I said, in writing that he'll continue to maintain it. So, therefore, the Surveyor's recommendation, also Fred Kuester is here if you need any questions answered from the design engineer, making the submittal tonight, but the County Surveyor recommends that the Drainage Board waive the requirement for the full size of the easement, accept it at the size it's been platted here on this drawing, and to approve the plan, because it otherwise comports with the drainage code. That is for Lincoln Dane Subdivision, which is on the Area Plan Commission agenda this Thursday.

President Melcher: So, you're approving the plan, right?

Bill Jeffers: I would ask you to approve it, yes, sir.

President Melcher: Is there a motion?

Commissioner Winnecke: Motion to approve.

Commissioner Abell: Second.

President Melcher: Any discussion? Anybody from the audience? Do you want a roll call vote on that one, probably? Go ahead, Madelyn.

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Winnecke?

Commissioner Winnecke: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Bill Jeffers: Thank you. I thank the two gentlemen for driving down here in the snow. I didn't know if there would be any questions.

Approval of Ditch Maintenance Claims

Bill Jeffers: I have a claim from Mark Naas Farms and Excavating for the removal of nine beaver dams in Aiken, excuse me, yes, Aiken Ditch. Plus, after removing those dams for \$920, less, \$100 a dam, two of the dams were rebuilt by beavers, and I sent him back out there to remove those after the ditch drained out. That wasn't supposed to happen. I was told that they don't rebuild dams in this kind of weather, but, dammit, they did.

President Melcher: It's kind of like them woodchucks on the commercial.

Bill Jeffers: Stop chucking that wood. Then, after the dams were removed, there were some, there was some build up of silt that was noticed, because the water drained out and then we noticed that, so, I sent him back out there at \$120 an hour for seven hours, for a total of \$1,760. I ask you to approve that claim, along with a claim from Structurepoint for \$472.50 for additional professional services under contract on Hirsch Ditch.

President Melcher: So, you need—

Bill Jeffers: The two claims are here.

President Melcher: We need a motion for those claims.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: We have a first and second. Any discussion? Madelyn, do you want to call the roll?

Madelyn Grayson: Commissioner Abell?

Commissioner Abell: Yes.

Madelyn Grayson: Commissioner Winnecke?

Commissioner Winnecke: Yes.

Madelyn Grayson: President Melcher?

President Melcher: Yes.

(Motion approved 3-0)

Other Business

Bill Jeffers: I have no other business, other than to say congratulations to Commissioner Abell for her election. Congratulations to Commissioner Abell and Lloyd Winnecke on pawning off the two greatest jobs to Melcher, Area Plan Commission and Drainage Board, and welcome back to the best county or municipal attorney I've ever worked with, Ted Ziemer. You've got four minutes, or it's going to be another \$200, unless you have public comment.

Public Comment

President Melcher: We don't have much. Anybody from the audience have anything to say? I'll entertain a motion then.

Commissioner Winnecke: Motion to adjourn.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Alright, we're adjourned.

(The meeting was adjourned at 5:55 p.m.)

Those in Attendance:

Stephen Melcher

Bill Jeffers

Others Unidentified

Lloyd Winnecke

Ted C. Ziemer, Jr.

Members of Media

Marsha Abell

Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
JANUARY 25, 2011**

The Vanderburgh County Drainage Board met in session this 25th day of January, 2011 at 5:56 p.m. with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and start the Drainage Board. As you're exiting, we're still in business here.

Approval of Ditch Maintenance Claims

President Melcher: Linda, do you want to go ahead and start?

Linda Freeman: Basically, all the Vanderburgh County Surveyor's office has for this meeting is the drainage claims for maintenance. I turned them in to Madelyn, we've checked them out, we're all good.

Commissioner Winnecke: Motion to approve.

President Melcher: Okay, is there a second?

Commissioner Abell: Second.

Madelyn Grayson: And the minutes from the previous meeting.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Approval of the January 11, 2011 Drainage Board Meeting Minutes

President Melcher: Excuse me, we're still in...and we also have to approve the minutes of the last meeting.

Commissioner Abell: So moved.

Commissioner Winnecke: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Other Business

President Melcher: Anything else that you would like to say?

Linda Freeman: The streaming wasn't working. I was trying to watch that on my computer at the office. I did let Computer Services know, they are working on it. So, the internet streaming was not working earlier.

President Melcher: Okay.

Madelyn Grayson: President Melcher, just one thing, in the past the Drainage Board has allowed me, when there's multiple claims like this, once you make a motion that I can just stamp them rather than you sign 30 or 40.

President Melcher: We'll stay the same way. Anything else to come before Drainage Board this evening?

Public Comment

President Melcher: Anybody in the audience? Seeing none. I need a motion, excuse me.

Commissioner Winnecke: We've already adjourned.

Commissioner Abell: What is it?

Commissioner Winnecke: Ted, we need to know if we can reconvene the –

Commissioner Abell: What is it?

Commissioner Winnecke: I'm reading it. Sherman needs an appointment for tomorrow for the District Planning Oversight Committee.

Sherman Greer: I was going to bring it up when you had department heads listed.

President Melcher: Yep, but we also said we had public hearing on anything else?

Sherman Greer: I'm sorry.

Ted C. Ziemer, Jr.: Well, what's going to be the effect, Sherman, of your not doing it today?

Sherman Greer: Not really a whole lot. I can, we have a meeting in Jasper, it's a conference call (Inaudible).

Ted C. Ziemer, Jr.: Do you have other people though that would give you a quorum?

Sherman Greer: We hope so, but it's the County Commissioners and the Mayor of the largest city in each county that's on that oversight committee. So, if we don't make it today, I mean, we meet three times a year.

Ted C. Ziemer, Jr.: You can, Mr. President, if you wish, you can call the, reconvene the meeting of the Commissioners. If the other two Commissioners are agreeable to doing that, and then you could make this appointment, and then end the meeting.

President Melcher: Alright, so before we do that, we need a motion to adjourn the Drainage Board.

Commissioner Abell: So moved.

Commissioner Winnecke: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: So moved. Thank you.

Linda Freeman: Thank you.

(The meeting was adjourned at 5:58 p.m.)

Those in Attendance:

Stephen Melcher

Ted C. Ziemer, Jr.

Sherman Greer

Lloyd Winnecke

Linda Freeman

Others Unidentified

Marsha Abell

Madelyn Grayson

Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
FEBRUARY 22, 2011**

The Vanderburgh County Drainage Board met in session this 22nd day of February, 2011 at 6:50 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll go ahead and start the Drainage Board meeting of Vanderburgh County Drainage Board. It's Tuesday, February 22, 2011. It's about ten minutes till seven.

Approval of the January 25, 2011 Drainage Board Meeting Minutes

President Melcher: Bill? I guess, the first one is approval of the minutes of the previous meeting.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: It passes. Thank you.

Royal Car Wash: Eagle Plaza: Heath Rupp Complaint Update

President Melcher: Bill, we're going to talk about Royal Car Wash?

Bill Jeffers: Yes, Heath Rupp, owner of the Royal Car Wash on Pearl Drive in Eagle Plaza wanted to speak to you last meeting, and I thought that meeting would probably be lengthy. I guess it was this one I was thinking of. I moved it to this agenda, and called Mr. Rupp and let him know that it was on the agenda, and I don't believe he stayed with us. He probably had something to do. So, basically, I have also handed you one piece of paper with some bullet points that covers Home Depot's legal counsel's paraphrased response to knowing that they have a beaver problem and what they've done about it so far, what they plan on doing in the future, and then three bullet points at the bottom, the response from the County Surveyor as to some of the comments that Home Depot's attorney made. I think it's all positive. I think there's progress being made. Beavers are a very hard animal to move from their habitat. So, I'll let that go until the next meeting that Mr. Rupp is able to attend. I'm sure he will give his comments at that time.

President Melcher: But, Bill, you thinks it's pretty fair what Lowe's is doing? I haven't had a chance to read it all.

Bill Jeffers: What Home Depot is doing?

President Melcher: Home Depot, sorry.

Bill Jeffers: If Home Depot follows through with their plan, and their intent that they expressed, I believe they have already made a fair shot at it. If they follow through they're trying to stay on top of it. Like I say, it's a very, very hard issue to deal with, and unless they have a professional, what do they call it, nuisance wildlife, a licensed nuisance wildlife trapper who really knows what he's doing, they're going to have a hard time getting rid of beavers. Because we are unable to do it in our legal drains. They just come back. You know, you can remove the ones that are there. You can remove 20, 30 beaver from an area, and the other ones come into that territory and repopulate it. Just like moles do in your yard. You can, believe it or not there's only two or three moles in your yard that do all of that damage. They're very territorial. You kill those two or three, two or three more move in. So, it's the same principle.

Preliminary Report on Ditch Conditions/Maintenance 2011

Bill Jeffers: Okay, I'll just move from that, in the interest of time. I was going to give you a preliminary ditch report on the conditions of our ditches, but instead I will run a copy of this and distribute it to you. Basically it's a schedule of what's coming up; March 1st I will bring your maintenance specifications to the Board for approval, give you a report at that time; March 2nd we'll start mailing those specifications out; March 4th and March 11th we will ask for advertisements in the newspaper, the two advertisements seven days apart, or ten days apart, or whatever it is, seven days prior to the opening; March 22nd we will open those bids, and March 29th at your meeting we will begin awarding them to the lowest bidder.

Big Creek Drainage Association Annual Meeting and Banquet

Bill Jeffers: I would like to bring to your attention that on March 7th, what day of the week is that, Eldon?

Eldon Maasberg: Monday.

Bill Jeffers: Monday, March 7th at Hornville?

Eldon Maasberg: Hornville Tavern.

Bill Jeffers: Hornville Tavern, Big Creek Drainage Association is having their annual meeting and banquet at Hornville Inn. I would urge you to attend. They feed you well and there's good folks to talk with about—

Commissioner Winnecke: What time is that?

Eldon Maasberg: 6:30 was happy hour.

Bill Jeffers: Yeah, 6:30 would be your social hour, 7:00 we'll begin eating, and I'm sure they'll have a nice presentation for you.

President Melcher: That's March 7th?

Eldon Maasberg: You Commissioners should get—

Bill Jeffers: Yes.

Eldon Maasberg: –invitations.

Bill Jeffers: Eldon's President of the Big Creek Drainage Association, he said you should get a written invitation. I just wanted you to mark that out on your Blackberry's or whatever modern piece of equipment you use. I'm still on a cell phone.

Commissioner Abell: You may en route to road school.

President Melcher: Might be.

Bill Jeffers: Oh, that coincides with road school and spring break, doesn't it? Okay, well, I'll be there.

Approval of Ditch Maintenance Claims

Bill Jeffers: I have a packet of claims from your ditch contractors. They've all been inspected. The work's been inspected, the paperwork's attached. I would ask you to approve those ditch claims and pay those ditch contractors for the work they've performed to date.

President Melcher: I need a motion.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Public Comment

Bill Jeffers: Under public comment, I did get a phone call from Michelle Obama during your intermission, and she said if you have not given up hamburgers yet, Bar Louie is serving them for a dollar each tonight, seven ounce hamburgers, just dab them with your napkin to get the grease off, okay.

Commissioner Winnecke: Touche.

Bill Jeffers: There may be other realistic public comment from the audience. Other than that I have no further business.

President Melcher: Okay, anybody in the audience have anything to say? Alright, we could–

Commissioner Winnecke: I would like to comment that it's nice to see Eldon here in a sports coat.

Brenda Jeffers: He looks nice, doesn't he?

Commissioner Winnecke: I almost didn't recognize him.

Bill Jeffers: Eldon's the man. He must have already finished shucking corn or something.

Eldon Maasberg: I just come from Indianapolis and that crowd.

President Melcher: Okay, do we have a motion to adjourn.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you, we're over.

(The meeting was adjourned at 6:55 p.m.)

Those in Attendance:

Stephen Melcher

Bill Jeffers

Brenda Jeffers

Members of Media

Lloyd Winnecke

Ted C. Ziemer, Jr.

Eldon Maasberg

Marsha Abell

Madelyn Grayson

Others Unidentified

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
MARCH 1, 2011**

The Vanderburgh County Drainage Board met in session this 1st day of March, 2011 at 5:35 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll go ahead and start the Vanderburgh County Drainage Board. It's Tuesday, March 1, 2011. (Inaudible. Mic not on.)

Approval of the February 22, 2011 Drainage Board Minutes

Bill Jeffers: Good evening. I believe we have minutes from the previous meeting.

Commissioner Winnecke: Motion to approve.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Royal Car Wash Drainage Issue

Bill Jeffers: I've also put, Heath Rupp, the owner of Royal Car Wash back on the agenda in case he's here this evening to speak to the beavers in the detention basin. Is Mr. Rupp in the audience? I contacted him by phone yesterday, but apparently we'll put him on the agenda again if he calls me.

Dawn Ridge: Modified Final Drainage Plan

Bill Jeffers: Drainage plans, we have Dawn Ridge, it's a modified, final drainage plan, in the red circle on your display. The developer and his engineer have added some intermediate area drains along Hogue Road to pick up some additional water to keep that water from discharging across the roadway to the north side of Hogue Road and to prevent it from flowing on to neighboring properties towards Corpus Christi, I believe it is. Or, is that, to the church property. The recommendation is to approve those modified facilities as part of the final plan.

President Melcher: So, that's your—

Bill Jeffers: That's my recommendation, to approve the modified plan, including those new facilities that are in working condition.

Commissioner Winnecke: Motion to approve.

Commissioner Abell: Second.

President Melcher: Any further discussion? Anybody in the audience? All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Wynnfield Subdivision: Sections 4 & 5: Updated Drainage Plan

Bill Jeffers: Our second subdivision is Wynnfield Subdivision. While I have it listed as a modified, final plan, in fact, it is an updated plan for section five and section four. Four is on your left, to the west, and it's the rectangular section, outlined in red. Section five is to your right on the display, and it's the eastern portion of the subdivision to be built out. We have a very fortunate situation where Brad Sterchi, a developer who previously developed quite a bit on the north side in Vanderburgh County, presently developing in Warrick County, has come back to Vanderburgh County to complete this subdivision that had been left in limbo by a previous developer. It's a beautiful location. Mr. Sterchi has worked diligently with Cash Waggnar Associates to develop this drainage plan, and we're very happy to present it. It is a final plan for these two new sections of the subdivision. It meets the requirements of the drainage code. Glenn, well, the engineer is here in the audience if you have any questions about it, Glenn Merritt is here. The County Surveyor's recommendation is to approve the final plan for Wynnfield Subdivision, section four and section five.

Commissioner Winnecke: Motion to approve.

Commissioner Abell: Second.

President Melcher: We have a motion. Any discussion? Anybody in the audience? All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: The ayes have it. Next.

Heritage Park, Section II: Modified Final Drainage Plan

Bill Jeffers: Heritage Park, section two, also is a modified, final drainage plan. It's the black, cross hatched eastern half of Heritage Park. The western portion on Lant Davis Drive is section one, and that's where Black Buggy is, you're familiar with that on Lynch Road and Green River. The eastern section, the only lot currently occupied is lot seven, the eastern most lot where Q-Comm is located. The drainage facilities are all in place. There's a modified plan, basically just reflects the as-built condition, as-built lay out of the drainage basin itself. The basin has been operating for several years now. Their original plan, we had asked that the underwater, the portion underneath the elevation of the water be 5:1 slopes, because of some clay type soils that were in the area, but as the past four years have proven, those slopes have remained stable at four percent, or, excuse me, 4:1 slope. I believe so long as

the tank stays full of water, so long as the pool elevation is maintained it will remain stable. That's also the opinion of the soils engineer who examined the facility recently. She also made some other recommendations as to the vegetative cover of the embankments, how to, what to plant and how to maintain it. Those are included in the plan. I ask that, I recommend that the plan be approved as submitted.

Commissioner Abell: So moved.

Commissioner Winnecke: Second.

President Melcher: I have a first and a second. Any discussion? Anybody in the audience? All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Bill Jeffers: Okay, basically, now that that's been approved, the developer can move forward to record the plat. Right now the plat has not been recorded. So, when he records the plat he can proceed with selling the other six commercial lots, but I would want to make the statement that that does not automatically approve the condition of the facilities themselves. They still will have to be inspected by the County Engineer and found whether they comport with the plan. I would probably say that most of them do, except there may be some finishing touches needed regarding the vegetation on the embankments, but that's part of the plan.

2011 Annual Regulated Drain Report & Ditch Specifications

Bill Jeffers: Okay, as far as our 80 miles of regulated drains in Vanderburgh County, they're in very good condition at this time. Same as last year, we always have problems, they're not perfect, they are ditches. One of our problems is very similar to the citizen who has an issue with beavers in the retention basin on his property. We have beavers in the regulated drains as well. One of the problem spots that we have is Aiken Ditch at K-1 pump station, and Eagle Slough from there, from Green River Road on down to what we call Catfish Pond where Eagle Slough discharges into the Ohio River. It's about a six mile run down through there and we have several beaver dams that pop up from time to time and have to be addressed. The reason we have to be diligent about that particular drain is that it receives the water as it's discharged from the three levee pump stations. So, that is one of our problem areas, and beavers are very hard to get rid of. You trap them, and if you are successful in removing an entire colony, another exploring beaver will locate the same location, because it is a perfect location. They always seem to be able to find the perfect locations to back up the maximum amount of water. Then a new colony will move in, and the whole process starts again. So, that's one of our main issues on that particular drain. We do have a couple of curves where drains make a radical right or left hand curve. One of them is on Maidlow Ditch out north of Darmstadt. Another one is on Pond Flat Ditch way out by Bixler Road, and we have that noted in our report and in our specifications. We're asking for proposals to armor those curves so that the ditches don't jump out and run across country. I want everybody to understand that ditches are intended to carry water, that's our main purpose is to

carry that water off to the creek or to the river, to Pigeon Creek or the Ohio River, and ditches are not particularly a landscape feature for a well manicured lawn, you know. So, you will get, as a new Commissioner, you may get a call occasionally, someone thinking that we should mow the ditches. Well, early on, about 2000 or so, in my administration, the cost to mow the ditches on the east side, all of which run through prime real estate, commercial and residential real estate, the cost of mowing a ditch went to about a dollar to a dollar ten a foot, and it just breaks the bank. So, we went to herbicidal control of brush and woody vegetation. Like, for example, if you drive along Morgan Avenue east of Green River Road, you'll look over there and you'll see that our ditch has grass or what someone might refer to as weeds that are four, five, six feet tall at times. That's not undesirable in as far as moving water, it may not be desirable at times from an aesthetic point of view in front of a commercial piece of property. So, yes, we get calls and you will get calls asking to mow that. Occasionally we do, we have money in our, or we have specifications that allow us to spend money as we have it for what I refer to as cosmetic mowings, and we do that. One particular spot where we do that frequently is on Burkhardt Road between Lincoln Avenue and the Greatland Target shopping center where the residents of the condos there deserve to have a nice looking lawn. When the Johnson grass gets too tall, I consider it a noxious weed and we remove it. So, that's that. Other than that, when you drive around, if you don't see trees growing out of the ditch, or if you don't see brambles and brush clogging the ditch, we've done our job. Okay, that's my report, and we have the specifications here available, if anyone would like to see them.

2011 Notice to Bidders for Annual Ditch Maintenance

I have a notice to bidders that I would like you to approve and affix your signatures to. It asks that the bids be advertised twice between now and March 22nd. That the bids be received by the Auditor on March 22nd and brought to you to be opened at your meeting of that date, and that within ten days of opening those bids we will come back to you and ask you to award bids to the lowest, responsive and responsible bidder. So, I would ask you to approve that at this time.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: Any further discussion? Anybody in the audience? All in favor say aye.

All Commissioners: Aye.

President Melcher: Opposed?

(Motion approved 3-0)

President Melcher: Thank you.

Big Creek Drainage Association Annual Meeting

Bill Jeffers: Eldon Maasberg's back with us this evening. He's not dressed in his suit, because he hasn't been to Indianapolis today, but he is my friend and he is here. He's the President of the Big Creek Drainage Association, and we would like

to remind you, once again, that they are having their annual banquet at Hornville Tavern, Monday, March 7th, a week from last night, 6:30 p.m. for the social half hour, and at 7:00 they will have dinner and a presentation. It's always a good time, there's always good food there, and you'll have a chance to meet the folks from the agricultural community that work to keep the ditches clean in their area and work to feed you and be good stewards of the land.

Surveyor's Response to Home Dept Letter: Obstructed Detention Basin

Bill Jeffers: I do have a response that's a summary response that I made to the lawyer for Home Depot regarding the beaver situation in that pond out there, but I would like to emphasize that Home Depot only owns about half of that detention basin. The other half of the water surface is owned by the corporation that manages the cinemas out there, and they're responsible for beaver control as well. Then, there's three other properties, and I should say that one of them is Fifth Third in case there is an issue there, but the other one is the person who's lodging the complaint himself owns a piece of the embankment, and the land corporation that manages Hacienda owns a piece of the embankment. All five of those entities are responsible for maintaining that detention basin, but only two of them own any water surface. So, this is, and they have done, I would like to say they have gone out there and tried to trap the beavers one time, and there were some pictures we had last week if the fella had shown up to show that the beavers are operating all the way up at the top of the bank, in the landscaped areas chewing trees down that were planted as ornamental trees. So, it is a problem. Here is the response that I sent by e-mail to the lawyer for Home Depot. I believe maybe last year, or last week someone asked me to also contact the other owners, I have not done that yet, but I will send them the same.

Madelyn Grayson: Bill, may I have a copy of that for the record?

Bill Jeffers: Yes, Ma'am. That's all I have this evening.

President Melcher: Do we need a motion on you sending those letters?

Bill Jeffers: No, you told me to do it, I believe.

President Melcher: Okay.

Bill Jeffers: Whether you have a motion or not, I will get with Madelyn and we'll notify those folks.

President Melcher: Okay.

Public Comment

Bill Jeffers: I do have some extra agendas, if these are students in the back who still need agendas for Drainage Board. Other than that, I have nothing more to say.

President Melcher: Okay, is there any public comment this evening? Seeing none, I will entertain a motion to adjourn.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: We're adjourned.

(The meeting was adjourned at 5:50 p.m.)

Those in Attendance:

Stephen Melcher

Bill Jeffers

Others Unidentified

Lloyd Winnecke

Ted C. Ziemer, Jr.

Members of Media

Marsha Abell

Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
MARCH 22, 2011**

The Vanderburgh County Drainage Board met in session this 22nd day of March, 2011 at 5:50 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and start the Drainage Board meeting of Vanderburgh County.

Approval of the March 1, 2011 Drainage Board Meeting Minutes

President Melcher: We need a motion for the minutes.

Commissioner Winnecke: Motion to approve the minutes as presented.

President Melcher: I'll second it. All in favor say aye.

Commissioner Winnecke: Aye.

President Melcher: Aye.

(Motion approved 2-0).

President Melcher: It passes.

Permission to Open 2011 Annual Ditch Maintenance Bids

President Melcher: Bill?

Bill Jeffers: Your main order of business tonight will be to open the bids for our annual maintenance. Those bids were received by today at noon, and they are on your desk over here. The two young ladies are going to open them, while we proceed with other business.

President Melcher: Okay, we need a motion to open the bids.

Commissioner Winnecke: So moved.

President Melcher: I'll second it. All in favor say aye.

Commissioner Winnecke: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: Go ahead and open the bids. Bill?

Approval of Ditch Maintenance Claims

Bill Jeffers: I have a small folder full of blue claims for the work that's been completed to date by our various contractors. All of them have the inspection reports attached indicating that they've been inspected and found adequate to meet the terms of the specifications. It's the Surveyor's recommendation to approve these blue claims.

Commissioner Winnecke: So moved.

President Melcher: Second. All in favor say aye.

Commissioner Winnecke: Aye.

President Melcher: Aye. Opposed?

(Motion approved 2-0)

President Melcher: It passes.

Other Business:

Potential Additional Floodplain Study: Hirsch/Crawford Brandeis Ditches
Potential Grant Applications: Walking Paths: South of Morgan Avenue

Bill Jeffers: While they're opening the bids, I'll just ramble on a little bit. Give Madelyn Grayson—

Madelyn Grayson: We could recess.

Bill Jeffers: —something to type out.

Commissioner Winnecke: Oh, man, Bill.

Madelyn Grayson: I've got the reorganization meeting to still do.

Commissioner Winnecke: He's not going to talk about that, surely.

Bill Jeffers: There may be long pauses so that I can consider very closely what I'm going to say to minimize the words. On East Side Urban, which has about eight miles of drains, no, about 12 miles of drain in the city, now that the annexation is complete it might have even more, and maybe six or eight are still in the county. No, they annexed part of that too, so, maybe three are still in the county, a total of 20 miles of regulated drain, drains the commercial five or so square miles of eastern Evansville, and you recently approved the, FEMA's new rules and regulations, and they're going to ask you to approve the floodplain maps. We've done quite a lot of work out there, and you can refer to the minutes of your special meeting of last week for my comments regarding that, rather than go into it in great detail here, but we have done quite a bit of work, and it may be appropriate for us to re-examine some specific areas of that drain, along Morgan Avenue, to see what effect that work has had to lower the floodplain even greater, to a greater extent. That would save a lot of money in insurance premiums, it would save a lot of money in importing soil to build up building pads to the extra two, two and a half feet that FEMA would have us build them up to with their new floodplain maps. Therefore it might stimulate more

economic growth in that area, which is still largely vacant, east of Burkhardt Road. One of those waterways is Hirsch Ditch and Crawford Brandeis Ditch, and part of that used to be, and Kelly Ditch, and part of those ditches used to comprise the Wabash and Eerie Canal. So, it's an historic waterway, and the railroad has also been working with us to remove some of what we've identified as obstructing pipes, undersized, old crossings, railroad spurs that are no longer used. They have removed one of those, and, as I said last week, INDOT made some improvements at Green River Road that may help that pipe convey more water. So, there is the opportunity to restudy, or more extensively study that waterway and possibly reduce the floodplain to a greater extent. We have a contractor that's done that, is currently under contract, and we've extended his contract once before, and I would just ask the Drainage Board to consider looking at that. I'm not making a recommendation at this time, but just consider with me looking at some renewed floodplain study of that waterway, specifically Hirsch Ditch and Crawford Brandeis Ditch, and act on that in the future. Another benefit that would come from it, is your County Engineer, John Stoll, is planning to rebuild the bridge on Old Boonville Highway in front of the Eagles Country Club facility, and that bridge sits down in the floodway and blocks water during high water events. I believe when John Stoll is finished, he and Valerie Harry, designing that bridge and constructing a new bridge there, that will significantly improve waterflow from the same area, commercial area, north into Pigeon Creek. So, I would suggest to you also considering letting our contractor use our funds, and we currently have \$154,381 in that account, and we'll probably not spend half of that this year for other projects in that watershed. So, there may be some money available for us to extend our floodplain and floodway study up Crawford Brandeis Ditch at least to Boonville Highway, thereby relieving your General Fund of that responsibility. I've talked briefly to Commissioner Winnecke about this, and I'm presenting it as our idea, his idea, to study the appropriate, or just to consider the appropriateness of it, because I believe it's appropriate. I indicated to him, I think it's totally appropriate to use county drainage funds on this regulated drain to determine the floodway in that drain. We've done it already. This would assist the bridge building department, and not get into their funds, which you could then use on another bridge. To do, you know, in other words, we do the waterway study, they build the bridges. Save the money, build more bridges. Okay.

Commissioner Abell: Like the idea.

Bill Jeffers: So, that's just an idea for us to toss around between ourselves and John Stoll and see how that works out. Like I say, we have a contractor, an engineering firm under contract, and we would just need to talk with our attorney to see if extending that contract on up the ditch another, I think it's about three quarters of a mile, would be appropriate.

Commissioner Winnecke: Bill, what did you say the balance was in that fund?

Bill Jeffers: Right now our balance in East Side Urban, the current balance is \$154,381.23. One fifty four thousand, three hundred eight one and twenty three cents. Our assessment for 2011 looks like it should be \$71,570 give or take. \$71,570, more or less, and that's because of the recent annexation, that assessment is due from the city. This benefits them as well. It benefits their recently annexed areas, the two areas they annexed, it would make their areas more attractive for commercial development. It is our responsibility to maintain those regulated drains. There's some other ideas that we might want to consider in conjunction with that. Did you want to say anything about that, Commissioner Winnecke?

Commissioner Winnecke: Other than I do think we ought to act on that this spring. I mean, I think that's something that, I mean, you've laid out, it would be repetitive to lay it all out again, but I think there's great merit to it, and I would like to personally see it come back with a formal recommendation to...so we could act on it this spring.

Bill Jeffers: Right, I wasn't prepared to make a formal recommendation, because I wanted to do it with a Power Point so you can see where I'm talking about—

Commissioner Winnecke: Sure.

Bill Jeffers: —and what I'm talking about.

Commissioner Winnecke: No, I understand that, yeah.

Bill Jeffers: I think we had also discussed briefly that, Mr. Winnecke and I discussed briefly, that there may be a possibility, and for the other two Commissioners to think about it, that what we do here locally with this money, which we can only use for drainage purposes and water quality purposes, this money that I'm talking about that I recited that we have on account and coming into account, we can only use that to convey water, to maintain our ditches, to improve water quality, that type of thing. That would include enhancing natural habitat within the channel and immediately adjacent in the overbank area. We could do that as well. That would be under water quality, but there may come a time when a ditch such as used to be the Wabash and Eerie Canal would become so attractive to look at for its wildlife habitat, let's say. I remember when I first came to work here in 1981 there were storks and cranes and wading birds in there, before all of the commercial development took place. I still see fish, and I'm not talking about trash fish, there's also game fish occasionally. I see them in there spawning. I've seen shell fish in there, so it's still viable from the point of view of wildlife habitat, and you'll note, Mr. Winnecke and I discussed this briefly, that that canal connects Wesselman Woods, all the way out to Chandler, Indiana. It runs along the railroad track all the way to Chandler before it turns north into Pigeon Creek. It meets up with Pigeon Creek way back up there in Campbell Township or Ohio Township somewhere, north of Chandler. So, there may come a time when the city would like to see the greenway or the walking paths extended from Wesselman's Woods eastward. I'm proposing, possibly, we consider doing that along that canal, at least out to say Burkhardt Road to our commercial area out there, look into the possibility that the money we spend for our purposes might attract state or federal money for recreational or walking, riding, horse riding, whatever type of path, pathways are available, such as you guys are doing out there between USI and Burdette Park. Just something to think about. I think there's probably some money out there that we could attract to do that type of thing.

Commissioner Abell: That would be along the south side of Morgan Avenue?

Bill Jeffers: It would be on the south side of Morgan Avenue, yes, and it would be on the south side of that open ditch would be the only available walking area. Currently we have about, everywhere you look out there we have at least 20-25 feet of grass area alongside that ditch, but that's for us to access for maintenance purposes. We would have to go in there and ask each property owner to give us an ingress/egress easement the way that the Parks Department did along Pigeon Creek, and then seek some sort of funding from outside of our funds. Our funds could act as matching funds, I'm thinking, to show local involvement and then attract some state or federal funds for walking paths, etcetera. So, I wanted to bring you up to date with what Mr. Winnecke and I had talked about in that regard. That's pretty much the size

of our discussion, that we thought it might be a good idea for both our purposes, as the County Drainage Board maintaining the ditch, and the city's purposes of improving walking access for their citizens. Historic markers came to mind, since it's the old Wabash-Eerie Canal, that type of thing.

Commissioner Winnecke: Certainly a lot of potential benefits.

Commissioner Abell: That would be nice.

Commissioner Winnecke: Yeah, it would be.

Bill Jeffers: A dream, I admit, but something to consider. Do you all have any questions about any of the projects we actually plan to do this year? It's basically the same as, our specifications are basically the same as previous years, other than to identify a couple of problem spots that we've asked for additional maintenance on. Then there's always the beavers, but whatcha gonna do?

Commissioner Winnecke: You took the words out of my mouth. What are you going to do?

Bill Jeffers: I just don't know what to do, I mean, you know, you remove them and new ones move in. But, the Levee Authority, Commissioner Abell and myself and a couple of other people, including Jay Perry from the Levee Authority took a trip on Pigeon Creek, and Jay is very concerned about the beavers in Eagle Slough and Aiken Ditch that have placed lodges and beaver dams right outside the levee gate post stations.

Commissioner Winnecke: It's too bad you couldn't have the flattering photograph of yourself in the paper as Commissioner Abell had of her, on the aforementioned canoe trip.

President Melcher: I kept looking and I didn't see it.

Bill Jeffers: We tried to get the other two to come with us so we could get some more flattering photographs.

Commissioner Abell: Actually, I'm just glad he didn't take a picture of my back side like he did of Mr. Perry.

Bill Jeffers: But, anyhow, I would like to say most of what I've said about Eastside Urban, other than the important things, how much money we have and what we expect to do, you may want to make a motion to paraphrase or condense my comments to, if you want to do that, so that she can type that reorganization committee before the 30th.

Commissioner Winnecke: I think they're about ready here.

President Melcher: Yes. I do think we ought to go ahead and proceed on that other, though, you talked about first about looking into enhancing, because we've got the money to do it. I think I agree with the other two Commissioners. You said you was going to have get with the attorney to see if we could do the contract extension?

Bill Jeffers: To make sure, you know, if we can extend an existing contract one more time, or whether you guys want to take new proposals. I'm very satisfied with the contractor we have, has done an excellent job for us.

President Melcher: I mean, why don't you just check with Ted on that.

Bill Jeffers: Okay, and I'll come back, and I would like to give you guys a Power Point on what I'm talking about, so that you know where we're talking, you know. I know you know where the bridge is, and I know you know where the canal is, but there's some specific points on there.

President Melcher: I guess we're ready to read in for the record? Go ahead.

Reading of Bids for 2011 Annual Ditch Maintenance
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Kathryn Schymik: Bear with me through this.

President Melcher: We'll bear with you.

Kathryn Schymik: Okay. The bids have all been opened now. We'll go through them with the bidder, the ditch that the service will be performed on and the amount of the bid. 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; John Maurer, Baehl Ditch, \$861.25; John Maurer, Hoefling Ditch, \$557.10; Union Township Ditch Association, for Cypress Dale Maddox, \$774.05; Union Township Ditch Association, Helfrich-Happe Ditch, \$571.41; Union Township Ditch Association, Barnett Ditch, \$274.32; Union Township Ditch Association, Edmond Ditch, \$453.38; Union Township Ditch Association, Kamp Ditch, \$502.20; Eldon Maasberg, Baehl Ditch, \$1,102.40; Eldon Maasberg, Kneer Ditch, \$410.40; Eldon Maasberg, Maasberg Ditch, \$220.60; Eldon Maasberg, Wallenmeyer Ditch, \$1,253.25; Big Creek Drainage Association, Maidlow Ditch, \$14,964.07; Big Creek Drainage Association, Buente Upper Big Creek, \$4,039; Big Creek Drainage Association, Barr Creek, \$4,261.53; Big Creek Drainage Association, Pond Flat, \$5,527.80; Big Creek Drainage Association, Rexing Ditch, \$2,051.52; Sheidler Spray Service, dormant spraying, for Aiken, \$376; Sheidler for Barnett, \$271.44; Sheidler Spray Service for Cypress dormant spraying for Cypress Dale Maddox, \$735.46; Sheidler Spray Service, dormant spraying for Eagle Slough, four hundred, \$5,470.20; Sheidler Spray Service, dormant spraying Eastside Urban south half, \$2,617.65; Sheidler Spray Service, dormant spraying for Edmond, \$585.20; Sheidler Spray Service, dormant spraying, Henry, \$349.69; Sheidler Spray Service, dormant spraying, Keil, \$283.13; Sheidler Spray Service, dormant spraying for Sonntag Stevens, \$621.45; Sheidler Spray Service for broadleaf and brush, Aiken Ditch, \$931.63; Sheidler Spray Service, broadleaf and brush for Barnett Ditch, \$271.44; Sheidler Spray Service, broadleaf and brush, Cypress Dale Maddox, \$735.46; Sheidler Spray Service, broadleaf and brush, Eagle Slough, \$4,806.40; Sheidler Spray Service, broadleaf and brush, Eastside Urban north half, \$1,985.94; Sheidler Spray Service, broadleaf and brush, Eastside Urban south half, \$2,675.82; Sheidler Spray Service, broadleaf and brush, Edmond, \$585.20; Sheidler Spray Service, broadleaf and brush for Harper, \$265.50; Sheidler Spray Service, broadleaf and brush for Keil, \$283.13; Sheidler Spray Service, broadleaf and brush, Kolb, \$402.75; Sheidler Spray Service, broadleaf and brush for Sonntag Stevens, \$621.45; Sheidler Spray Service, sterilization ditch bottoms, Eastside Urban south half, \$1,878.41; Sheidler Spray Service, sterilization ditch bottoms for Harper, \$236; Sheidler Spray Service,

sterilization ditch bottoms, Kolb, \$375.90; Sheidler Spray Service, sterilization ditch bottoms, Sonntag Stevens, \$552.40; JBI Construction, Hirsch Ditch partial reconstruction, \$49,563.55; Mark Naas, Aiken mowing, \$4,020; Mark Naas, Eastside Urban south half, Crawford Brandeis and Bonnie View extension late spring and fall mowing, \$915.50; Mark Naas, Eastside Urban south half, Stockfleth mid summer mowing, \$1,072.50; Mark Naas, Harper mowing, \$4,720; Mark Naas, Kolb, section B mid summer and fall mowing, \$2,762.50; Mark Naas, Kolb, section A fall mowing, \$1,504; Mark Naas, Sonntag Stevens, mowing late spring, \$2,464; Mark Naas, Sonntag Stevens, fall mowing, \$8,456.95; Mark Naas, Hirsch Ditch partial reconstruction, \$36,500; Vieira Brothers, Inc., Hirsch Ditch partial reconstruction, \$39,973.95; McCullough Land Improvements, Sonntag Stevens mowing, \$2,464; McCullough Land Improvements, Kolb Ditch mowing per month–

Linda Freeman: Per mow.

Kathryn Schymik: –oh, per mow. That’s okay, \$1,360; McCullough Land Improvements, Harper Ditch mowing, \$2,360; McCullough Land Improvements, Stockfleth Ditch mowing, \$1,039.50; McCullough Land Improvements, Aiken Ditch mowing, \$3,960; McCullough Land Improvements, Sonntag Stevens fall mowing, \$8,456.95; McCullough Land Improvements, Kolb, section A fall mowing, \$1,480.50; McCullough Land Improvements, Bonnie View extension and Crawford Brandeis Ditch mowing, \$884.50; and Deig Brothers, Hirsch Ditch partial reconstruction, \$60,377.

President Melcher: Thank you. That was a good job, you didn’t even stop. So, we need a motion to take these bids under advisement.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Other Business: National Surveyor’s Week

President Melcher: Bill, do you have anything else for this evening?

Bill Jeffers: No, sir.

President Melcher: I understand, I got an e-mail from a company saying this is Happy National Surveyors Week. Do you know about that?

Bill Jeffers: I’ll be happy Saturday night–

President Melcher: It says–

Bill Jeffers: –after my daughter is married. I will show a happy face.

President Melcher: Okay, but right now, you're supposed to be starting it on the 20th and it goes through the 26th.

Bill Jeffers: The 26th is the day.

President Melcher: There it is.

Bill Jeffers: At 5:00 p.m, at 5:30 I will be one of the happiest men alive.

Commissioner Abell: Or one of the brokest.

President Melcher: Be happy.

Bill Jeffers: And, yes.

Commissioner Winnecke: Best wishes.

Bill Jeffers: Oh, as a public service announcement, well, as a disclaimer I will say my wife did all of the planning, but, so, it's really no skin off of my back, but I would advise any parents of the bride to hire a wedding planner.

President Melcher: We probably should adjourn the meeting.

Bill Jeffers: It will save your marriage. It will save medical bills.

Commissioner Abell: The wedding planner association appreciates your comments.

Bill Jeffers: Yes.

President Melcher: Okay, with that—

Commissioner Winnecke: Motion to adjourn.

President Melcher: I was going to say, without further ado, before he gets in trouble more, is there a second?

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: We're adjourned.

(The meeting was adjourned at 6:15 p.m.)

Those in Attendance:

Stephen Melcher

Bill Jeffers

Linda Freeman

Lloyd Winnecke

Kathryn Schymik

Others Unidentified

Marsha Abell

Madelyn Grayson

Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
MARCH 29, 2011**

The Vanderburgh County Drainage Board met in session this 29th day of March, 2011 at 5:18 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and start the Drainage Board meeting. It's Tuesday, March 29, 2011. It's about eighteen after five.

Approval of the March 22, 2011 Drainage Board Meeting Minutes

President Melcher: I need a motion to approve the minutes of the last meeting.

Commissioner Winnecke: So moved.

President Melcher: Second. All in favor say aye.

Commissioner Winnecke: Aye.

President Melcher: Aye.

(Motion approved 2-0)

Bid Award Recommendation for 2011 Regulated Drain Maintenance

President Melcher: So, you want to recommend the bid awards this evening?

Linda Freeman: Yes, sir. The Vanderburgh County Surveyor's Office has given you all a spreadsheet with the lowest, best, most responsive bidder. Just for your information we did have a tie on some of the bids, and we awarded those ties to a previous known bidder versus a new guy. But, the new guy will be doing some of the work, so we'll be able to kind of, you know, see how he does.

Commissioner Winnecke: Do we need to read these into the record, individually?

Linda Freeman: They were read into the record, and, typically, no. What we usually do is just we give Madelyn the information—

Commissioner Winnecke: We accept them?

Linda Freeman: —and then what we'll do is, if you give Madelyn permission, because there will be a stack of contracts. I'll get those mailed out to the contractors, they will get them mailed back to me, in the next couple of months, and then I can give them to Madelyn, and, if she's got your permission, she can just stamp them in and keep them in her records for the contracts.

Commissioner Winnecke: I'll make a motion that we accept the bid recommendations as presented by the Surveyor's office.

President Melcher: I'll second that. Any further discussion? Anybody in the audience? All in favor say aye.

Commissioner Winnecke: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: It passes.

**Accept Petition to Remove Obstruction: Lewis E. & Wilma J. McCoy
Set Hearing Date for Petition: May 24, 2011**

President Melcher: Next we have the accept the petition to remove an obstruction from natural surface watercourse from Lewis E. and Wilma J. McCoy, Sr. Is this the one you e-mailed us on?

Linda Freeman: This is the obstruction petition, not the drainage easement encroachment thing.

President Melcher: Okay.

Linda Freeman: So, this is a little different. This is where they file the \$100, and then you give us the petition, and we can set a hearing date that's no sooner than 30 days from today, no later than 90 days, which I've given you some dates.

President Melcher: Well, that's the one I was talking about.

Linda Freeman: Oh, okay, I'm sorry.

President Melcher: So, it has to be 30 days, so you put the 10th, that actually is our next meeting after the 30 days.

Linda Freeman: Right, but what we have to do is, once you give us the petition and we accept it, then that gives us kind of a warrant to go out on the property and look at, and draw up a report. So, May the 10th would be the soonest it could be. So, I'm thinking maybe—

Commissioner Winnecke: For the purposes of today's exercise, we are accepting the petition—

President Melcher: Right.

Commissioner Winnecke: —which gives your office the right to go out and take the next step?

Linda Freeman: Right.

President Melcher: Yeah, because that would be about 40 something days from now.

Linda Freeman: Right, and we need to set a hearing date then too.

President Melcher: So.--

Commissioner Winnecke: I would make a motion to accept the petition as presented and to set a hearing date....do you want to set it for the 10th?

Linda Freeman: Is the 10th too soon, Bill, or do you want to go for the 24th?

Bill Jeffers: You might want to set a date that doesn't coincide with zonings.

Linda Freeman: So, May the 24th?

Bill Jeffers: These usually take an hour or so.

Commissioner Winnecke: Okay.

Linda Freeman: Yeah, because you'll have testimony from both parties.

Commissioner Winnecke: Then, to set the hearing date for May 24th.

Linda Freeman: Okay.

President Melcher: I'll second that motion. Any further discussion? All in favor say aye.

Commissioner Winnecke: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: Thank you. Then we need to set...we just did that, set the hearing date for the above petition for May 10th.

Commissioner Winnecke: May the 24th.

Linda Freeman: May the 24th.

President Melcher: The 24th.

Other Business

President Melcher: Okay, is there any other business you have?

Linda Freeman: Not that I'm aware of.

Public Comment

Linda Freeman: I don't know if anyone in the audience—

President Melcher: Is there any claims or anything?

Linda Freeman: No claims today.

Commissioner Winnecke: I would make a motion to adjourn.

President Melcher: I'll second it. All in favor say aye.

Commissioner Winnecke: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: We're adjourned.

(The meeting was adjourned at 5:22 p.m.)

Those in Attendance:

Stephen Melcher

Bill Jeffers

Others Unidentified

Lloyd Winnecke

Kathryn Schymik

Members of Media

Linda Freeman

Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
APRIL 12, 2011**

The Vanderburgh County Drainage Board met in session this 12th day of April, 2011 at 5:59 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll go ahead and start the Vanderburgh County Drainage Board. It's Tuesday, April 12, 2011. It looks like it's 5:59.

Approval of the March 29, 2011 Drainage Board Meeting Minutes

President Melcher: Bill?

Bill Jeffers: Good evening. Does anyone need a copy of the agenda?

President Melcher: No.

Bill Jeffers: I believe your staff provided you one. Approval of the minutes from the previous meeting.

President Melcher: So, is there an approval?

Commissioner Winnecke: So moved.

President Melcher: Is there a second?

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: It passes.

LEED-Sheffer Subdivision: Preliminary Drainage Plan

Bill Jeffers: The first piece of business is the LEED-Sheffer Subdivision drainage plan. This is a preliminary drainage plan. It's a five lot major subdivision at Kansas Road and State Road 57. As you can see it's in the northwest corner of that intersection, adjacent to Stonecreek Subdivision. It's a commercial development. It includes on lot one an existing facility, Elite Fitness Center, and, I believe it proposes or contemplates to have a convenience store on lot two. The other three lots, I don't believe have any prospects at the time. As I said, it's a preliminary drainage plan, approval of the plan allows the plat to advance to Area Plan Commission day after tomorrow. As a preliminary plan there are details to be fine tuned. All preliminary plans are conceptual to a degree and require minor modifications as they move through the process. The basic requirement of a preliminary plan is that it be a workable plan to adequately collect and orderly convey storm water to the receiving storm water system. In this case Furlick Creek, which

runs through Stonecreek. Over here you see the wooded waterway, that is Furlick Creek passing under Kansas Road, and then on to the south through open ground. Also, there always are details added to a drainage plan to address erosion control, sediment control, and post construction control of pollution specific to the intended land use. Those details will appear in the storm water pollution plan submitted to the County Engineer, as the MS4 Operator, and then those details will be incorporated into the final drainage plan going to the Surveyor's Office and then coming back to you, the Drainage Board, at a later date. The final drainage plans come back to the Drainage Board following the Area Plan Commission hearing, which is Thursday. That's because it gives us a chance to address unforeseen issues that might crop up from public comments at this hearing, or at the Area Plan Commission hearing Thursday. Okay, the next issue is the drainage code allows this Board to waive the requirement for storm water detention when a project is in close proximity to the receiving stream and will release the excess storm water flow well ahead of the peak surge from the rest of the watershed. We've done this before, and this is what I'm recommending be done for this project, to waive the requirement for detention of approximately 15 cubic feet per second peak runoff from these five lots you see on your screen, and allow that peak discharge to enter Furlick Creek, down here along Kansas Road, well ahead of the maximum surge of water that arrives at the same point of discharge, which is right here where it says Kansas, 30 to 60 minutes later. What I'm saying, basically, is that all of the surplus runoff from this site will be in the creek and well downstream of Kansas Road long before the rush of headwater from the upper ends of the watershed arrives at Kansas Road 30 to 60 minutes later. Alternately, the LEED-Sheffer Development could discharge this excess runoff into this existing detention basin behind the fitness center. They could simply pipe, it would take about a, I believe we calculated a 24 inch pipe would take that 15 cubic feet per second into this detention basin, that would be an alternate plan. The developer owns a small portion of the adjoining detention basin. We were in a hurry to draw these lines, this line, as you can see it kind of shifted over on us today, but he owns this sliver of the detention basin immediately behind the Elite Fitness Center, and in that small part of the lake there's about 29,000 cubic feet of available storage space for storm water generated by this five lot project. In fact, if all of the surplus from those five lots were put into the detention basin it would only use up 17,000 cubic feet of the available 29,000 cubic feet of surplus storage that exists, storage capacity. However, the Stonecreek Homeowners Association owns and maintains the biggest part of the detention basin, other than this sliver down here they own all of the rest of it, and they're concerned, and they maintain it, and they're concerned about the commercial site runoff that might enter their lake, what pollution constituents might be carried into the lake from a fueling station, for example. Now, both State and local agencies regulate post construction pollution in storm water runoff from new commercial developments, and in this case that would be handled locally by the County Engineer's office, because they are the MS4 operator. As I said earlier, those plans will come to him and then they'll be incorporated into the final drainage plan. But, again, to take advantage of the close proximity of this project to the receiving stream, Furlick Creek, the County Surveyor is recommending that the Board waive the requirement for detention, and approve the preliminary plan, as submitted, for LEED-Sheffer Subdivision. The plan designer, Justin Shofstall, is here from Easley Engineering, if there are any questions for him. I think there are probably some neighbors in the audience who would wish to make comments.

President Melcher: Bill, does that mean if it goes into the creek it won't be going into the lake at all?

Bill Jeffers: No, sir, that's correct. It will, all the water will be captured up, off site water will be captured up here on the east side of the Old Seib Road bed, and it will be directed around, all the way around and then down into the creek. That's the existing off site water that they don't have to detain in the first place. The water that comes down the east, the west side of the Old Seib Road bed, generally comes out of Stonecreek Subdivision's back yards, that will continue to be carried through the side road ditch and then picked up by a new channel and routed down and around the project, through the project and off site. What I'm talking about is the detention requirement for lot two, three, four, five and part of one, it's all combined together, all the water that falls on that ground will be gathered up in such a way that it will be conveyed to the point of discharge, which is right here at the New Seib Road, within five minutes. All this will be readily and quickly gathered up and conveyed to that point and discharged through an existing 54 inch pipe, off into the creek in about five to six minutes. The rest of that watershed above there takes anywhere from 30 to 60 minutes to get its water to that same point. So, this excess water will be in the creek, down through Furlick Creek, under 57, past the plastic plant, well on its way to Millersburg Road before all the rest of that flood water arrives. I think that's a more efficient way to handle this, and I hope that answered your question.

President Melcher: Yes.

Commissioner Abell: Mr. Jeffers?

Bill Jeffers: Yes, Ma'am?

Commissioner Abell: I did receive some phone calls on this. Is this a better plan for the residents of Stonecreek?

Bill Jeffers: I believe it's a better plan than the one that was submitted last week. I met with the developer and with Justin Shofstall at the end of last week, and we discussed alternatives that we thought would improve the plan that you may have received comments on. I'm anticipating that the comments that you received had to do with the water being sent to the detention basin, that was the concern that possibly was expressed by the callers. That's the comments I got. So, we came up with this alternative, which I do think is better, yes. So, that's why I'm making the recommendation. I think it's a better plan. As I said though, you may want to take comments directly from the neighbors.

President Melcher: We will. Is there anybody here to speak on this. Go ahead and just come up one a time, and state your name please. We record everything.

Bill Jeffers: Do you need a pointer?

Steve Hess: I would love to have a pointer. Ted, Steve, Lloyd, Marsha, and Madelyn. I'm Steve Hess and I'm President, Treasurer and Legal Agent of Stonecreek Homeowners Association. I have received certified notice, I had seen a sign up in the front of this wonderful investment, this community that I had invested in April 14, 2003 as a quiet, quaint, away from the chaos of the city, in a subdivision that was representing, it mimicked more of a quiet setting, a country setting. We have ducks, geese, this....is there a little button here on the side? Oh, go the other way? I've got it there. This is what they're calling a retention path pond, and, actually this retention pond is a lake, one of five lakes that Jagoe had constructed in this entire community of 320 homes. I apologize, most of these residents could not arrive today because of other family commitments. My representation here today is, I had

this ditch, with Mike Wathen, dug out over a year ago, and this was a major flooding issue at this time with these residents across from me. What's going on here is one of our concerns. The water and New Seib Road construction is lower than it's needing to path of travel of drainage on this side. I have pictures, ironically, does anyone know how much rain we received yesterday? It was a slow, steady rain throughout most of the day, probably two inches total. The pictures I will present here in a second are of this, the concerns of drainage on both sides. If I mentioned a minute ago, this 320 body of homes, we pay assessments and collect assessment dues each year on this lake, this lake, this lake and this one. We pay property taxes, I have the parcels in my attache case over here, that we have fish, we stock fish, it's a private, non-solicitation, it's a private pond. Our concerns are, I'm in transportation with Toyota, I deal with motors and engines daily, I have this concern of motor oil from a gas station that has rain water, such as yesterday, polluting our lake that we invested, we pay taxes on. I also believe, for the record, that if Mr. Sheffer owns some of this property of this lake that we share with him, that there needs to be some assessment taxes paid on his behalf. However, that would be a different subject with him later. Our concerns as a community is this, if we control this drainage, and flow it away from our property that we pay for, and prevent any type of pollution from this new proposed development, we have no major issues, unless I have other residents in this meeting today that can handle this. But, I am not too excited about seeing a commercial gas station coming in and approaching my community I bought eight years ago. I am more concerned about the flooding in such of a rain as yesterday that we had. If you will, I apologize, it's raining, I have no idea how to present these other than to bring them up to you, if I may.

President Melcher: You can.

Steve Hess: This was taken at 3:48 p.m. yesterday.

Madelyn Grayson: Steve, we need to make sure that we get your comments on the microphone.

Steve Hess: Okay. This was taken at 3:48 p.m. yesterday afternoon. This is the land just north of lots three, four and five, I believe, and, again, it was a steady rain throughout the day. So, this flow of water, that Bill Jeffers presented a minute ago, if that's true with the amount of water that this area is going to maintain, from what he just presented, I am assuming that all of this will be re-directed, instead of having this condition here, this is looking south, if you will, at this property that they've owned now, but he had presented that this is going to be directed away from our lake, which is over here, which is depicted here behind Elite Fitness. Elite Fitness Center is right here. This is our lake, they call that the retention pond, but this is our lake. So, if they can re-direct that water away from this body of water that we own, I have no issues, but this is why I'm here today, and I was certified on this concern, and we as a community want to protect our investments here and want to prevent any future flooding. The flood back in 2003, I did have a phone call with Bill Jeffers about a month ago, and he had recalled and reminded me of that 2003 flood that we had at this intersection, Kansas and 57. This again is yesterday's storm, mild, very slow rain, what's this going to present if we had a major rain, and this is our lake, again, over here to the west side of Old Seib Road, if you will, what's going to happen with this productive area and this new facility if we allow this to come in and allow them not to control our drainage?

Madelyn Grayson: May we have those pictures for the record?

Steve Hess: You may.

Madelyn Grayson: I've got a jumbo size filing cabinet.

Steve Hess: Yes, I apologize for the size, but, again, it's a visual. These will be, as I mentioned earlier, the ergonomics of the land, the latitude itself, this was what we had with what Jagoe corporation left us with in 2010. This was done March 29th, this is looking south, and Mike Wathen with the county came in, I appreciate their services, they came in as the taxpayers in our county's expense, I've been a taxpayer myself in Vanderburgh County for years. Marsha Abell met me back in 1993, and everyone knows me well that does know me, but they had this ditch dug out, and as you can see, it's more controlled today, as it was this was March, well, April 22, 2010, but this is more constructed, more clean cut to flow water when we have a heavy rain. With this new gas station, we have to have a guarantee here that they are going to control this water flow and keep it away from the residents, as well as keep it away from our lake. Okay, that's all I have to present today. Thank you.

Ted C. Ziemer, Jr.: Do you have extra copies of those photographs for yourself?

Steve Hess: I have them saved on my computer.

Ted C. Ziemer, Jr.: Okay, good. Okay, yeah.

President Melcher: Is there anybody else to speak?

Jimmy Guessfield: Ted, Stephen, Mr. President, Marsha, Madelyn. Steve did a real good job approaching you about the areas involved. The one thing that he didn't say, and I am the homeowner directly across the street on the corner. No, across the street from there, right there. Yesterday's rain, those two ponds behind me, the long slim one was up to the very top, and the one in my direct back yard really couldn't take much more drainage. The one thing that he did say that we are all concerned with is the petroleum drainage, because I spend a lot of money annually for the pond that's directly behind my house for stocking it with fish and keeping it well groomed, and have real concern about that drainage. I didn't take a picture, but both of those ponds were very, very high with a small rain yesterday. Three years ago when we had a major rain, both of those ponds covered the road, and it was one sheet of water, which came six feet away from going into my house. That was with a torrential rain that we had over a three day period, which we could eventually have again. So, those are my concerns as a homeowner in that neighborhood. Thank you.

Tom Zarazee: I'm Tom Zarazee. I've lived in the subdivision for nine years. I was the first house in the second division that they had. That big, green spot you see up there, that rain we had in 2003, it covered that pond, the one down there and the next one to it. I've got a dock on my pond, off my pond over there, and it's about this high, and actually the pond sits about six inches below the water line. When that rain came, it was over my dock. He talks about going into that creek over there, well, that's all, that couldn't handle it, because that water, and I even called the Engineer's Department on it when it happened. You know, I had pictures of it too where that creek was just coming over into that big, green lake up there. If they want to put that water down into Kansas, it can't handle it now, let alone adding more to it. Quite awhile ago there was a picture, I mean, Channel 14 News had, oh, where she had taken crews down Pigeon Creek and showed how dammed up it was with all of the debris and everything else. Well, all of this stuff runs into Pigeon Creek, now, if it keeps getting loaded up with that, it just keeps backing up into us. The gentleman

that talked before, I remember his yard barn was under water that year, before he moved in there, the other couple had it, and their yard barn was under water at least two or three inches, and it sits way up on a hill. Thank you.

President Melcher: Thank you. Anybody else? Go ahead.

Dave Cardiff: My name is Dave Cardiff. I own property just, let's see here, the other way, just north of here, right about in here. One of the things that's not depicted on this map is there is another lake right here, and our overflow, and correct me if I'm wrong, Steve, but, I believe the overflow from that lake comes to this lake, is that correct?

Steve Hess: That is correct.

Dave Cardiff: Now, recently we just had a backup issue where we had the county come out and they cleaned this drain for us, but our water when we, which is another drainage, all the drains in the neighborhood drain to these lakes. So, that water was backed up, we were pretty high, about six feet?

Justin Shofstall: Six feet over at that time.

Dave Cardiff: Well, that drains to this lake, so, any consideration to using this as a drainage should be considered. Now, to my understanding then this lake drains to this lake, and then so on and then out. That should be in consideration in this plan. Also, I just received from my mortgage company, this whole area is now the floodplain A. Do you have any information on that?

Justin Shofstall: It was in flood zone A prior to the March 17th maps. It was revised and still remains in flood zone A after the March 17th maps.

Dave Cardiff: Well, I guess, my big question would be is now I'm forced to buy flood insurance living on this, when that was a guarantee from Jagoe in the beginning, that would not be so. How will this impact our flooding problems, which have already been discussed by others, that this could create? I would really like that to be looked into before we rush and jump and give a permit, let's make sure we know where the water's going, and if there's enough space for that water to go to. That's all I have. Thank you.

President Melcher: Thank you. Go ahead.

Bob Wootton: Good evening, gentlemen and ladies. My name is Bob Wootton. I live at 9625 Clippinger Road, the house directly across from Elite there on the northwest corner, across, that one right there, yes. I've lived there since '05. In '07, they've already talked about the huge rainfall that we had, it was a downpour, it lasted several days. We were new and had never witnessed anything like that before. We had come from the eastside of Evansville, and whenever we were leaving that day, we looked to the west and those three lakes and the creek were all one. That whole thing, that whole area was just one huge lake. I couldn't believe it when I saw it. Jim's barn, his yard barn had about four feet of water in it, and, plus what the gentleman just previously talked about, all of these, out of the five ponds, retention ponds that are in our subdivision, they all drain into each other and then all into the creek. You talked about, Mr. Jeffers talked about all of the water that will come from this new development, preceding ours, well, if you have a 24 hour rain, or a three day rain, what difference is it going to make? It's all going to flood. We've talked

about the pollution in the lake. I fish, and we had a fish kill in that very pond, well, it was about two years ago. The man who does the treating of the lakes, over treated it, killed almost everything in it. You know, I was devastated because I seen bass, you know, six and seven pounds laying, floating around in that thing, and I thought this is terrible. Now, if I would experience that again from oil and runoff and gasoline from that station over there, I would be sick again. You know, I just, I think, Steve just pointed out about all of us, we lived on the eastside of Evansville, we moved to get away from the busyness of the city. We lived on Weinbach just south of Covert Avenue, the area was going downhill, we had an opportunity to move and we took this as a great chance to move into some suburban life. We love it there, but whenever we start seeing these things come along, plus across the street there's a sign over there now where there's going to be a Huck's, another gas station across Kansas on the other side of that road. I mean, we're looking at a mess in our subdivision. So, I would hope that the Commissioners would take a real serious look at this and think of the property owners involved in this thing and how it's going to affect our property. In the long run, if we intend to sell, that creek is nothing but a little ditch with a bunch of trees falling in it, just like Pigeon Creek is. Tom talked about Pigeon Creek being a mess, I mean, you see all kind of debris in that thing, when it backs up that has got to back up. It's, until, if they would clean that thing out, if the county or whoever would be responsible would clean that small ditch out, it may help drainage somewhat, but it can't handle water now. Mr. Jeffers stated earlier about how concrete can contribute to flooding problems. That's going to be a huge slab of concrete there. We've already got the corner occupied by concrete and there's going to be more of it. So, I would urge you to consider this and think about the homeowners and what we are facing. Thank you very much.

President Melcher: Thank you. Anybody else?

Bill Jeffers: Seeing no other, at this time, I just want to touch on a couple of issues that have been brought up, and then Justin Shofstall who designed the plan wishes to speak. Did we consider the interconnecting ponds? Yes, we did, because I reviewed the original plan for Stonecreek several years ago, in the 90's, and the designer of that plan did interconnect every pond in this subdivision. They're all interconnected, and they all either come down through the west end, there's a series of ponds along the west, there's a series of ponds in the interior that come down and connect to the detention lake behind Elite Fitness Center, and then there's an equalizing pipe that goes under Seib Road and connects to this lake, which is a detention lake. The only lake that's in this entire subdivision that does not serve as detention, is this long, narrow lake, which serves no detention whatsoever, because it's in the floodway. All it does, all it did was provide fill to give fill soil to build up these building pads, all of which are in the floodplain. They were in the floodplain when they were built. Each one of those homes was elevated out of the floodplain by acquiring soil out of this long basin, plus every one of these detention basins. That's why most of those detention basins originally were over excavated because they needed the fill to build the building pads to build the homes and Elite Fitness Center on, to raise them up out of the floodplain. So, yes, I did consider the interconnecting nature of all of these lakes. Now, when you consider the interconnecting structure of this system of detention basins, a pond creates a build up of volume of runoff from the contributing areas, and that has a time delay built into it, because it takes awhile for the water to fill that tank up. Just like it takes awhile for your bathtub to fill up. That time delay is built in to this system. That creates a time delay, and what we're trying to do by waiving detention, is to take all of this water, without any delay whatsoever and within five to six minutes, discharge it into the creek, ahead of the discharge from this series of lakes, all of which have

quite a substantial time delay before they begin discharging into the creek. So, yes, the interconnecting nature of the ponds was considered. Floodplain A, yes, this was all in floodplain A, it remains in floodplain A, however, each one of these homes should have a certificate of elevation on file that shows that it's been raised two feet above the floodplain elevation. So, they don't have to pay flood insurance, if they have that certificate of elevation on file. If they don't, they can get a certificate of elevation or a letter of map amendment to exempt themselves from floodplain, or flood insurance. Yes, in, I guess, most of you know I live out here, in a subdivision, two subdivisions to the south of here, and I have lived there since 2002. So, I witnessed, first hand, the flood in 2003 and in 2007, because I took my bicycle and I rode up there to watch what was happening, because I reviewed these plans and I knew I would be reviewing future plans. So, I watched it happen. Yes, it is true that all of these lakes along the creek, well, it looks like we don't have any battery, all of the lakes along the creek were one big lake. Why is that? Because all of those lakes are in or in close proximity to the floodway, not the floodplain, the actual floodway which is the limit of land on each side of the creek that's required to pass the 100 year flood. That was achieved in one or both of those storms. So, there are actually stakes in the ground out there that show people the line beyond which they cannot put a yard barn, they cannot put a dog pen, they cannot put a fence, because if they do so they are infringing upon the regulated floodway. Approximately 1,100 feet or so upstream of Kansas Road, two tributaries come together, and at that point there is one square mile of watershed draining into the creek above that point. That's called the point of study, and that's where DNR, Indiana Department of Natural Resources, that's where their jurisdiction takes over. It's up in the golf course about 1,000 feet above this road. At that point of study, there are 14,000 cubic feet per second of water coming down through that stream during the 100 year rain. 14,000 cubic feet of water. What I am recommending is that 15 cubic feet, one one thousandth of that amount be discharged early down here at Kansas Road. Now as to whether that creek can take that kind of a discharge when it's fully flooded, well, yeah it can still take it as long as there's enough head pressure to push it in there, but when you have a 24 hour rain as was brought up by the last speaker, a 24 hour rain event is still comprised of individual thunder cells passing through the area, one at a time, about every 28 minutes. Thunderstorms only last about 28 minutes, and there's usually a pause between them. Sometime during that 28 minute thunderstorm, that thunderstorm reaches its peak intensity, and that's the 15 cubic feet of discharge I'm talking about, that peak intensity that comes up in the middle of a 28 minute thunderstorm. It's being pushed out into the creek, and then the thunderstorm subsides and the rest of it comes down out of that one square mile above there. So, I believe my recommendation is sound. As far as cleaning out the creek, that creek is under the jurisdiction of the Indiana Department of Natural Resources, and any, and it's not owned by the county, it's not maintained by the county. It's owned by private property owners within this subdivision. In order to clean out a creek that's under the jurisdiction of DNR, you must have a permit. They tell you which trees you can cut out and which trees you can't. They tell you you can cut out trees on one side of the creek and you can't cut out trees on the other. You can't remove certain habitat in the creek, and believe it or not, they think of logjams as habitat. Okay, that's just the way it is. If they want to turn it into a regulated drain, that's a whole different story. I believe I've touched on most of the issues, but the big dog issue in all of this is they don't want any water going into their lake. I sat down with the developer and his engineer and came up with a plan that does not put any water in their lake. The first speaker said a lot of water comes down the Old Seib Road bed. Yes, I was out there and watched that water come up right to the edge of the pavement of Kansas Road, one of those two storms, it was either 2007 or 2003. That achieved the 100 year flood elevation, and that's been taken into

account. I mean, you couldn't see Seib Road, the pictures he showed you the ditches weren't even half full during the two inch rainstorm yesterday. They were flowing pretty good, but they weren't anywhere near what happened in the past. But the bottom line is, I went to the trouble of working with the developer to achieve a plan that does not put any runoff from these five, or from the four new lots into that lake. There already is some coming from Elite Fitness Center. I can't do anything about that, that's done. That was approved and implemented. But lots two, three, four and five, the water from those lots will bypass that lake, under this plan. As I said, I think Justin would like to say something about his design.

Justin Shofstall: Justin Shofstall with Easley Engineering. I just wanted to have a little bit of a brief expansion on what Bill had stated. I don't think I can give anything as brief and exacting and succinct as a hydrology lesson as he just gave. I'll begin as far as with the major points that were brought up by Mr. Hess, the President of the Homeowners Association, and the other adjacent property owners can be summed up essentially in three items. One, as far as with their concerns with the flooding, on the, along Furlick Creek, as Bill had mentioned was, that's all part of the floodway construction permit that was done in association with Stonecreek Estates. Two, as far as with what little portion of water is coming off Elite Fitness, Elite Fitness, which is lot one, was all part of the original Stonecreek Subdivision development, from day one. All of that property from Old Seib Road, down Kansas to New Seib Road was all part of Stonecreek, and that's also the reason why there is a small portion of the existing detention basin that comes off onto Elite Fitness property that's currently owned by the owner/developer. Two, as far as they're concerned, or, I mean, three, as far as where they're concerned about making sure that there is no water from our development, whether it be existing conditions now, or post development and concerns with the gas station that is currently being proposed, because there is a Marathon sign that was placed on the corner about a month or a month and a half ago, is that with the water that we have to handle as far as off site water that comes on to our watershed, that is being taken into account for and is being met with at minimum 50 year storm capacity, because that is associated with a roadside design. As per Vanderburgh County requirements, all roadside ditch systems and culverts must pass a 50 year storm. I can state for a fact that currently with the eastside of Old Seib Road, the ditch is undersized significantly, it causes some problems, by the time it gets to our property we would be making significant improvements on capturing that water, channeling it around and getting it out. That's part of the time increase as far as where we had that water in our watershed in a less amount of time than what it would be if there wasn't any improvements done at this intersection. So, I would be happy to answer any questions you may have.

President Melcher: Any questions?

Commissioner Winnecke: I guess, my only, I mean, not the only question, but the question that comes to mind most has more to do with the prospects of pollution from the development versus the actual drainage. How can you address that?

Justin Shofstall: On that, as far as, everything that they do, especially with anything that happens to have—

Commissioner Winnecke: They meaning the developer?

Justin Shofstall: The developer or being whoever goes on the site. One, they have to meet certain criteria that's set forth by the county, with the erosion control plans that are set forth, and is also underwritten by Indiana State requirements in regards

to those erosion control practices in terms of storm water runoff control pollution, etcetera. There is also an entirely different set of rules applied for any type of development such as gas stations, manufacturing that would have these volatile, organic chemicals that would be associated with gas stations, or just even tanker pad filling up, that they have to meet for State requirements as well to prevent that type of spill off going in. Even with that, as far as with what's being proposed, anything that, worst case scenario, there's no possibility at the moment for a direct spill from a tanker truck, if they do put in a gas station and properly design meeting the requirements that would allow any of those petroleum chemicals to enter into their lake system with this current design.

Commissioner Winnecke: And why is that?

Justin Shofstall: Just as far as with, one, the perimeter drainage that we have around the undeveloped portion does not allow for any of our water to enter into their lake system, which was a concern of theirs. Two, as far as if they do follow the State requirements, that if they have a spill they also have to have the reporting that is done with it. You can't eliminate 100 percent, because if we lived in a 100 percent world, then these issues would be a mute point. But, as far as if they follow the proper requirements that are associated with a gas filling station that meets the State and the county requirements, there should not be any issues associated with, as far as petroleum chemical spills, because they also have the backup mechanisms that are associated with, as far as with connections from the pumps, the pump head itself monitoring the systems. I've done quite a bit of work with Jorgensen Petroleum who does a lot of the maintenance around this tri-state area for just about all of the gas stations, and there's, I can confirm with Roy Jorgensen too, who's the owner/operator of that, that there is quite a bit of regulation that they follow on their part to ensure that no spills do occur that leave the site and that everything is contained.

Commissioner Winnecke: My other question is probably more for Bill relating to Furlick Creek and DNR, is there, what's the, could you review the mechanism or the process by which someone could apply to get that cleared if there are obstructions?

Bill Jeffers: If someone from the, as a group, the Homeowners Association, or an individual who happened to own land along the creek wished to clear the creek of trees, live trees, that person would have to obtain a construction in the floodway permit from Indiana Department of Natural Resources Division of Water, and the Division of Fish and Wildlife would also make their review, and they might be granted permission to remove trees. Of course, they take into consideration, they would come out and look, this tree you can't remove because it's a habitat for the Indiana brown bat, or this tree, this logjam you can remove enough for the water to flow through the middle of the creek, but you need to leave the rootwad and, you need to leave the stump so the water shoots can grow back up because the rootwad is conserving soil, etcetera. There are fairly strict rules of what you can and can't do. They will tell you on that permit, and if you violate the terms, and they even might ask you to mediate by planting new trees somewhere else within the same floodway, or floodplain, but, they may allow you to do some clean up. But, they have strict rules to follow, and if you violate them then there's punitive actions they can take, you may have to plant three trees for every one you destroy, or four trees for every one you destroy.

Commissioner Winnecke: Not to, I mean, are you aware, I mean, are there obstructions in the creek now? Are you aware of that?

Bill Jeffers: Yes, there are vegetative obstructions that have been allowed to grow up. Basically, willow trees and so forth, other types of water, which are wetland habitat trees. In other words, this is a wetland, and that's why the regulations apply, there are, there is vegetation that's native to a wetland, growing in wetland soil in direct association with water, that's the type of stuff that has grown up. There are piles of debris that have either been cut illegally or for whatever reason there may be some corn stalks that wash down out of the fields up around Earle, Indiana and hang on those existing brambles. I've been out there when I've actually, one of the Homeowner Association members called me and one of the homeowners in the subdivision had just dumped a bunch of junk in the creek. We got that removed. There are little foot bridges that were not legally placed across the creek so that people can go over and visit the golf course. Those types of things. Yes, there are things like that, that do obstruct the flow of water through the creek. Some of them are natural, and unintentional, and others are intentionally built across or thrown into the creek.

Commissioner Winnecke: When there are, is debris, as an example, does one need DNR approval to remove debris?

Bill Jeffers: I would not think so. Personally, I would not care if someone came in here with an obstruction petition asking the Drainage Board to order the removal of debris that had been willfully thrown into the creek by an individual, I would go out there, do my investigation and recommend to you that they be ordered to remove it, with or without a permit.

Commissioner Winnecke: Thank you. Maybe one other question, just to review the process, this is a preliminary drainage plan tonight. If we approve this it goes to APC for a public hearing on Thursday afternoon—

Bill Jeffers: Right.

Commissioner Winnecke: —and then—

Bill Jeffers: I did hear some issues brought up tonight that did not pertain necessarily to drainage.

Commissioner Winnecke: Right.

Bill Jeffers: That the same persons who obviously have legitimate, valid concerns about their neighborhood, should appear at Area Plan Commission and voice those concerns about the project. I didn't see anybody here tonight that was using this hearing to stop a gas station. You know, there have been times when people would try to use the drainage hearing process to stop something because it was not aesthetically pleasing. I didn't hear that tonight, but I would encourage people to concentrate on drainage issues so that when we take it to Area Plan Commission, you know, if it passes tonight it goes to Area Plan Commission, voice all of your concerns about traffic, aesthetics, what have you, use, and then that would go, you know, then it would come back to us for final drainage plan approval, and, hopefully we would take the minutes, look at every concern that every one had tonight, plus any concerns that are voiced at Area Plan Commission regarding drainage and incorporate measures, control measures into the final drainage plan that would adequately address all of those concerns. That's the process that we try to follow.

Commissioner Winnecke: Thanks.

President Melcher: Under Area Plan, I haven't sat on it long enough yet for one of these, does it, does it get voted up or down, their recommendation, do they vote on this, or do they just hear it?

Bill Jeffers: Okay, this is not a zoning recommendation—

President Melcher: Right.

Bill Jeffers: —so it doesn't go to the Commissioners. This is a plat approval, and Area Plan Commission has the final authority to approve or deny the plat.

President Melcher: This?

Bill Jeffers: This right here, as a plat, a five lot commercial subdivision. Yes or no. Because it's already zoned commercial, so, Area Plan Commission is the final authority, those 12 people they vote, if seven of them vote, or more vote yes, that plat is approved and it moves forward for permits. But, it will only get a permit after final drainage plan approval. They can't record—

President Melcher: So—

Bill Jeffers: —the plat until they get final drainage approval.

President Melcher: —really it's two issues, right? It's the drainage issue and the plat issue at Area Plan?

Bill Jeffers: That's correct, but even after the plat's been approved at Area Plan, Thursday evening, Thursday afternoon, they still have to come back to this Board for final drainage plan approval in order to record the plat. You can't draw a building permit until the plat has been recorded. You can't record a plat until final drainage plan approval.

President Melcher: So, all we're doing tonight is moving it to Area Plan for their decision?

Bill Jeffers: As a preliminary plan, the concept of which I'm recommending and you're voting yes or no. The concept is to route all of the water past the lake, not through the lake, without detention, so that it passes off there in a speedy fashion and into the receiving stream ahead of all of the rest of the water that comes down out of that watershed. That's the conceptual plan. It is a workable plan in its initial form. That's why I'm recommending it. You still have the opportunity, if there are concerns that were voiced here tonight that you don't think are adequately addressed when it comes back to you, if there's concerns that come up at Area Plan Commission Thursday that you feel were not adequately addressed when this comes back to you, or if additional comments are made or phone calls are made in between from whomever, if you don't think they've been adequately addressed by the plan as a final plan, you have one more shot at it.

President Melcher: Okay, because I do have a little bit of concern on this.

Bill Jeffers: Well, everyone should be concerned about anything that is in a sensitive area. I try my best to address those concerns. If I do it adequately I would expect that my recommendation will be positively voted on. If I don't do it adequately, you have the option to vote no. Won't hurt my feelings either way. It's just a job.

President Melcher: I think it's more than a job to you, Bill. You do a good job. Any other questions? Anybody else from the audience? Go ahead and come up, we have to, we're recording everything.

Jimmy Guessfield: I'm really glad that, I'm Jimmy Guessfield again, and a homeowner. Thank you for a beautiful job that you did, because I just got informed of something that I didn't know that is very concerning now. As Mr. Jeffers explained the plot area, he spoke of all the ponds that are in the area and he spoke of that one sliver that was not part of the drainage, that it was put there to elevate the property on Clippinger Road. As a homeowner there, when I bought that, I questioned why it wasn't done to level according to the plot that I bought, and as the second homeowner I didn't get to voice very much of my concern, but now I do have a lot more concern as it's been explained to me. Because my property on that corner, if it was built to the specification that Jagoe said they were going to build, my backyard would have came out about 14 more feet before it would have dropped down into that pond. It does not do so, so the backfill that they took for that, or that we're concerned about was not done to the specification of the homeowners when it was originally built. So, now I know that when they backfilled that area, it was brought to Jagoe's attention by the original homeowner and they said that it was too late for them to do anything. Well, now I understand, but from my backyard there was supposed to be an area that goes out before the easement, before it dropped down and that level is not what the specification of my property says that it's supposed to be. So, that gives me even more concern now with the flood plan and the drainage. Thank you.

President Melcher: Anybody else?

Steve Hess: Again, Steve Hess, President of the homeowners adjacent neighbor of this, representing 320 homes. I was instructed at the onset, the plan for tonight's meeting is this, this is strictly a drainage concern meeting, and that if I had any concerns other than that subject to address them Thursday. Again, investing in my personal lot, lot 65 on Chatteris Road overlooking across the street from all of the beds and all of the flood where this is supposedly going to be redirected, we have the airport out there, I understand that there may be, or it may be a good source on Rexam Industries being involved with this new airport. I look at airplanes flying in and flying out and that's fine, however, when you look at, I don't know what their plans are and the size of fuel tanks they're going to have in this ground either, and I'm also curious as to the quality of the dirt that's currently in this space, which will be addressed on Thursday, if that dirt came from another unhealthy source or if it was good dirt. I could have easily said tonight no, as an invested county taxpayer, as a representation of this community, I could have said no to this. I could have said I don't want this, because I invested in this community, I invested in this county, and I invested into that subdivision, and what we represent ourselves on are middle class, working people, not people that come home every night to a noisy gas station. So, I'm just trying to redevelop and present that when we are asked not to say anything about hesitation or frictions tonight, for the record, I do and I have a very vested interest in saying no to this project. I would ask of you to consider that with your concerns and your evaluations here, because when I invest in property and now that eight years later I'm looking at it potentially decreasing in value because of a convenience store, gasoline station, whatever risk business there is, politely I would rather see a pet rock store go into this area than have some flammable potential risk of airplanes and traffic that create further issues with our community. I believe that's

all I have to say on the concerns, but I could have said no, and I will be addressing that again Thursday night. Thank you.

President Melcher: Thank you. Okay, is there any other questions? Okay, well we're going to need a motion one way or the other.

Unidentified: You've got one back here.

President Melcher: Oh, I'm sorry. I didn't see, I'm sorry.

Tom Zarazee: That's okay, I'm short anyway.

President Melcher: I looked two or three times. I didn't see anything.

Tom Zarazee: I'm Tom Zarazee again. We've talked all about just this one subdivision, Stonecreek. When you go down Kansas Road, there's about two or three more subdivisions that drain right into this creek back here. Some of those aren't fully built yet, there's still a lot of open lots. Now, I just wonder if they took all of that into consideration when they start talking about it takes ten minutes to come down here and before we get to the big rush coming down in a half hour this will be drained, but when it's raining 24 hours or better, you've got the rain up there as well as you've got the rain down here. So, in five minutes or 15 minutes it's ahead of it as he said, but that's only 15 minute gratis, after that it's all the same, what's up there and what's down here. It's the same when you have a constant, steady rain. But, this, like I say, they don't show all of these other subdivisions that drain into that creek. Thank you.

President Melcher: Thank you. Anybody else? I don't want to miss anybody, this is a public hearing. Okay.

Commissioner Winnecke: Mr. Chairman, I would, I appreciate everything, all of the comments, based on my experience with the County Surveyor, I would expect that his recommendation is sound in that there will be no effect on the large triangular shaped lake, or pond, and also based on his explanation of the flow of water, I'm convinced that the creek on Kansas Road can adequately handle the water. So, based on that I would make a motion to approve this preliminary drainage plan.

President Melcher: To send it on to Area Plan.

Commissioner Winnecke: Yes.

Commissioner Abell: I'll second the motion to get this to Area Plan.

President Melcher: All in favor to send it to Area Plan say aye.

All Commissioners: Aye.

President Melcher: Opposed. Then we'll send it to Area Plan.

(Motion approved 3-0)

President Melcher: Thank you.

Bill Jeffers: I do want to thank the people who came from the neighborhood to express their opinion, because as the Commissioners know when it affects my neighborhood I've been here, or been to the airport, or been to City Council or whatever to express my opinion about our neighborhood. Their concerns are valid and I look forward to helping address them.

President Melcher: I want to throw something out. Do you have to have those pictures right away? They might need them for Thursday night. Do you need those pictures for Thursday night.

Steve Hess: I would like to have them.

President Melcher: I was going to say, could we go ahead and give them back to them—

Madelyn Grayson: Sure.

President Melcher: —and they give them to us back.

Madelyn Grayson: That's fine.

President Melcher: That way you could have them back, because I'm concerned, there's no sense in you putting them back together again. I'm one of them members on that board, as of now, I guess.

Bill Jeffers: Lucky guy.

President Melcher: I'm sure.

<p>Presentation of Proposed Floodway Study: Crawford Brandeis Extension</p>
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President Melcher: Okay, next you have the presentation of the proposed floodway study of the Crawford Brandeis Extension.

Bill Jeffers: Yes, we're going to put up some pictures of the bridge on Boonville, Old Boonville Highway, pictures that were supplied to us by engineer, Valerie Harry, from the County Engineer's office. We're going to look at those pictures first. The first slide is an overall picture of the area we'll be discussing tonight. The blue lines are Eastside Urban drains, Crawford Brandeis along Burkhardt, I'm sorry my pointer ran out of batteries here. Oh, wait, here we go, right here, and then Hirsch Ditch running along Morgan Avenue, on the south side of Norfolk Southern, down to Green River Road, and then the Old Wabash-Eerie Canal, which all of this is the Old Wabash-Eerie Canal along Norfolk Southern, that runs on down to Wesselman's Woods and out into Pigeon Creek. Now, Crawford Brandeis Extension then starts right here at the railroad trestle and runs due north and under Boonville Highway and off under Lynch Road into Pigeon Creek in this manner to the north. The bridge that we're going to take a look at is at this location on Old Boonville Highway. So, we'll go to the next slide. That's the waterway, we're standing on the bridge looking south towards Morgan Avenue, that's what the waterway looks like for Crawford Brandeis Extension. It's well grassed, and you can see there's quite a flow going through there, the grass is all mashed down. Now we're standing down at the point that you were looking at and looking up at the bridge. You can see it's an old fashioned,

probably 1936 style bridge on an old State Highway between Evansville and Boonville, two lane highway, 1936 box bridge style. If you take a closer look you can see it's all spalled out, this is all salt damaged, salt seeping down through the concrete, leeching out the calcium. You can see they've added a beam on each side, that's the old roadway when they had Model A's going across it, then they added this beam here to widen it when semi's started going across it. That's an industrial area now. So, you've got a lot of pressure on the bridge. It's falling apart. This most likely is salt damaged and freezing and thawing exposing the steel, the bridge needs to be replaced. Here are some more, this is like an end bent where the beams rest on the end, on the mudwall, all falling apart, needs to be replaced. This is your waterway opening coming from Morgan Avenue and running north. You can see the flow is in a northerly direction. The waterway opening is basically open, but here trying to come out of the bridge and continuing north, you can see the force of water that's coming through there. That bridge is constricting the flow and increasing the velocity and blowing out this end. So, the bridge is too small. Just another picture, a close up of the obstruction that we need to remove. That's about it, but, basically, I wanted to show you the bridge and now we'll move on to another Power Point just to show you that the bridge needs to be replaced. You may have already seen some of those pictures from John Stoll, he's the County Engineer who will be supervising the reconstruction of that bridge. Why am I here then? Okay, well, you remember—

Commissioner Winnecke: Many have asked that question?

Bill Jeffers: Yeah, many people have asked that, many have tried to do something about it.

Commissioner Winnecke: Few have done anything.

Bill Jeffers: Few have done anything, but they'll have another chance. American Structurepoint is under contract to evaluate the waterways that we've been discussing, Hirsch Ditch, Crawford Brandeis, Crawford Brandeis Extension, the Old Wabash-Eerie Canal, basically, and to make recommendations to us for improvements and to develop plans for a structural and environmental improvements to the waterways. Do you want copies of this? You can follow right along.

Madelyn Grayson: You know I want a copy of it.

Bill Jeffers: I'm sorry I didn't pass those out sooner. Warning, we are in our last half hour, so let's get this done in 25 minutes.

Madelyn Grayson: Or less.

Bill Jeffers: Or else we're at another \$200 to PBS. Okay, Structurepoint also is the company who designed and supervised construction of the large culvert structures carrying this same Wabash-Eerie Canal system under Stockwell Road several years ago, and through Wesselman's Woods to its outlet to Pigeon Creek. Structurepoint then worked on our behalf, with INDOT, Indiana Department of Transportation, on the culvert improvements under Green River Road, as well as with Norfolk Southern Railroad on the replacement of their dilapidated railway trestle at the junction of Hirsch Ditch, Stockfleth Ditch, and Crawford Brandeis Extension. Now let's look at some pictures, I guess. The red circles are the area where the trestle was replaced. The red circle off to the left is an old railroad spur that was removed. Let's look at a picture or two. Okay, improved Green River Road crossing, they removed the

unused railway spur crossing, they improved a weir at the railroad bridge, that was done by Norfolk Southern, and they replaced the railroad bridge, Norfolk Southern did that. So, as I say, they, Structurepoint has been working on our behalf. Mr. Bill Butz is here this evening representing Structurepoint, he has been our contract engineer and our contract deputy surveyor to pursue these projects. It's due to Mr. Butz persistence and persuasion that Norfolk Southern replaced our dysfunctional weir that lay in front of Norfolk Southern's trestle and removed an old, abandoned rail spur and undersized, rusted out culvert that was holding flood water back onto the service bay floors of a small industry out there on Maxwell Road along side the canal. There may be some pictures of that. That's the Green River Road structure, and this shows, not very clear because it's kind of bright in here, but here's the old railway spur was located here and it's been removed. That railway, that pipe was undersized and it was holding water back on an equipment company adjacent to the ditch. Their floor flooded a couple of years ago. As a result of Structurepoint's work up until now, we have a much more effective conveyance and discharge of storm water thorough the Old Wabash-Eerie Canal. We have lowered the floodplain in the valuable eastside commercial development land, and we have abated flood hazards for certain commercial and industrial property owners alongside the ditches. Also, if you examine the difference between the bids we received last year for reconstructing a portion of Hirsch and Stockfleth Ditch, and those bids we received this year, you'll see a discount of about \$35,000 due to Mr. Butz's effort with Norfolk Southern to get them to replace the weir. On this side you'll see the old weir is all completely dysfunctional, and now here's the new weir that Norfolk Southern built because of Mr. Butz's persistence, basically, telling them wouldn't you rather do this yourself than have county forces over there doing it on your property. They don't like anybody on their property. Now, how does all of this tie into proposed new bridge 1530 to carry Old Boonville Highway over Crawford Brandeis Ditch? Well, basically, we have an opportunity to use our existing engineering contract with Structurepoint to move forward with the same watershed study to obtain flood data specific to bridge number 1530 while gathering updated data on other waterways and bridge openings to prove that we have lowered the floodplain in this area. We also, with this updated modeling, that's phase one that I'm proposing, phase two would be to improve natural habitat and water quality within the drain system that we maintain, phase three would be to add a natural trail along the old commuter railroad, alongside the Old Wabash and Eerie Canal, a very historic canal in Indiana, and that walking trail or nature trail would connect Wesselman Park and the nature preserve with the commercial area out there at Burkhardt Road where Lowe's is located. So, phase one would be to model and evaluate the current improved condition that we have achieved in Hirsch Ditch and Crawford Brandeis Ditch due to the Green River Road culvert being improved, due to the new railroad structure and the weir being replaced, the removal of the old railway spur, and not mentioned here was the Stockwell Road structures that lowered the floodplain, I think about a half a foot, just that alone. So, we should review this model for the locations and add cross sections, you know, have the crew go out and take cross sections that may lower the floodplain, may show that the floodplain's been lowered even more than what we've already submitted to FEMA. We submit that updated modeling along with the Boonville, the Old Boonville Highway bridge project to determine the low cord of that bridge. We need to find out how low we can set the new bridge and still pass the 100 year flood. So, basically we have an opportunity to use our existing engineering contract to move forward within the same watershed area, study area to obtain this floodplain data specific to the bridge....I've already read this paragraph. We also can gather additional information to serve as a local match for federal funding for additional flood hazard remediation, and natural habitat improvements, and even recreational grant money, because, as I said at their last meeting, we can't spend

drainage money on the recreational part of this plan. We would be using what we have done with drainage money to improve the floodway, to improve the ditches, to improve habitat and water quality, we use that as a match toward the federal grants we might be applying for for the walkway and historic plaques and that type of thing. We also feel it's the most speedy way to obtain the low cord calculations for submittal to the Department of Natural Resources for the bridge project. I spoke to you last meeting about that, that we have this contract, if we extend it to include this portion of the study, we can use drainage money to offset what it would cost in Bridge Funds to obtain this data, and thereby let you have more money in your Bridge Fund to pursue bridge building. Understand, if we can show that our work thus far has lowered the floodplain elevation, then less fill will have to be brought in for the bridge approaches, and that means additional savings to the Bridge Fund. In other words, the lower we can prove that we can place the bridge and still pass the 100 year flow, the less earth that has to be brought in to build the approaches up, and that runs, oh, \$12-\$13 a cubic yard. There would be many thousands of cubic yards brought in. Understand, let's see, with your indulgence I would like to ask Mr. Butz to quickly finish up our Power Point presentation and explain to you the potential for cost savings on the bridge structure, answer any technical questions that you may have, and then I will make a recommendation based on this last page.

Bill Butz: Good evening. As Bill mentioned, my name is Bill Butz, and I'm with American Structurepoint. Basically, Bill did a fantastic job of kind of outlining what he's thinking and what he would like to do. I'll just point very, very quickly at a couple of things, I think the key is is that so much has happened recently out in this watershed, especially with Hirsch Ditch, which is, you know, the east-west corridor, and then, obviously, what's going to be going on with the Crawford Ditch. The modeling that DNR and that everybody has right now is more or less out of date. So, what we're looking at doing is, we're going to show all of these improvements that we've been making recently, because there is that delay in their modeling, updating that model and submitting that model to them to show those lowered impacts. So, again, I think Bill did a fantastic job, and I'll leave it at that. The Crawford, obviously, ties into the Hirsch, which, you know, the lower your starting water surface elevation is the lower the Crawford's would be. They're all tied together, as we all know. So, I'll leave it briefly at that and answer any questions you may have.

President Melcher: Any questions?

Commissioner Winnecke: Good explanation, Bills.

President Melcher: John, do you have something?

John Stoll: I was just going to add in that on my staff we don't have the expertise to do the modeling to the extent that's required for a watershed like this. Especially given all of the changes that have taken place out there. So, from our perspective it would be beneficial, because we simply don't have the experience needed to be able to submit, to do that kind of model and submit it to DNR.

President Melcher: Thank you.

Bill Jeffers: So, at this point, I guess, I'm making, I guess, I would go forward and make a recommendation, unless you have any other questions. I believe you asked me to bring a recommendation before you today. That is to extend the contract with American Structurepoint to include everything you see on the final page, as future work, for total compensation under the extended agreement, not to exceed \$47,000,

and to include select topography survey at a lump sum \$8,500, the Hirsch Ditch modeling revisions, that's to prove that we have lowered the floodplain and that we're starting at a lower elevation, thereby trying to achieve a lower elevation at the bridge location, \$10,800; Crawford Brandeis Ditch modeling revisions, that would be going up from the railway, where the red circles are located, and modeling the Crawford Brandeis Extension up to and just past the bridge location, that would give you the, that would take you to the point of the low cord calculations. Okay, D, the low cord calculations, that would be what is submitted to DNR to set the bridge elevation, and then the various submittals and coordination that goes along with the work that has to be done and the submittals that have to be made, all totaling, again, not to exceed \$47,000. I just asked Mr. Butz to break it out, and the break out is A, B, C, D and E, to show you what the work entails.

Ted C. Ziemer, Jr.: Is this to be an amendment to our existing contract that we have, or an existing contract? I'm not sure—

Bill Jeffers: We have an existing on-going contract. We have a set of plans that was produced by Structurepoint for a partial reconstruction of the area along the railroad track and Hirsch Ditch, and we have let bids on that to Mark Naas for \$36,600.75. Those plans were produced under this contract, and that work to be done by Mark Naas, part of the construction, well, Mr. Butz serves as our contract deputy to monitor the construction of that. And, yes, that's what I'm doing, I'm recommending that we extend or amend, whatever the legal language is, amend the contract and extend the assigned work to include what I'm showing here on this sheet, items A, B, C, D and E for a total not to exceed \$47,000.

Ted C. Ziemer, Jr.: The Drainage Board may well want to approve that, but I'm going to have to see a contract document, Bill, which will be signed by the Commissioners to authorize this change in compensation or additional compensation. You know, all of that can be done, but I don't think we're ready to do that this evening, because we haven't see the document that would accomplish that.

Bill Jeffers: Okay. We have the original document on file, the one we're operating under, and I suppose we could bring you an amended document to include this recommendation.

Ted C. Ziemer, Jr.: Okay, I would like, maybe I have it in my file at the office, I don't know. I would like to see a copy of the original agreement, and then the agreement to amend, and then I could recommend to the Drainage Board, that from a legal perspective it's satisfactory, assuming they do agree to these numbers.

Bill Jeffers: Can the Drainage Board accept my recommendation by a vote tonight, and then send it to the Commissioners for approval? Since the Commissioners have to approve all contracts—

Ted C. Ziemer, Jr.: They have to approve the contract, yes.

Bill Jeffers: And, it wouldn't have to come back to the Drainage Board, if they would take a certain action here tonight to accept my recommendation, then it could move forward to the Commissioners for—

Ted C. Ziemer, Jr.: What I think they would be accepting would be your recommendation as to compensation. We really don't have anything to say exactly

what the work, the additional work is going to be. That would be in the agreement that's presented to the Commissioners.

Bill Jeffers: Okay.

Ted C. Ziemer, Jr.: You could do that much.

Bill Jeffers: I was just wanting to move this forward in a timely fashion so that the Bridge Department can obtain their permits to begin their project, their design project. So, I was just using the opportunity tonight to make, to present a recommendation, hopefully, the Drainage Board will move it forward to the County Commissioners for official action.

Ted C. Ziemer, Jr.: At perhaps the April 26th meeting, if we have the documentation in place.

Bill Jeffers: Okay, now, I will not be in Evansville on April 26th, and that's why I'm presenting it tonight.

Ted C. Ziemer, Jr.: Well–

Bill Jeffers: But, I mean, the paper could be here.

Ted C. Ziemer, Jr.: Right.

Bill Jeffers: The document could be here.

Ted C. Ziemer, Jr.: So, you can work with me between now and April 26th to let me see the original agreement with Structurepoint and the proposed amendment to that agreement, and that's what would be presented to the Commissioners on April 26th.

Bill Jeffers: Sounds like a good plan. I just hope that the, any motion that might be made would be worded to positively move it forward.

Commissioner Winnecke: Mr. President, I would move that we accept the recommendation of the County Surveyor to move this project forward as presented, with the understanding that the Board of Commissioners will execute, consider execution of the contract at its next meeting April 26th.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Opposed. So, it passes.

(Motion approved 3-0)

Bill Jeffers: Thank you.

Approval of Ditch Maintenance Claims

Bill Jeffers: I have some claims, just a couple of claims, they are in order, and recommend payment to the contractors.

Commissioner Winnecke: Motion to approve.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Opposed.

(Motion approved 3-0)

President Melcher: Thank you.

Other Business

President Melcher: Any other business?

Bill Jeffers: I have no further business, sir.

Public Comment

President Melcher: Any public comment? Anybody from the audience?

Commissioner Abell: I have something, Mr. Melcher. Mr. Stoll, I may need you to stay. I have two issues I need to bring up. Mr. Jeffers, I had some County Commissioners from Warrick County approach me that they had gotten a grant to clean out Little Pigeon and wanted us to pursue a grant to do some work at cleaning out our park of Pigeon Creek. Are you familiar with that?

Bill Jeffers: Yes. I'm not familiar that they got a grant. I'm familiar that they approached us a couple of years ago and asked us to pursue a grant. It was suggested that all three jurisdictions; the Warrick County Commissioners, the Vanderburgh County Commissioners, and the City of Evansville Board of Works, join together in a whatever they call a joint, interlocal agreement, to pursue a million dollar grant, which was available at that time. I pushed that. I embraced it. I went to GAGE with it, no, not GAGE, Southern, Southwest Indiana–

Commissioner Abell: The Coalition?

Bill Jeffers: The Coalition, yeah. What's the young lady's name that was the head?

Commissioner Abell: Debbie Bennett.

Bill Jeffers: Yeah, Debbie Bennett-Stearsman, right, and we pursued it as best we could. We had a consultant that was willing to put together a plan. It had to be a rush job because you had to be shovel ready for the stimulus money. I put my name

down there as a contact person. A Commissioner who is no longer a Commissioner scratched my name out and put his name down there as the contact person and that's the last I heard of it.

Commissioner Abell: Well, I tell you what very little I know. I understand that they got a \$760,000 grant.

Bill Jeffers: Well, good for them. I'll tell you something else that I do know. They pulled out of the deal with us, because they felt they would be competing against us for part of that one million dollar total.

Commissioner Abell: Oh.

Bill Jeffers: So, that's, they succeeded. They got greater than one third of a million dollars.

Commissioner Abell: Well, they told me, this was last week that Debbie Bennett evidently told them that there is still a couple of million out there that we could get, and that we should go after it, and I'm just trying to find out if we should pursue that. If you want to pursue it, or if you want some help, or if this is all pie in the sky, or what. I don't know.

Bill Jeffers: The city also pulled out on me too. Warrick County pulled out first, then the city said we don't want any part of it and left me high and dry there, and I was no longer the contact person. You know what, if it's going to take two years—

Commissioner Abell: I know, you won't be here.

Bill Jeffers: Right.

Commissioner Abell: Would you mind calling Debbie Bennett and just asking if there's anything—

Bill Jeffers: I'm really kind of, I tell you the honest truth, I'm a little put out that I'm hearing it third hand, because the Commissioners in Warrick County know my name and they know my phone number, and they've dragged me over into their county to look at their problems.

Commissioner Abell: Well, it wasn't like he made an appointment with me. He kind of dragged me as I was walking out of the ladies room the other night and said, hey, I want to talk to you about something. So, I wanted to bring it up to you because your name was mentioned, and just wondered if you want to—

Bill Jeffers: I wondered why my ears were burning, but that's okay. You know, if they, you know, but they've got their three quarters of a million dollars, and it sounds to me like it's almost like they're going to hold that as a sword over someone else's head for us to go get our three quarters of a million dollars. If it's available, let's go get it.

Commissioner Abell: Well, do you want to call Debbie Bennett since you know more about it than I do? I mean, I don't mind calling her, but I know so little about what's going on.

Bill Jeffers: She knows my phone number too.

Commissioner Abell: I'll call her.

President Melcher: You call her and have her call Bill. Bill you'll be the contact on it. We're not going to scratch our names and put our names on it.

Commissioner Abell: No, you won't have to worry about me putting my name down as contact person.

President Melcher: Or me.

Commissioner Abell: I guarantee it.

President Melcher: I think Commissioner Winnecke would say the same thing.

Bill Jeffers: Well, I know, I think I know why that happened, but there's no reason for it to have happened, because I have no pride of ownership in this. I would just like to see the logjams taken out of Pigeon Creek. We've got about 12 of them between the Warrick County line and Lynch Road.

Commissioner Abell: Well, that's what I'm hoping we can get some money to do that.

Bill Jeffers: Right.

Commissioner Abell: I will call Debbie Bennett and see if she's going to write us a check.

Bill Jeffers: I appreciate the stimulating conversation.

Commissioner Abell: I have another issue, and Mr. Stoll you may need to be a part of this.

Bill Jeffers: Are you saving the best for last?

Commissioner Abell: No, no. I just happen to be down here a lot and people call and I get their phone calls. A lady named Mimi Slanina. Who's phone number and address I have here, which I will give to you, called and said she lives in Evergreen Acres, and that her neighbor, and she said that Mr. Stoll's office did some work on the lake a few years ago, and there was some spillage available to get the lake down and now the neighbor has taken it upon himself to rip rap that and stop the spillage so that he can have a nice lake in his backyard during the summer. It's causing her some issues. She's got trees that are going to uproot because they are under water, and she would like to have, she evidently has spoken with Mr. Wathen and he told her that the work that you did on the lake...this is the story that I'm getting. I'm not saying this is true. She said Mr. Wathen told her that that was done for aesthetic values and not for anything else. She didn't think we would waste \$300,000 on aesthetic values, which is what she said it cost. I told her that I would either have someone from Mr. Stoll's office or someone from the County Surveyor's office to call her and see if we could work out what problems she might have.

John Stoll: The overflow structure that drains that lake was rebuilt in conjunction with the drainage project the county did out there probably about ten years ago. It wasn't for aesthetics or anything like that, it was simply part of the reconstruction because that was a major source of water going down the street down to Larch Lane, Pine Place and out of the subdivision. So, that was just one component of the project. As

far as aesthetics, that was not part of the project. The actual outflow structure, I believe, all of it is on private property. The lake is not maintained by Vanderburgh County. I'm not sure if they have an association that maintains the lake, or if it's the individual lot owners are responsible. We've talked to, several people in my office have talked to Ms. Slanina over the past few months. We've talked to some of the abutting property owners, other abutting property owners around the lake. They're trying to get surveys done to determine their exact property corners so they can figure out who's property the overflow structure actually lies on, things like that. So, I would be glad to talk to her, but as it stands now there's no, we don't see that there's a Vanderburgh County issue there. Simply the drainage pipes that go under the road are taking the runoff from the lake, and because of that it's all part of the drainage system out there it was rebuilt with a county project, that was the extent of it. It's not on permanent county right-of-way.

Commissioner Abell: I was not told you had already talked to her, but here's her, you probably already have her phone number, but here it is.

John Stoll: Alright.

President Melcher: Any other further business coming? Any other public comment? Do I have a motion to adjourn?

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: We're adjourned.

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

Those in Attendance:

Stephen Melcher

Bill Jeffers

Steve Hess

Dave Cardiff

Bill Butz

Members of Media

Lloyd Winnecke

Ted C. Ziemer, Jr.

Jimmy Guessfield

Bob Wootton

John Stoll

Marsha Abell

Madelyn Grayson

Tom Zarazee

Justin Shofstall

Others Unidentified

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
APRIL 26, 2011**

The Vanderburgh County Drainage Board met in session this 26th day of April, 2011 at 6:30 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Go ahead.

Approval of the April 12, 2011 Drainage Board Meeting Minutes

Linda Freeman: You all have an agenda in front of you. Nice and quick. You took care of the proposed floodway study in your Commissioners meeting.

President Melcher: Yes, I was going....since she was talking, I was letting her finish.

Linda Freeman: Oh, I'm sorry.

President Melcher: Okay, we need a motion to approve the minutes.

Commissioner Winnecke: Motion to approve.

President Melcher: Second. All in favor say aye.

Commissioner Winnecke: Aye.

President Melcher: Aye.

(Motion approved 2-0)

Approval of Notice of Hearing: McCoy Obstruction Petition

President Melcher: And we've got to accept...you said, what about the McCoy obstruction?

Linda Freeman: Madelyn has the notice of hearing. If you gentlemen could sign it and she could mail that out to the appropriate parties. I think there's just the McCoy's and the—

Commissioner Winnecke: Hatfields?

Linda Freeman: The Hatfields and the McCoy's?

President Melcher: I wasn't going to say that. Is that something we need a motion on?

Linda Freeman: Richard Catt. It's McCoy and Catt.

Commissioner Winnecke: And this is just the notice of the hearing?

Linda Freeman: Yes, this is the notice of the hearing.

Commissioner Winnecke: Motion to approve the notice as presented.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Okay, we can do that.

Other Business

President Melcher: Any other business?

Public Comment

President Melcher: Any public comment?

Linda Freeman: Eldon?

Eldon Maasberg: I can come up if you want me to.

Linda Freeman: You know, if we close it out, we're—

President Melcher: I know, we're trying to stay in our time frame.

Linda Freeman: Yeah. You're costing the county more money.

Eldon Maasberg: Hey, what I would like to tell you, you all had took time to look at how our creeks were full these last three days, past that it's yours.

Linda Freeman: Be careful.

President Melcher: I went by—

Linda Freeman: Turn around, don't drown is what, that's pretty cute.

President Melcher: —Pigeon Creek today, I live a block from it.

Linda Freeman: Kinda scary.

President Melcher: Is there a motion to adjourn?

Commissioner Abell: So moved.

Commissioner Winnecke: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: We're adjourned.

(The meeting was adjourned at 6:33 p.m.)

Those in Attendance:

Stephen Melcher
Ted C. Ziemer, Jr.
Eldon Maasberg

Lloyd Winnecke
Linda Freeman
Others Unidentified

Marsha Abell
Madelyn Grayson
Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
MAY 10, 2011**

The Vanderburgh County Drainage Board met in session this 10th day of May, 2011 at 6:10 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll go ahead and start the Vanderburgh County Drainage Board. It's Tuesday, May 10, 2011. It's about ten minutes after six.

Approval of the April 26, 2011 Drainage Board Meeting Minutes

President Melcher: Linda?

Linda Freeman: Linda Freeman from the Vanderburgh County Surveyor's Office.

President Melcher: Okay, we need a motion of the minutes of the previous meeting.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Opposed?

(Motion approved 3-0)

President Melcher: It passes.

Interstate Crossing Subdivision: Section One: Final Drainage Plan

President Melcher: The final drainage plan for Interstate Crossing Subdivision, Section One.

Linda Freeman: Yeah, the Vanderburgh County Surveyor recommends final approval. It's met the requirements of the ordinance, as you see here on the notes, it requires the 100 year capacity plan as it's in the impacted drainage area. Jim Farney is here if you have any questions. It's at Highway 41 in the old Busler's complex. I'm sorry, I didn't have the little...been pretty busy.

President Melcher: That's the property out there by Hahn?

Linda Freeman: It's north of Rusher Creek, it's the old Busler complex.

President Melcher: Okay.

Linda Freeman: It is adjacent to Rusher Creek, which is a regulated drain.

President Melcher: Any questions? Anybody from the audience?

Commissioner Winnecke: Motion to approve.

Commissioner Abell: So moved.

President Melcher: Second?

Commissioner Abell: Second.

President Melcher: We have a first, a so moved, and a second. All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: It passes. Thank you.

Approval of Ditch Maintenance Claims

President Melcher: Next, you've got claims?

Linda Freeman: Yes, sir. We have some claims. I've given them to Madelyn. They were inspected, and it's for Sheidler Spray, broadleaf and brush spraying, and they've accomplished a portion of what they contracted. The only reason I'm saying a portion, because they got caught with the high waters like everyone else. They're planning on coming back and, you know, completing the other ditches that they had on their list.

President Melcher: So, we're going to need a motion for that.

Commissioner Winnecke: Motion to approve.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Opposed?

(Motion approved 3-0)

President Melcher: Okay, it passes.

Other Business

President Melcher: Other business?

Linda Freeman: That's all I have.

Public Comment

President Melcher: If there's some in the audience, if you wouldn't mind coming up. Just state your name and address.

Charles Murray: I'm Charles Murray and I represent my mom and she lives on 2227 North Thomas. It's Pine Lake Estates. She needs to file a petition to get a drainage problem taken care of. I have a Power Point. It doesn't work?

Linda Freeman: (Inaudible). Yeah, we've got to wake it up. Let's see, I'll have to sign in. I don't know why they don't have a monitor right here where you can see what you've got going on.

Charles Murray: Is it okay if I approach? I've got a packet here. I figured it might not work.

Commissioner Winnecke: He can have the color one. He's the President. Marsha and I can look at the black and white one. She's going to get this pulled up for you here, Charles.

Charles Murray: Oh, okay.

Linda Freeman: Is this an auto play? Set, I can't tell what it's doing from this distance. I know they have a cordless mouse too. May I make a suggestion that they move the monitor so we can see?

Commissioner Winnecke: Duly noted.

Linda Freeman: Either that or bigger screens.

Commissioner Winnecke: You got it.

President Melcher: I think you got it.

Commissioner Winnecke: Good job, Linda. This will be reflected in your next annual review.

Linda Freeman: Now you get to see the pretty pictures.

President Melcher: Do you need a copy to go by?

Charles Murray: Yeah.

President Melcher: Go ahead.

Linda Freeman: It's already taking off.

Charles Murray: Yeah, I only put 20 seconds. It's Pine Lake Estates, it's between, it's on North Thomas, it's Morgan, between Pigeon Creek. The storm sewers, it's got like a street drain—

Helen Murray: (Inaudible. Not at microphone.)

Commissioner Abell: Is it east of Rural King?

Charles Murray: Yeah, it's east of Rural King. It's before you got to the old K-Mart that used to be there, yeah, the Rural King. I mean, you're going towards Green River from that.

Commissioner Abell: The golf course.

Charles Murray: Yeah.

Commissioner Abell: McDonald's Golf Course.

Charles Murray: Yeah, it's probably a block up. On Thomas it's like piped across the lots from the culverts in the street, then the lake has an overflow at the end of it. It's all blocked off since this gentleman bought it. Basically, you can see the copy of the letter my mom sent him. He's trying to raise the lake elevation. The lake elevation was originally 381 feet at the time of the development. See when it rains it floods now, and any kind of quick storm you get water backed up the culverts and the docks are covered. The drains are covered where you can't drain out of the street.

Helen Murray: (Inaudible. Not at microphone.)

Robert Goff: (Inaudible. Not at microphone.)

Charles Murray: And, also a lot of the homes have drains coming out of their houses and they've got water coming back up in them now. There's a picture that on May 1st where it, after the letter had been out ten days, it's still blocked. They also, Emergency Management came and unblocked it, and told him to keep it unblocked, he clogged it back up. So, I assume he's going to keep it that way.

Helen Murray: (Inaudible. Not at microphone.)

Commissioner Winnecke: Can you come to the microphone?

Linda Freeman: If you want to speak, you need to be on record.

President Melcher: Yeah, and state your name and address so we have it all on the record.

Helen Murray: 2227 North Thomas. I went down there tonight and he's got it completely stopped off. It's still in my yard. It's still almost over the city drain that goes to the street. If we have another rain, we're going to have water in the street, we're going to have water in our yards, the decks are still covered, boat docks is still covered.

Madelyn Grayson: What's your name, Ma'am?

Helen Murray: Helen Murray. I filed and give him ten days to unstop it.

Charles Murray: (Inaudible. Not at microphone.)

Commissioner Abell: Would you say that again, about the ten days? What did you say, Ma'am?

Linda Freeman: I think I have an idea of what they're trying to do. They're trying to file an obstruction petition.

Commissioner Abell: Okay.

Linda Freeman: So, they've sent the letter to the property owner that there is an obstruction, that it consists of tree limbs, concrete bricks and other debris, and they're wanting to file an obstruction petition. So, basically, they're kind of a little bit ahead of the cart here with the horse, because this would be the sort of things that would be presented at hearing. This, basically, what you need to do is that, you've done this, and then you can file, there's the other part of this packet that has the letter that you file with your obstruction petition to the Drainage Board, and you file a \$100 fee. You don't have to do that at the Drainage Board itself, but what that will allow us to do is then we'll present, they'll get the petition, they'll tell the Surveyor's office to go out and check it and make a report, and they'll also set up a hearing date. Then you and the person that's causing the obstruction, the alleged obstruction, would both be able to present to the Drainage Board. Okay? So, I mean, if you're wanting to go forth with this where he's not responded to you within that ten day parameter, which is what I think you're looking at here, so, then all you need to do is fill out that other paper that was included in the packet stating that you want to file an obstruction petition. Which, you should have that. Are you the one....because I e-mailed all of that to you, didn't I?

Charles Murray: Yeah.

Linda Freeman: Okay. Yeah, so, basically, they just need to fill out the obstruction petition to you and file the \$100 filing fee, and they do not need to do that at the Drainage Board, but, then, what will happen is that will come back, it will come to the Drainage Board at the next meeting—

Helen Murray: Well, how can he stop the city from, I mean, he's throwing water in the city, it's drowning us. We have no sewers. How can he do that?

Linda Freeman: Let me, I mean, if this is what you're trying to present, an obstruction petition, that's the procedures that goes with that.

Commissioner Abell: They file that back in your office and bring the \$100 filing fee to your office?

Linda Freeman: They bring it down to Marissa or Kristin.

Commissioner Abell: Okay, and if they, if this gentleman loses the hearing does, do they get their \$100—

Linda Freeman: No.

Commissioner Abell: —back from him?

Linda Freeman: No, the filing fee was, hopefully, to alleviate any frivolous type of things where we had some that were very minor types of problems.

Helen Murray: (Inaudible. Not at microphone.)

Charles Murray: I don't know. I mean (Inaudible). I mean, you'll have to come up here and give her the paper, the Surveyor's office.

Linda Freeman: Well, you bring it to the County Commissioners office.

Charles Murray: Oh, okay.

Linda Freeman: Just bring the \$100 fee and the other paper that was included with this packet—

Charles Murray: We could have filed it that day we was up there? The other day.

Linda Freeman: Yes. Yes, you could have brought this as soon as he didn't respond within the ten days.

Charles Murray: Okay.

President Melcher: Can they mail it, instead of bringing it?

Linda Freeman: I would think that they could. Kathy?

Kathryn Schymik: I don't have a problem with that. I mean, I think, (Inaudible) information, they can, you know, if they want to—

Linda Freeman: Right.

Kathryn Schymik: — (Inaudible) with the (Inaudible) fee, then, I mean, I don't think that's a problem.

Linda Freeman: Yeah.

President Melcher: No, I think we could do that.

Linda Freeman: Receive by mail—

President Melcher: If you would rather just mail it, instead of coming all the way back down here.

Linda Freeman: Yeah, but you would want to include copies of this with your other letter.

Helen Murray: I don't know nothing about it. I'm 80 years old.

Linda Freeman: Okay, that's cool.

Helen Murray: It's, I mean, if some guy can drown you like that, I don't understand it.

Linda Freeman: Well, it takes time.

President Melcher: Our hands are tied. We have to go through the steps.

Linda Freeman: It's on private property.

President Melcher: We don't have a choice on that.

Charles Murray: So, I just need to send a copy of what I've got here?

Linda Freeman: Yeah, basically, just a copy of this and this with the other part of the packet.

Charles Murray: Okay.

Linda Freeman: I don't know if you've got, oh, here we go, right here. Basically, you've done this, you've requested the removal of the obstruction, then this is the actual petition, you can fill this out, fill it out—

Helen Murray: City emergency went down there and unstopped him, and he stops it back.

Linda Freeman: Well, we can't get on private property. I don't know if it's in the city right-of-way or something, then you could go through a different venue, but if you're going to follow the procedure for the obstruction, this is where we're at.

Helen Murray: Then, you go and unstop it?

Linda Freeman: No, we can't, we—

Helen Murray: I mean, after the procedure goes through.

Linda Freeman: After the procedure, you and the gentleman can present your case to the Drainage Board, and the County Surveyor also goes out and looks at it and makes a report to the Drainage Board, and based on all of the information that's presented, then they make a ruling.

Helen Murray: Then he can stop it back up and we have to go through the same thing again?

Linda Freeman: If he continues to, but I would think that the cost and the, you know, because if he doesn't do it himself, we can hire a contractor to go out and do it, then he would be charged the fees that the contractor would charge. So, I mean, he has an option of, he can do it himself, if it's ruled in your favor and there is an obstruction and he is ruled that he has to remove it, he can remove it himself, but it would have to be removed to the satisfaction of probably the County Surveyor making a report back to the Drainage Board.

Charles Murray: On the lake levels, will they, will someone come out and measure the lake levels and make it go back to the original subdivision?

Linda Freeman: I don't know that we would have any records on that. I don't know that that would be—

Charles Murray: It was in the plat.

Linda Freeman: —something that we could, that we could guarantee, but we would, you know, if there is an obstruction we would have the obstruction removed.

Charles Murray: Okay. It's in the plat. So, do I need to attach that to?

Linda Freeman: Basically, all we need for the petition to go forth is the letter that you sent, and the—

Charles Murray: Lake elevation.

Linda Freeman: —right, and this, but this was just at the time of when it was surveyed and stuff. Now, I don't know based on what datum and things that he's got this at, so I'm not sure that we could meet this. I don't personally have any knowledge of what the elevations are out there now. Depending on what datum, because there's been adjustments in the vertical and horizontal and that's all surveying type things, but there's been adjustments made throughout the years, and I would have to check to see if this is a legitimate, or what the new, like old money versus...like if you spent a thousand dollars in 1900, it would be a million dollars in 2000 type of thing. So, I mean there's adjustments that would possibly have to be made on that 381.25 that you're showing me here.

Charles Murray: Yeah, I mean, I understand that, but, I mean, these other people built 20-25 years ago—

Linda Freeman: Uh-huh.

Charles Murray: —and they've came back with this part here. Those are the recent houses built. So, basically, everything is lower down at the bottom, towards the bottom end of it, at the beginning of the subdivision. So, and he filled his lot in a little bit and even went out in the lake to fill in his lot to make it higher. So, he's just flooding everybody out down below it.

Linda Freeman: Well, we don't, the obstruction would be, with the petition, it's an obstruction. You know, so if he's blocking something, the overflow for the lake and it's causing the water to back up or another type of problem, based on an obstruction, then we can go forth with that.

Charles Murray: Okay.

Linda Freeman: Okay?

Charles Murray: So, you don't really check the lake level or anything like that?

Linda Freeman: Not typically. It's basically we're looking at the obstruction problem. You know, we're not trying to re-establish a lake elevation or anything like that. That would be part of the report, you know, if the lake needed to be a certain elevation to alleviate the problems, you know, type of thing, but, that's all something that we would have to investigate.

Charles Murray: Okay.

Linda Freeman: So, I mean, I can't, you know—

Charles Murray: He's got it blocked off now, it's right at dock levels already.

Linda Freeman: So, I mean, it would be something that we would have to look at, you know.

Commissioner Abell: I have a question, sir. The area where he has it blocked off, is that on his property?

Charles Murray: Yes, at one time, the developer was supposed to turn it over to the association of the subdivision. He let it go back in taxes, and the association was going to buy it, however, this guy bought it out from under them.

Commissioner Abell: Okay. So, he actually owns the land on which he, the obstruction is?

Charles Murray: Yes. I mean, yes.

Commissioner Abell: And, there's no question that he's the one putting this stuff in there?

Charles Murray: Yes.

Commissioner Abell: Okay.

Helen Murray: (Inaudible. Not at microphone.) It's completely stopped up.

Robert Goff: Helen, may I address? My name is Robert Goff. I'm familiar with this, and I do see Ms. Murray quite a bit. You asked about if he owned the land, the original plat sheet says that the Pine Shore neighborhood shall be responsible for the spillway. Now, this was filed quite some time ago. As recently as two years ago, he received a quit claim deed, and, as you know, quit claim deeds are subject to any deed restrictions, any liens or anything that's of record before the quit claim deed is issued. Those still are in effect. So, in effect, the original plat sheet gave the responsibility to the Pine Lake Neighborhood Association to control the flow of the spillway. Now, that is in the recorded plat, and I can show that to you if it's of interest to you.

Charles Murray: I don't think he wants all that. What I understand I need to put all of this together when I send, when we come next time—

Commissioner Winnecke: Right.

Charles Murray: —at the hearing.

Madelyn Grayson: You do have the petition paperwork, correct? I mean, that's what needs to be filed with the fee.

Charles Murray: I guess, I didn't read the whole thing.

Robert Goff: I hope I've answered your question, Marsha. Marsha, have I answered your question?

Commissioner Winnecke: We've got Linda up here to...is that (Inaudible), okay.

Helen Murray: Well, the street's going to drown us if we get a real hard rain, because it's done going up that culvert or whatever you call it in the street now, and he's got it stopped completely off to where it can't drain. The street's going to be (Inaudible).

Commissioner Abell: Ma'am, have you talked to him about it? And, has he ever disputed that he's doing it?

Helen Murray: I go down and unstop it and he goes down and stops it. Just like tonight, I went down there before I come up here to see if it was stopped up again, which I knew it was because there was no water going out, it was still up the road. And, I went down there, it's stopped completely up. Well, evidently he seen me go down there. I looked out and here he's going down. So, he thought I went down there to unstop it, so he was going to stop it back up, see. But, I didn't, I didn't touch it. I just went down there to see if it was stopped up. So, he comes back, and I went back down there to see what he done, because I thought maybe he caught word that we was coming up here and he unstopped it. So, I went back down there and he hadn't unstopped it.

Commissioner Abell: Okay.

Robert Goff: May I answer Marsha's question? You asked if we had talked to him. Every time that we talk to him, or attempt to talk to him, he tells us how useless we are. He yells at us. He does not speak very graciously. He is upset this lady so that she is a nervous wreck by his yelling. I think in, I think if we tried to talk to him it would end up in a shouting match, and I try not to shout, but he shouts and is very derogatory. So, it is extremely difficult to discuss the matter with him. So far we haven't been successful.

President Melcher: Linda?

Charles Murray: He's also put "No Trespassing" signs and stuff back where the drain is. When it was the subdivision and everybody owned it, people would go back there and clean their own drain, you know, if it was backing up the culverts, they would go back there and pull the bushes and stuff out. He's very adamant that it's his lake, he will do what he wants to with it. He's basically told people they can't fish off of it. He's going to put a fence around the property even if it goes out six feet. So, he's not very friendly about any ideas about how to manage the lake.

Helen Murray: Well, to start off with I was real nice with him, and I told him, I said, all I care...he told me I couldn't fish, he was going to put a fence in front of my property, which I go six feet or maybe further back out into the lake. I couldn't fish, he was going to go out six feet and put a fence up. I said, I don't care. I said, I just want you to keep the drain open. He said, oh, he says, you're just a crazy old lady. He said, that's all you are. He said, you can look at them blue shutters you got on your house. That had nothing to do with (Inaudible) whatsoever (Inaudible) no matter what color my shutters are.

President Melcher: Well, we're going to try to help you solve this. So, Linda, do they understand now—

Linda Freeman: Yes.

President Melcher: — the process?

Linda Freeman: Okay, the daughter-in-law, April Murray, has the information she needs. She's going to mail the petition and the check to my office, to my attention, and then I'll bring it down to Marissa.

President Melcher: Then, what happens once we get it? Tell us the next step.

Linda Freeman: The next step would be that you would direct us to go out, the Surveyor's office to go out and look at the situation and make a report back to you. We would also set a hearing date, what is it, no later than, no sooner than 30 days–

Kathryn Schymik: Right.

Linda Freeman: – from May the 24th.

Kathryn Schymik: So, they need to accept it at the next Drainage Board meeting. At that point, that authorizes the Surveyor to go out and enter on to that private property. The hearing can't be sooner than 30 days from that hearing date to enable them time to do their investigation, make their report. Then we come back to a following meeting, that's going to be at least 30 days out–

Linda Freeman: And no later than 90.

Kathryn Schymik: – it will be the hearing on the petition, where the Surveyor will give their report, both property owners can state their case on the issue, and then the Drainage Board can issue it's finding.

Commissioner Winnecke: So, for the purposes of their planning–

Kathryn Schymik: They don't need to come back until they're notified of when the hearing date has been scheduled.

Linda Freeman: Right, they'll get a written notice from Madelyn, from the Drainage Board–

Kathryn Schymik: Right.

Linda Freeman: – stating that this hearing is going to be held on this date.

Kathryn Schymik: On a certain date, because it won't be taken up at any other Drainage Board meeting prior to that time, because we're not permitted to hear it, and the Drainage Board won't consider it until the Surveyor has completed their investigation.

Linda Freeman: Okay, and April Murray, the daughter-in-law is shaking her head yes, she understands.

Kathryn Schymik: Okay.

President Melcher: So, the sooner they get you the information, the faster this is going to go.

Helen Murray: (Inaudible).

Linda Freeman: Well, they can, I mean, they can pursue a civil matter also if they would like, but if you want to pursue this, this would be the procedures and the way it would happen.

Helen Murray: It's still over my rocks and the edge of my yard, but that's just coming up (Inaudible), that digging down in my yard (Inaudible) once it gets out of my yard.

Linda Freeman: If you're going to pursue this, then April has the information, she's going to get it to me and we'll go forth, and you'll get a notice.

President Melcher: Just come to the microphone, or do you want to do that—

Linda Freeman: I'm sorry. He's got a question for me directly. So, we'll get something going here for you.

President Melcher: So, is there anything else that needs to be said this evening? Okay, and you're going to—

Linda Freeman: We've got it. I'm helping April.

President Melcher: Alright, anything else? Any Commissioner got anything?

Commissioner Winnecke: I do not.

President Melcher: Then we need a motion to adjourn.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: We're adjourned.

(The meeting was adjourned at 6:35 p.m.)

Those in Attendance:

Stephen Melcher

Linda Freeman

Charles Murray

Others Unidentified

Lloyd Winnecke

Kathryn Schymik

Helen Murray

Members of Media

Marsha Abell

Madelyn Grayson

Robert Goff

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
MAY 24, 2011**

The Vanderburgh County Drainage Board met in session this 24th day of May, 2011 at 5:40 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and start the Vanderburgh County Drainage Board. It's Tuesday, May 24, 2011, it's about a quarter till, twenty till six.

Approval of the May 10, 2011 Drainage Board Meeting Minutes

President Melcher: We need a motion for the approval of the minutes of the previous meeting.

Commissioner Abell: So moved.

President Melcher: I'll second it. All in favor say aye.

Commissioner Abell: Aye.

President Melcher: Aye. It passes.

(Motion approved 2-0)

McCoy-Catt Drainage Obstruction Public Hearing

President Melcher: Bill, do you got some drainage plans?

Bill Jeffers: Well, Mr. Melcher, I was informed just before the meeting that my comments in the previous meeting, I must delete seven minutes from my presentation here tonight. So, I'm going to skip drainage plans and go right straight to the hearing.

President Melcher: Okay. It's your option. So, we'll hear the hearing of Lewis McCoy petition to remove obstruction.

Bill Jeffers: Yes, sir. I have the file here that contains the petition for Mr. Lewis McCoy, Sr., and Wilma McCoy, 1000 West Heerdink Avenue, Evansville, Indiana, 47710. This is near Central High School. Mr. McCoy alleges in his petition the existence of an obstruction to the existing natural surface watercourse serving his property at 1000 West Heerdink, and that the obstruction is alleged to exist at 920 West Heerdink Avenue, next door, property owned by Richard W. Catt, Sr. and Karen Catt. So, I will let Mr. McCoy initiate the hearing by presenting his side of the case.

President Melcher: Just state your name for our records, because it goes on tape.

Ed McCoy: My name is Ed McCoy, and this is Lewis McCoy, he's my father. I live on the property, he owns the property. They are at 1000 West Heerdink. I would like to take just a couple seconds, wanted to thank you for taking the time to hear our concerns this evening. I guess, I had just a few prepared remarks, and then you can

ask questions. Let me just state first that our reason for being here tonight is not to infringe upon Mr. Catt's rights to improve his property, or as he sees fit, or to infringe upon his rights to protect his investments he's made in those properties. Because, I mean, we do understand that Mr. Catt has spent a great deal of money to improve his property and has valuable stuff in there that he wants to protect. Our contention is only that during the process of improving and protecting his property he's just methodically and intentionally blocked the natural flow of water that was established to drain our property, probably more than 40 years ago. This action has continued to the point where our property, we feel, now is being damaged and devalued by that action. The property to the left of ours is higher than ours, and the property to the rear is higher than ours, and both of those sit on sort of the crest of the little hill that we live on, the little incline. The roadway out in front is slightly higher than our property, therefore, long before we purchased the property the ground was sort of contoured to direct the rain water around the structures that were on our property and into the ditch or valley that runs through the middle of our property. It exited naturally, you know, through, at that time it was just an open rear yard that Mr. Catt had on his property. It spreads out, dissipates and it just continues on down towards First Avenue across the other properties. When we purchased the property 14 years ago, that was the situation. Now, you know, Mr. Catt has lived in this neighborhood since he was young, and his parents either bought or built the house where he currently resides. So, additionally, oh, and he is, additionally, whenever, right before we purchased the property, several years before that, he had purchased 14 foot of property from the previous owners of our property. I guess, by saying that, we thereby feel that Mr. Catt has ample knowledge of the water situation in the neighborhood, and had an opportunity to correct any water or drainage issues long before he started to improve his property in that way. Before we filed this petition we addressed this issue with Mr. Catt, he would say that he would, had plans to address drainage, had plans to address drainage, but it was always further along in his plans and in his process. Two years ago we did call the Surveyor's office, they sent somebody out to look at this situation, and during part of the conversation, I know Mr. Catt was there, we talked to him, the people that was sent out had talked to him and he said, well, I'll address that. I will put in some drainage, and we said okay, but he said I won't do it now, I'm going to do it when, it was cold then, so I'll do it when it's warmer, do it in the summer. Late that summer, early fall Mr. Catt installed a permanent concrete wall across the edge of the property, therefore blocking any drainage going where it has been forever, as far as we knew. At, I guess, at that point, the water would pool against the wall, standing in our yard. When it got high enough, it would flow around the front of the wall that Mr. Catt had put in there and into a, across his driveway and into a ditch that was adjoining his garage. Recently he has started to build that driveway up again with rock, therefore permanently making any water going across his property impossible, that leads from our property. So, at that point we felt we had no choice but to come before the Board and ask for some resolution to this issue.

Commissioner Abell: Do you have some photographs, I know, I'm kind of having a hard time following exactly what all....are these your photographs?

Ed McCoy: I think, was that the photographs that we submitted?

Bill Jeffers: (Inaudible. Microphone not on.)

Ed McCoy: Okay, I know I do have some photographs. I don't know if there's a way to show those here.

Bill Jeffers: Do you have them with you?

Ed McCoy: The only thing I have them on is a flash drive. I don't know if we can use that or not.

Brenda Jeffers: (Inaudible. Microphone not on.)

Ed McCoy: Okay.

Commissioner Abell: I can't tell if I'm looking at your property or your neighbor's property by what I'm looking at.

Ed McCoy: Right.

Bill Jeffers: I'll quickly go through my pictures, and then we have copies of the pictures Mr. McCoy submitted, but we'll quickly go through these. I'm standing on the neighbor's property looking into Mr. McCoy's property, and the watercourse, natural watercourse, that's the wet spot, that's one of the wet spots in his yard. The natural watercourse used to run straight up through the property before this garage was built smack in the middle of the natural watercourse, prior to the McCoy's purchasing the property. That's the McCoy's garage. The next picture will show, I'm standing in the McCoy's driveway, looking downhill towards the snapshot that I took, I was standing down here shooting uphill. Now, I'm standing uphill shooting downhill. You can see the watercourse is intercepted by concrete curbing. The wet spot that you saw earlier is in this area. Next shot. There's the wet spot, there's the curb. The natural surface watercourse previously went on through the Catt's property, before that garage was built. After the garage was built, next picture, the natural surface watercourse runs down, next picture, and into their back door. So, Mr. Catt swaled his gravel so that, and dug a trench, next picture, well, that's where it used to go to the door there. You can see the path. This is, I was standing there at the first, well, this is what Mr. Catt did to redirect the property along side of his house and out to the street. Let's see another picture. This is, okay—

Brenda Jeffers: Sorry.

Bill Jeffers: —keep going. Now, I'm looking up towards where I took the very first picture. This is the objectionable water that stands behind the curbing, because it's been intercepted. The watercourse that used to come down through here is intercepted, now the water is directed out towards the street. You can see there's some high points that cause water to puddle here and there. This is standing out near the street looking back towards where the watercourse comes down, intercepted, now it's coming out toward the street. Another picture, I'm standing back in the wet spot looking out toward the street. Mr. Catt has any water on his property going out along his sidewalk to a pipe out here by this pick up truck. You can see his down spouts and everything, he's directed all his waterflow, this is Catt's property, the respondent, out to that pipe. I'm suggesting that if the same were done on this side of the wall, the water would come out to the street and could be connected to the street system. I think that's all of the pictures that I have. Mr. McCoy has a set of pictures that are copied in black and white on two copies if you would like to have a hard copy of them.

Brenda Jeffers: Here they are. Here are the colored ones.

Bill Jeffers: We also have some colored photographs.

Brenda Jeffers: These are the colored ones, and these are the black and whites.

Ed McCoy: Oh, okay.

Brenda Jeffers: These are another set of black and white. If you want to give both of them a set.

Bill Jeffers: You give them to them and they go into Madelyn's file.

Ed McCoy: Okay.

President Melcher: So, your house is right behind their house?

Ed McCoy: Our house is directly to the west of their house.

President Melcher: So, you're next door?

Ed McCoy: We're next door.

President Melcher: Alright.

Commissioner Abell: Mr. Jeffers?

Bill Jeffers: Yes?

Commissioner Abell: Did you indicate that if a pipe were installed along the McCoy side of the concrete barrier and funneled water down to the street that would alleviate the problem in their lawn?

Bill Jeffers: It could be an open swale, so long as the grade were constant downhill toward the street. That could be done with an open swale, or an underground pipe. Yes, that's what I indicated, that could be done. There used to be a ditch on both sides of Heerdink, an open ditch. This is an older subdivision from the 40's and 50's and it's just an asphalt roadway, grass shoulders, roadside ditch on each side, just like you still see out in the county. One of the first subdivisions out in that area when all of this was cornfield out there around Central. Those ditches have been filled in, very similarly to what happened on the southeast side of Evansville and has caused all of the problems out there, where people for reasonable reasons needed parking along side the street, put a pipe in the ditch, filled it in, but that means any water that's surface drainage has to be picked up and directed into the pipe now. Which I showed you in picture number 11, I believe, or ten, well, you can barely see it, but out there by that red vehicle there's a pipe that picks up the water and takes it into the street system. That would have to be done on the other side of the wall as you asked, at the location where you were asking.

Commissioner Abell: You say it takes it to the street system. Then, I'm assuming it's not just dumping it out on the road, it's actually taking it underground?

Bill Jeffers: Underground, and then farther down at the end of Mr. Catt's property the ditch, the pipe surfaces and then there's a little ditch that would carry it on towards First Avenue.

Commissioner Abell: Okay, thank you.

Lewis McCoy, Sr.: May I?

Bill Jeffers: Sure.

Lewis McCoy, Sr.: No, I want to talk to you.

Bill Jeffers: Oh.

Lewis McCoy, Sr.: You suggested one thing, okay?

Bill Jeffers: Sure.

Lewis McCoy, Sr.: Now, out to street—

President Melcher: You have to speak into the microphone so we can record it.

Lewis McCoy, Sr.: Out to the street, could you just put a culvert under Mr. Catt's driveway?

Bill Jeffers: Well—

Commissioner Abell: You really should ask someone who knows what they're talking about.

Bill Jeffers: Okay, I thought of that, and that could be done. You could take a culvert at the end of the wall, where the wall ends out here near the red vehicle, and diagonally direct it under Mr. Catt's driveway and surface it out at the pipe that Mr. Catt has stubbed out from the street system. Yes, that can be done, but when I looked at that, if you go back to picture number one and two, I think, I can't see it clearly there. Okay, right here, right in the very foreground, in the center foreground you'll see a black, plastic pipe.

Lewis McCoy, Sr.: That's mine.

Bill Jeffers: Right, that's about an eight inch, ten inch pipe. Then there's another one over here by this tree just like it. That picks up a lot of excess runoff from uphill, these aren't the only two individuals who own garages that were built subsequent to the house. There's a lot of add-on garages, carports, sheds, rooftops, what have you. For example, the petitioner, Mr. McCoy, his house was built in 1940, it has an attached carport, it has a detached garage that was built in 1940, way out in back of the lot. Then, this garage you're looking at, the block garage was built in 1975. So, you have the white garage in 1940, the block garage in 1975, the carport, unknown date, plus the rooftop. Now, if you look up through the rest of the subdivision to the west, the same thing has happened, everybody has added on these garages, added on these sheds. So, there's one heck of a lot of water coming down that Mr. McCoy has captured on the other side of his own rock driveway, in front of that grey door, and directed towards Mr. Catt's property and shot it out the end of two ten inch pipes. That amount of water, I do not think, can be captured in a ten inch or a 12 inch pipe and taken over to, picture number 11 I believe it is, or try 12, or 11. Okay, Mr. Catt has a little ten inch pipe at the end of his driveway, you would be taking two ten inch pipes, plus Mr. Catt's runoff, cramming it all into one ten inch pipe. I don't think that would be a wise idea. That's why I'm suggesting that if a pipe is connected to the street system it be done on Mr. McCoy's side of the

property line, and it be the same as or similar to what Mr. Catt's did on this side of the property line.

Lewis McCoy, Sr.: May I ask another question?

Bill Jeffers: Sure.

Lewis McCoy, Sr.: Don't run off.

Bill Jeffers: Don't run off?

Lewis McCoy, Sr.: Because we've got more problems.

Bill Jeffers: Okay.

Lewis McCoy, Sr.: The reason I got the ten inch pipe there, okay, is when I bought the property, okay, can you go back to my property sometime, or do you have a picture of my property? A picture or something. Alright, that picture there, as you see the back of my house on the right hand side of that picture, upper right hand side, okay, and the garage, the built garage, the block garage, okay, the water comes off there. Now, when I bought this property, I didn't know it, but when I bought this property all of a sudden it rained, okay, now I've got a basement in my house, there's a window in the back of my house, when it would rain hard and come around that garage and come down through here it would flow over my driveway and would like that much of getting into my basement through my basement window. That's the reason, and when I bought the property what they had in there for drainage was old concrete block and one piece of steel about that big pipe. Now, the concrete block was full and everything, so all I have did is freed my water up so it would not....I can't put no gravel on my drive, to cover up my drive to repair it because I'm afraid if I put too much there it will go in my basement. That's the reason I put them pipes there.

Ed McCoy: (Inaudible. Microphone not on.) existing drainage that was already there. We just replaced it with new stuff that would open up—

Lewis McCoy, Sr.: I just replaced them pipes, I might have went overboard, but they don't have no more water coming down through there than they did before.

Bill Jeffers: Okay—

Lewis McCoy, Sr.: Because the water would come over—

Bill Jeffers: Right.

Lewis McCoy, Sr.: —my drive.

Bill Jeffers: The only two points I would make before listening to further testimony, whether from the petitioner or the remonstrator, or the respondent, is that, as Mr. McCoy just pointed out, there was a drainage problem on his property and he took an opportunity to address it the best way he knew how and moved that water in a more effective manner on down the line and cast it out the end of these two pipes. I'm not disputing that that worked for him, I'm only bringing it to the attention of the Board that it's my opinion that a property owner does have the right to address storm water as a common enemy to himself and do what it takes to keep it from coming

into his home. That will be a pertinent issue when we get farther along in the hearing.

Lewis McCoy, Sr.: Is that it?

Bill Jeffers: For me at this point in time.

Lewis McCoy, Sr.: Okay.

President Melcher: Do you have anything—

Bill Jeffers: Unless you have anything further to say.

President Melcher: —else to say?

Lewis McCoy, Sr.: All I know is I tried to take care of my water, he built this, now I've got a lake every time it rains.

President Melcher: Okay.

Lewis McCoy, Sr.: My ground is lower than the road, and it will not flow out into the street until it gets like that, big puddles.

President Melcher: Okay.

Lewis McCoy, Sr.: Now, I don't know about this, but this is my suggestion, maybe I shouldn't do this, but on Mr. Catt's property he's got a ten inch pipe, if you run, if you will go out in front and run a 12 inch pipe, or he's got an eight inch pipe, if you'll run a 12 inch pipe all through Mr. Catt's, there at the road, I'll live with it, because a 12 inch pipe I believe will take care of my problem out at the road. But, you will have to take, because Mr. Catt had put a ten, an eight inch pipe all the way through and up and down the front of his property, it doesn't have no place to go.

Ed McCoy: We have, and unfortunately I don't have—

Lewis McCoy, Sr.: I don't have the pictures, but I've got pictures that shows Mr. Catt's eight inch pipe full of water, his backyard, not backyard, but back there by his garage there where it's low, it's full of water, it's running over his driveway before he built it up real high, running over his driveway. The next door neighbor has a 12 inch pipe down there, it was not running but half full.

President Melcher: Okay.

Lewis McCoy, Sr.: That's all I've got to say.

President Melcher: Alright then we can hear the, who's next, Bill?

Bill Jeffers: With regard to the comments that Mr. McCoy made at the end of his presentation, I also would like to call the Board's attention to the fact that the road itself, Heerdink Lane, I believe it's called, or Heerdink Road. Heerdink Avenue, is a city street, everything in the right-of-way for Heerdink is Board of Public Works jurisdiction, and so I'm avoiding changing anything out in the right-of-way. Once you get outside the right-of-way it becomes Drainage Board jurisdiction, under this particular statute, simply because the petition is not made to the Board of Works, it's

made to the Drainage Board, by statute, and so I'm trying to address everything outside the right-of-way of Heerdink Avenue, okay. If this were all in the county, I would be advising 12 inch pipes, yes, because our drainage code and our county code, street code, 12 inch pipe is the bare minimum that we can allow. I wouldn't be talking about ten inch or eight inch pipes, but because I can't order and you can't order the City Board of Works to restore that ditch out there or replace eight inch pipes with 12 inch pipes, I'm trying to address this outside the right-of-way, and just make the connection to the street system best I can advise. So keep that in mind. I don't dispute what Mr. McCoy is saying, historically or his suggestion that he would accept a 12 inch pipe in the street ditch, but that's not my call. I don't believe it's the Drainage Board's call. I believe that's the Board of Works call. I'm trying to get this done within our jurisdiction. So, then I think you should now listen to the respondent, who is the next door neighbor, Mr. Catt, who affected these changes to the watercourse.

President Melcher: Okay.

Bill Jeffers: Oh, one more thing. I'm sorry.

President Melcher: That's alright.

Bill Jeffers: I got distracted there. Excuse me a moment, I have a couple of videos, but I'm not wanting to prolong it by showing those. I went back out there this morning and took these pictures, that's my red car or my wife's red car. I took these this morning because it rained last night and the video didn't show, the video showed damp spots, these pictures show water standing after a rain. That's the only reason I'm showing them, because it rained last night. That's why I went back out there.

Richard Catt: Hi.

President Melcher: State your name and address.

Richard Catt: Richard Catt, 920 West Heerdink. Before I put this curb in, I had made a comment to Mr. McCoy that I would put a drain right there in that main wet spot, up there toward the center, and if he would split the material with me, I would do all of the labor for nothing. Well, he wasn't interested in that. So, I just went on and had my drains fixed and whatever. They was talking about running a drain across my driveway, well, if they run it all the way, run the drain across the very end of my driveway that would hook up to my pipe out there that I had put in, that would be fine with me. I don't have a problem with that, but I don't want it running across my driveway. They would have to take it all the way to the end and then hook into the main pipe out there. I don't have a problem with that.

President Melcher: Do you got any questions? I'm a little confused on what you're saying.

Richard Catt: Well, where's that marker at?

Commissioner Abell: Bill, even if you had a drain across the end of the driveway, you've got to get the water down to it. It's not flowing down that way, is it?

Bill Jeffers: Okay, looking south, Mr. Catt's here, his driveway, rock drive is on the left. Mr. McCoy's property, the green grass is on the right. Yes, the water will flow from back there underneath that shade tree, it will flow out to this wet spot here if

there is some minor grading done behind the wall. There are some high spots and low spots that need to be shaved down. It could be done with shovels. It could be done with equipment. The water has to be directed across the surface and come out here to this wet spot in the foreground where Mr. Catt is saying he would agree to a pipe being set underneath his rock drive and then the water would be taken over to the south, or, no, excuse me, to the east to that stubbed out pipe down there at the end of his driveway. He's saying he would agree to that, as long as it doesn't go under his wall foundation, as long as it doesn't go back here by his house. Because this morning I looked at his foundation, he's got enough water running underneath this slab here. He's actually losing mortar joints in his brick work from this being heaved up and down during the winter, I don't recommend anymore water being put across his driveway alongside his house. It's either going to go in his back door, as it did before....show that picture. The slab is so, has no protective grade. I think it's picture number three or four somewhere up in there, or, no, there, there's no protective grade there, except what he's created out here in the middle of his driveway. The water is either going to go right through that back door, or it's going to run alongside the garage, the attached garage there and it's going to heave that foundation up and down during the winter and crack out all of his brick mortar. So, what Mr. Catt is saying that he would accept would be a fair fix.

Richard Catt: Where's that one picture of the pipe going out towards the front of the house? Yeah.

Madelyn Grayson: Mr. Catt, can you make sure your comments are made in the microphone—

Richard Catt: I'm sorry.

Madelyn Grayson: —so we can pick them up.

Richard Catt: That pipe right there is probably about six or eight foot long. Now, if they run across the outside of the driveway and hook into this other pipe, this pipe on the end of that runs east and west. Now, if they would hook it up over from there to run straight into that pipe, I don't have a problem with that. So long as it don't cost me nothing.

President Melcher: So, isn't that like a culvert though? What you were talking about, just running a culvert under his driveway?

Bill Jeffers: Yes.

President Melcher: How can they run a culvert under his driveway?

Richard Catt: Well, there's a manway out there, right out there too for the sewer, but I don't think they would have any problem with that. They would just have to run it down through here and then make a 90, run it over to my pipe, just tie into it.

Bill Jeffers: Yes, that could be done and Mr. Catt's access to his driveway could be maintained with a steel plate over the excavation until it's finished. Mr. Catt is a retired boilermaker, I'm sure he's familiar with the materials and the process through which this type of thing is done.

President Melcher: Now, is this part of, but this is not really part of our jurisdiction. Isn't that the right-of-way there that you were talking about?

Bill Jeffers: Okay, I guess, do you have very much more to say?

Richard Catt: No (Inaudible).

Bill Jeffers: I guess, we can move on to the, to, I guess, more or less my wrapping up part.

President Melcher: I think that's wise.

Bill Jeffers: Yes, there is a natural surface watercourse as defined by the statute that I have a copy in front of me and the attorney is aware of and has a copy as well. Yes, there are, there is an object and material in that natural surface watercourse on both properties, whether that be rock, garages, what have you, curb. Yes, it was done intentionally for purposes you've heard the two property owners describe to protect their properties from flooding the home structure, the various things were done to do that. The County Surveyor did investigate whether an obstruction exists, and I did report what I reported, what I found. This hearing has been held greater than 30 days from the receipt of the petition and less than 90. A notice of the hearing was mailed to each person, interested person, and now, at the hearing, if the Drainage Board finds, (1) that an obstruction exists as alleged, (2) that the removal of the obstruction will promote better drainage of the petitioners land, that's Mr. McCoy's property, which you may feel that it does, and (3) does not cause unreasonable damage to the land of the respondent, Mr. and Mrs. Catt, and that's the catch phrase that I want you to concentrate on. If you find those three things; the obstruction does exist, that the removal of it would facilitate better drainage of those mud puddles you've seen, and thirdly and most importantly, in my mind after all the rainfall we've experienced this year, the removal of the wall and the rock would that cause damage to the respondent's property, the Catts? My answer would be, yes, it will. It will redirect the water across the driveway, into his back door and against his foundation. So, now you have a choice of promoting and encouraging a resolution between the two parties, which I would participate in to the best of my ability. Or, you can just outright deny the petition because it would, the removal of the curbing and the rock would cause damage to the respondent. I don't like things to be just summarily done, you know, and everybody go away unhappy. I would rather that you have one property owner, Mr. McCoy, saying he would accept a 12 inch pipe in the street ditch, that's a step forward, and you have the respondent saying that he would accept the crossing of his driveway with a pipe to the street ditch. Now, I think somewhere in between there there's a solution. One guy might want a pipe that's too big, 12 inch might not go in there unless the Board of Works wants to do it, but the other guy is saying, well, I'll take a pipe of some size and they can hook up to mine or hook up to the one out in the road. That's the direction I would go, with the what do you call it, provision that the petitioner knows ahead of time that he's going to have to do some grading behind that wall to get that water not to have high and low spots and to take a straight grade down to the pipe that's going to be put in, if that's the resolution. I would hope that all of that would work together and that the County Surveyor's office and the Board, and the two parties can agree on that and work towards that end. You can always make a motion to move forward, and in that motion you can continue this hearing, set a date in the future to come back and see if it's been resolved and finalize the hearing at that time. That's allowed in the statute as well, for fairness. I think we should always consider that. Both these people are living under adverse conditions as far as water problems go, not necessarily caused by each other, just by nature. But, you can, under this, you can, if it appears that a respondent has not been served adequate notice, or in the interest of fairness, or otherwise compel a postponement, so you could postpone or continue this meeting,

in my mind, to a future date, middle of the summer, next fall whatever, to see if this has been resolved between the two parties, along with a government agency.

Commissioner Abell: Mr. Jeffers, do you have any idea where the property line is between these two properties?

Bill Jeffers: I do not, but I was assured by the respondent that he knows where the property line is and he set that wall several inches inside his property, and he told me this morning when I asked him, I asked him if Mr. McCoy agreed with that and he told me Mr. McCoy had made his own measurements and had not disputed the property line. However, both individuals are here to make that statement for themselves.

Commissioner Abell: Well, Mr. Ziemer, if the concrete curbing along the driveway is on Mr. Catt's property, and the little land on the other side of it is also Mr. Catt's, is Mr. Catt just flooding his own land?

Ted C. Ziemer, Jr.: Well, I'm not sure that we can draw that conclusion, but Mr. Jeffers has stated that there is a natural watercourse, that the concrete is obstructing the watercourse, and that removing that obstruction will improve the drainage for the petitioner, however, what you haven't said, at least that I haven't heard is what will happen if we remove the obstruction, will that cause unreasonable damage to the Catt's property?

Bill Jeffers: Yes, sir, I do believe it will.

President Melcher: I think he said that.

Commissioner Abell: Water goes down into his back door.

Bill Jeffers: It would go in his back door.

Commissioner Abell: The water goes back into his back door.

Ted C. Ziemer, Jr.: In that case, okay, in that case, the Drainage Board has to deny the petition of the petitioner, because all of the conditions have not been met. However, what, I think the Drainage Board is interested in doing is having Mr. Catt and Mr. McCoy work together in the next months and try to solve this problem themselves, and Mr. McCoy is signaling that he would like to comment on that, but it's either deny the petition because that's what the statute says, or urge the petitioner and the respondent to work together to solve this problem.

Bill Jeffers: And revisit it at a later date?

Ted C. Ziemer, Jr.: Right.

Lewis McCoy, Sr.: Okay, when I bought this property, Mr. Catt's garage was not there. Okay? But, water flowed down over my property, went down to Mr. Catt's property, spread wide over his property and went to the neighbors property that they had ditches to the road, okay. Now, he had this problem a long time before, if he says it come up there, he had it a long time before I moved there. Why now does he want to make me have problems? That's what I want to know. Now, if you're going to grant him a right to put a wall up there and keep my water, the water that goes, nature's water to go away from his house, then I'm going to go up to my

neighbor's and put me a wall. What's it going to do to him? Where do we solve this at? What I'm saying, now it worked for 40 years before Mr. Catt put the garage in there and didn't do something to make sure the water would get out. It's just not right.

Ed McCoy: If I could say something.

President Melcher: You have to be on the microphone. I'm sorry.

Ed McCoy: Yeah, if I could say one thing real quick. Really, the position that I think my father's trying to make is that the hole that Mr. Jeffers sees down there by the back door that says that the water will run to that back door and into that garage if they remove that obstruction, it was self created by Mr. Catt, by improving his property in a way that forced the water to that issue, not because of something that we did. Is that sort of clear what I'm saying there? It was a self constructed issue, not something that we said, well, we're going to put in ten inch pipes and it's all going to run down to your back door. It didn't run down to the back door before, that we knew of. There was never complaints.

Lewis McCoy, Sr.: One other thing, if you let him leave that wall there, okay. I don't know if you know anything about dirt, but there's a lot more dirt and a lot more water than that picture shows. Water gets on dirt, it kills grass, and our grass, and then it loosens dirt up and then when it rains the water takes down through the drain. So, if you let him keep that there, so it will keep backing up and backing up and backing up, I'm going to be out there every year shoveling dirt trying to keep my property in place.

President Melcher: Would you have a problem working with him like they were saying about running that pipe and running something across?

Lewis McCoy, Sr.: Well—

President Melcher: Because the statute is clear to us, I mean, we don't have a choice really, and that's why we're trying to discuss this.

Lewis McCoy, Sr.: You haven't been to some of the discussions.

President Melcher: Well, obviously not, but I'm just getting what it is tonight, and we have a statute we have to follow right, wrong or indifferent, so.

Ed McCoy: I think, maybe if I could say something.

President Melcher: Yeah, if you could get on the microphone again.

Ed McCoy: Let me just make sure I'm not speaking for my father, but just as a conclusion, it's not something that we're opposed to, to working with them, but we want to work through the city offices and county offices in order to facilitate this. We've tried to work with Mr. Catt before and it's come to no avail. So, that's the reason why—

President Melcher: No, Mr. Jeffers has already offered that—

Ed McCoy: Yeah.

President Melcher: –and he’s willing to be kind of the mediator here, as long as you guys are agreeable and working together, I don’t mind delaying this for 90 days or four months until you guys straighten it out.

Ed McCoy: I mean, if that would be acceptable to you to at least give us some time to (Inaudible).

President Melcher: I think that would be the best answer for you this evening. According to our attorney we don’t really have a choice on this since it will do damage to his property. You’re going to have the help of the Surveyor. I don’t know another route to go unless he went to, they went to the Board of Public Works, but then they’re not going to be able to rule on that part.

Bill Jeffers: They’re going to send it back to us.

President Melcher: That’s exactly right.

Bill Jeffers: That’s where it came from in the first place.

President Melcher: That’s why I’m trying to stop it right now.

Bill Jeffers: So, I might be out of line here suggesting this, but I think I have at least one ally on the Board, probably two that would agree to it, to sweeten the pot, can you give them back their \$100 filing fee towards materials? Maybe that would, if they resolve it, the \$100 comes back to them for materials. If they don’t resolve it, it stays with us.

President Melcher: I don’t have a problem with that.

Lewis McCoy, Sr.: I’ll try to resolve it with Mr. Catt.

President Melcher: Well, I’m just saying, we could put, what do you think, Bill, 90 days? Or do you think it would be four months instead?

Bill Jeffers: Your best construction will be August, September.

Lewis McCoy, Sr.: Well, Mr. Catt said that I refused, he would do the labor and stuff, he said I refused to do this. Okay, now, if I do something to your property or your stuff and I leave a big hole here, or, you know, and it’s my fault, why should I pay for him to drain my property what he should of did? Okay, that’s–

Bill Jeffers: Hey, look, if I was either one of these guys I would be honked off at the other one, okay? So, you know, that’s just the way neighbors get sometimes. I think we’re almost there though to where we can mediate some kind of solution. I agree with what both of them are saying, but as Commissioner Abell pointed out, some of this ground that’s flooded is Mr. Catt’s ground, so he’s responsible for that ground. Some of it, you know, a certain number of inches is, that’s being adversely affected is the McCoy ground, a certain number of feet. So, we’re just going to have to work together on this, and if you’re not satisfied, Mr. McCoy, if you’re not satisfied say on October 1st, we have another hearing, or we continue this hearing and we take a different tract.

President Melcher: We could continue it to our first meeting in October. That would give, and you guys wouldn’t have to, you could work together, but Bill would be there

to help. That way you would get your thing about the county being involved. That way, the personalities are kind of out of it. So, and I'm not against giving you the \$100 back.

Ted C. Ziemer, Jr.: Mr. Catt, did I hear you say that you're not willing to spend anything to see this problem solved?

Richard Catt: I done spent all mine doing mine. I can't see where I should have to.

Lewis McCoy, Sr.: That's what I got to work with.

Bill Jeffers: Right, well that's not very encouraging.

Ted C. Ziemer, Jr.: No, that's right.

Bill Jeffers: But, I will wear my black and white striped shirt and go out there.

Ted C. Ziemer, Jr.: Okay.

Richard Catt: I just don't understand why I've got to—

President Melcher: I'm sorry but you've got to come to the mic.

Richard Catt: I don't understand why I would have to put money into somebody else's property. I okayed him to go across the end of my driveway. I don't have a bit of problem with that, you know.

President Melcher: But, my understanding is some of this might be on your property. Is that—

Richard Catt: Well, I put the curb six inches over on my property. I made sure it wasn't on the line. That's six inches over.

Ted C. Ziemer, Jr.: Mr. Jeffers, can you describe what the, what is the solution going to be, do you think? Can you say that again?

Bill Jeffers: I think maybe the simplest solution is for me to go this week, or first of next week to the Board of Works or to the City Engineer's office, go back to the previous picture, that one, and talk to them about stubbing a pipe out, no, you had it, stubbing a pipe out from that pavement, basically, back into that mud puddle. Spending the \$100 on the material to stub it out, have the city participate inside their right-of-way, hopefully the \$100 will cover the rest, and then encourage Mr. McCoy to grade his lawn so that the water comes down to that pipe. That's about the best I could do for \$100. I mean, if no one else is willing to put up any money or effort, that's about the best I could do.

Ted C. Ziemer, Jr.: Will that solve the problem?

Lewis McCoy, Sr.: I've got one other thing.

Bill Jeffers: I think it would solve the problem, but there will have to be some grading work done behind that wall on the McCoy property to bring the water forward to the pipe.

Lewis McCoy, Sr.: I've got one other thing. That concrete there, it's not six inches on his property. I talked to the man that built the forms, I went out there, I've worked construction too, I know a little bit about construction, he said I was supposed to go six inches, but this is what I got. He had barely an inch and a half.

Ted C. Ziemer, Jr.: Well, he said six inches, he's really only required to not build on to your property.

Lewis McCoy, Sr.: That's right, but he's saying, he's six inches of my property belongs to him. It don't.

President Melcher: Well, if it's okay with the other Commissioner, here's what we're going to do. I think in fairness to everybody, we're going to set the first meeting in October, this Drainage Board meeting, I don't have the date, but we'll get that date.

Madelyn Grayson: It's October 11th.

President Melcher: October 11th? Bill, if you could go ahead and go to the Board of Public Works, see what you could work out, and then maybe between that and you talking to both sides, if both of you, you've got both all of their information? We'll have a little bit of time, let some of this cool down. I think reasonable heads will adjust. Everybody needs to get their property fixed. I have a ditch in the back of my yard that I'm fighting with the city on right now myself. They've got a drain that's three inches high and the water can't clear. You know, it's got to jump up, and the city thinks it jumps up on its own, but it doesn't. So, that's why I've got things up on blocks. So, I think that's the fairest way to do tonight, because we're not going to go any further than we are right now. The only other solution is to go ahead and deny it by statute, which we have to do, and I would rather not do that.

Ted C. Ziemer, Jr.: I'll just point out, and another alternative that could happen at the October hearing, right now, we're relying on the opinion of the Surveyor that removal of the obstruction would cause unreasonable damage to the land of the respondents. It might be that after we wait between now and October that, you know, that's, whether it's going to cause unreasonable damage to the land of the respondents or not is a finding, and it says reasonable. So, the Drainage Board might find at that time that it would not cause unreasonable damage to the land of the respondents, in which case they could find for the petitioner. So, I think it's to the benefit of both the petitioner and the respondent to work together to solve this problem, even if a little money might be required of the respondent to work it out. If that's the case, then the problem is solved. Otherwise, who knows what the findings of the Drainage Board would be in October.

Bill Jeffers: That's a point very well taken from your attorney, because it is simply my opinion based on my viewing of a location who's history I do not know that much about. The Board can always retain a special deputy to make a different analysis of the situation and it might persuade a different finding than mine would. You could hire, for example, a professional engineer to go out there and make discoveries totally independent of what I've told you tonight, and your finding might be totally different, as your attorney indicated.

President Melcher: Well, I'm not going to do that, unless the Board wants to do that.

Bill Jeffers: It's a completely legitimate thing to do.

President Melcher: By the October meeting we'll have all three Commissioners here, which will have a little bit more representation.

Bill Jeffers: Unless one of you get ptomaine poisoning at the West Side Fall Festival.

President Melcher: Right.

Bill Jeffers: Please don't let that happen.

Madelyn Grayson: President Melcher?

Commissioner Abell: I'm sorry. Go ahead, Madelyn.

Madelyn Grayson: I just had a question. As far as returning the filing fee, is that to be done now, or after the October decision has been made as whether it's resolved yet or not?

President Melcher: We'll just see which way that goes.

Bill Jeffers: I would suggest that you let me spend no more than \$100 out of our General Drainage Fund, and that that's where that \$100 filing fee goes. If everything is resolved, the money goes back. If it's not resolved, it stays there.

President Melcher: That sounds good to me.

Commissioner Abell: Mr. Jeffers, just so you'll know how I'm feeling on this, because I think that you need to understand where I might would vote in October, irregardless of State statute. I do not think that any person should have the right to build anything on their property and say to heck with my neighbor I don't care what it does to them. After having just spent weeks and weeks listening to how well the neighbors were cooperating to get water pumped out of their homes on Elmridge Drive, I don't have a lot of sympathy for this particular argument. So, I just want you to understand where I'm coming from on this thing. I'm not really bending one way or the other, but I am bending to the point that these neighbors need to get along and get this taken care of. I have seen way too many people getting along with much more damage than this in these last few weeks to get—

Bill Jeffers: Oh, absolutely.

Commissioner Abell: —to be too sympathetic towards this.

Bill Jeffers: Points very well taken, and I've always said that if individuals observed the Golden Rule we wouldn't have all these statutes and laws and regulations telling them that they can't do something to their neighbor that they wouldn't want done to themselves. But, that's just not, you know, there we are.

President Melcher: So, are you okay with that October date?

Commissioner Abell: Yes.

President Melcher: Alrighty, well that's where we stand.

Bill Jeffers: I have one, I think one or two claims, unless you're going to make a motion or....you're done, for right now?

President Melcher: We're done for now.

Bill Jeffers: Okay.

Approval of Ditch Maintenance Claims

Bill Jeffers: I have a couple of claims in a folder over here with the required paperwork. The work has been inspected, found to conform with the specifications, and I'm asking you to approve those claims. I think there's no reason to discuss recent flooding, I can do that at a later date or do that in a written report. So, I guess, you should move directly to public comment, if there is any. Or take my claims and act on them please.

Acceptance of Murray Petition to Remove Drainage Obstruction

Madelyn Grayson: I think there is one other item. The, Mrs. Murray came to the last meeting and filed a petition after that meeting. I think we have to officially accept that.

Commissioner Abell: Was that the lady that was here that was standing up—

Madelyn Grayson: Yeah, she filed that after—

Bill Jeffers: We have a bunch of these, and really for anyone who's still watching this out there, a lot of this can be resolved by using your covenants and restrictions and your plat covenants, your plat restrictions, the homeowners, homeowners association restrictions. You've got a lake, you've got a lake owners committee. Please seek to work together before you bring these down here, because I try and the Board tries to observe this statute, but believe me since the day it was written and passed by the legislature, all we've found is holes and loopholes and poorly written phraseology in there. It really is just, it turns us into a small claims court here, but it's not written well enough for us to do the job of a court. It leaves us hanging in many respects. It's got faulty wording. If you've got a lake owners association, a homeowners association or a good lawyer, go through your plat restrictions and get these things resolved before you bring them down here. Yes, we have two or three more petitions coming our way. I didn't know there was one to be received tonight.

Madelyn Grayson: I'm sorry.

Bill Jeffers: Do you have it.

Madelyn Grayson: Yeah, I've got it here. It was—

Bill Jeffers: Well, receive it and I'll go out and investigate it.

Commissioner Abell: That's the one that was here last time?

Madelyn Grayson: That's Mrs. Helen Murray that was here on Thomas Drive last time.

Bill Jeffers: Oh, okay. She was in the office today. That's correct. It's a lake, somebody's left some debris in the overflow. It says clearly in the covenants and

restrictions that anybody in that subdivision can go pick that stuff up and can clean it out.

President Melcher: And they do and he just puts it right back.

Bill Jeffers: Whatever, you know.

President Melcher: I'm just telling you what they said that night.

Commissioner Abell: We heard it last meeting.

President Melcher: We've already heard it.

Bill Jeffers: Oh, okay, I've gotcha. I was in Austin—

President Melcher: The whole thing.

Bill Jeffers: —enjoying myself. I had a pair of shorts on.

President Melcher: So, we probably need a motion for that?

Commissioner Abell: (Inaudible. Microphone not on.)

President Melcher: Right. Do you want to make a motion for—

Madelyn Grayson: We don't have to set the hearing date tonight for that right? They just receive the petition and send you out to investigate.

Bill Jeffers: Right, the way the statute reads, you receive the petition, I go out and investigate, I come back, I give you some kind of findings, and you set a date, no later than 90 days from today.

President Melcher: Okay, do you want to make that motion?

Commissioner Abell: I move that we receive it.

President Melcher: I'll second it. All in favor say aye.

Commissioner Abell: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: Go check it out.

Bill Jeffers: I don't like you guys.

President Melcher: Okay.

Bill Jeffers: Then, I have the claims.

Madelyn Grayson: The petition is in your e-mail box. When you get back, check that out.

Bill Jeffers: I don't even have a vote.

Motion to Approve Payment of Ditch Maintenance Claims

President Melcher: Do you want to make the motion on the claims?

Commissioner Abell: I'll move to accept the claims from Mr. Jeffers.

President Melcher: I'll second it. All in favor say aye.

Commissioner Abell: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: That passes. Bill, any other business?

Public Comment

Bill Jeffers: Eldon, you don't have a daggone thing to say, do you sir?

Eldon Maasberg: I would like to say something.

Bill Jeffers: I tried.

President Melcher: That's fine. We don't have a problem with that.

Commissioner Abell: Yeah, we're just kidding you.

President Melcher: Just get up and state your name. Talk into the microphone.

Eldon Maasberg: I pretty well know that part already.

President Melcher: I understand, but I had to say it five times a while ago.

Commissioner Abell: We're just kidding you.

Eldon Maasberg: My name is Eldon Maasberg.

Bill Jeffers: This is my best friend forever.

Eldon Maasberg: You know we've been talking about all of these floodings in your other meetings and I heard on t.v., and just like this party ahead of us, build a building over, they choked up the, they filled in the drainage where the same thing Bill's got down there in his office, a map that shows where Pigeon Creek was filled in, you filled in the floodplains, now we've got people, east of town complaining about the flooding. We need, and I don't think it should be the taxpayers bail these people out, I think it should go back to the contractor who built the house and not the taxpayers. Because they're the ones who filled these floodplains in and has made it to where houses, and, I mean, all they have to do, just like this party did before us, build a wall, actually before the garage was built he should of built a pipe underneath the garage.

Bill Jeffers: Amen.

Eldon Maasberg: That would of took the problem away.

Bill Jeffers: Amen.

Eldon Maasberg: But, that was something that neither one wants to do.

Commissioner Abell: Before you throw the developers under the bus though, don't you think maybe government regulations should be stringent enough that the developers don't want to develop on that land?

Eldon Maasberg: You beat me to the punch. That's exactly right. The Corps of Engineers will not let you build in Union Township, there's places, I can remember when 41 from Baseline, not Baseline, Boonville-New Harmony all the way to 57 was in the floodplain. You've got maps now that don't hardly show it in the floodplain anymore. Whenever that floodplain gets built up, that water has to be misplaced some place. As these homes that now has only got a quarter of an inch of water around it, that's going to grow to four, five inches, because that little bit don't count much, but you put enough little bits together, it's a lot.

President Melcher: We agree with you.

Eldon Maasberg: And, I got, like I said, I listened to a couple of them say, well you could build a levee along this driveway, that would stop it, but you're pushing the water on somebody else. Just like this party ahead, they pushed the water on somebody else. Now, they're down here crying. Really, we need to, and like Bill said, we need to close in the loopholes. That's all I've got to say.

President Melcher: Okay, any other business? Public comment? Okay, do you want to make a motion to adjourn?

Commissioner Abell: Motion to adjourn.

President Melcher: Second. All in favor aye.

Commissioner Abell: Aye.

President Melcher: Aye. We're adjourned.

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

Those in Attendance:

Stephen Melcher
Ted C. Ziemer, Jr.
Ed McCoy
Eldon Maasberg

Marsha Abell
Madelyn Grayson
Lewis McCoy, Sr.
Others Unidentified

Bill Jeffers
Brenda Jeffers
Richard Catt
Members of Media

**Vanderburgh County
Drainage Board
May 24, 2011**

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**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
JUNE 14, 2011**

The Vanderburgh County Drainage Board met in session this 14th day of June, 2011 at 5:37 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and open up the Drainage Board meeting.

Approval of the May 24, 2011 Drainage Board Meeting Minutes

Bill Jeffers: You just need to go ahead and do your minutes first.

President Melcher: Okay, do we have a motion to approve the minutes of the last meeting?

Commissioner Winnecke: So moved.

President Melcher: Second. All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Commissioner Abell: (Inaudible. Microphone not on.)

President Melcher: That's alright. We can move along here.

Commissioner Winnecke: Thank you, sir.

Drainage Obstruction Petitions:
Murray-Jewell: Hearing Date Set for 7/26/2011
Rapp-Goldbach: Hearing Date Set for 8/9/2011
Slanina-Kleinschmidt: Petition Received: Tabled for Further Action
Huang-Huston: Petition Received: Review in 30 Days

Bill Jeffers: Okay, the main order of business I have today is, we've received four petitions to the Board requesting that the Board order the removal of various alleged obstructions to drains and watercourses over the past month or so. I'm going to start at the bottom of the list. The list that I gave you is in reverse order with the most recent at the top. So, I'm going to start at the bottom with the older, the oldest of the filed petitions, and that would be the petition of Helen Murray, 2227 North Thomas Avenue, an address in Pine Lake Estates in the City of Evansville, alleging that certain materials and objects are lying or have been placed within the outlet from the lake known as Pine Lake. You'll see that, on the first report under the sheet with the list on it, I went out yesterday and found that there were various objects, and I list those objects, lying within the outlet as alleged, either had been placed there intentionally as crossings of the outlet, there's a walking path back there, or had been placed there apparently to raise the elevation of the lake, or had been placed, or had fallen there or been washed in there by natural forces. So, that would be unintentional, things like the limbs and branches and overgrowth is unintentional, but the placement of certain objects was intentional. I give you some additional

information telling you that according to testimony that I received in the field, everybody from the Fire Department to Homeland Security has been out there at one time or another responding to calls, and various suggestions and comments have been made by those departments and individuals representing those departments that may be in conflict with our operating procedures. I'll cover that at the hearing, if necessary. I also went to the City Engineers office and looked up the old street and drainage plans that shows the elevation of the lake should be 381 feet above sea level, according to the data that was used by Sam Biggerstaff to determine that. I've got a letter from Morley and Associates, a copy of a letter that tells how high the lake was on a certain day, and another letter that gives me some benchmarks to operate off of. We need to correlate all of that data together to make sure that we're on the same page, from Sam Biggerstaff's elevations to Morley's elevations. I don't want to say that one is incorrect or one is more correct, I just want to correlate them together to make sure that if we say the lake should be "x" that it's the same "x" as everyone else's "x". My suggestion at this time is to set a date, no greater than 90 days from the day that the petition was received by you, which that date was, May–

Brenda Jeffers: May 11th.

Bill Jeffers: When did it come to the meeting, May 24th?

Madelyn Grayson: Helen Murray came to the meeting on May 11th, but the petition wasn't officially received by the Commissioners until the 24th.

Bill Jeffers: Okay, the 24th. So, I've got some available dates there, June 28th would be 35 days out, that gets you past the 30 days that you have to wait; July 12th is 49 days; July 26th is 63 days; August 9th is 76 days out; and August 23rd is really skirting the limit. So, pick a date. I would pick one out there just a little ways to give everyone an opportunity to hopefully work together in accordance with some recommendations I'm going to enumerate here momentarily.

Commissioner Winnecke: Bill, what were the two July dates? The 12th and what?

Bill Jeffers: The 12th and the 26th, I believe.

Madelyn Grayson: Just so you know, July 12th and August 9th are rezoning days. I don't know that we have a lot.

Bill Jeffers: So, the 26th is not a rezoning day, and I will say that they're, at this time, hopefully it won't be the case when the day arrives, but at this time there's quite a contentious relationship. So, you might want to pick a date when you don't have too much other business that would carry you late into the evening.

President Melcher: Well, we probably wouldn't know that right now.

Commissioner Winnecke: Would you like for us to set a date first?

Bill Jeffers: I think you should set a date, yes, sir.

Commissioner Winnecke: I would make a motion that we set that date to be July 26th.

President Melcher: That's the one I got right here. June 26th is–

Bill Jeffers: July 26th.

President Melcher: Uh-huh, July 26th, you're right.

Bill Jeffers: Okay, good date. Now, between now and July 26th, hopefully, the parties can act, to some extent, on the recommendations that I have at this time, to avoid a hearing. The owner of the lake lot, who is the respondent, Mr. Jewell, remove all materials and objects found in the outlet channel as listed in this report, and that is, at this time, boards, gravel, sediment, other objects that's listed here. I'll provide him with a copy. Restore the outlet channel to its design invert elevation, which would be 381 if we are using Sam Biggerstaff's data, and I will somehow arrange to confirm that, what 381 is in the field. I'm going to suggest that they go to Morley and Associates, because they are in possession of Sam Biggerstaff's old records that they purchased, possibly and hopefully including the original plans for this lake. There's also existing benchmarks out there in the City Engineer's office records that we can use to determine what 381 is. I further suggest that either, in this whole process or in the future that a permanent structural weir be established in the outlet channel so that in the future there's no question as to what the correct and appropriate elevation of that lake is and how to maintain that lake outlet at that elevation. When I'm talking about a permanent weir, I mean something like as simple as a concrete pipe, sized to allow the required outflow, a concrete paved outlet channel, that if it gets covered up with sediment you can scrape down to that concrete paved liner with a shovel, you know where you're at, or concrete weir wall, just a simple, little wall, it's like a footer and that sets the elevation, and you know what that elevation is forever. They can even inscribe the elevation on the concrete wall, 381, like a benchmark. Again, the respondent is the lake owner, Mr. Jewell, he should retain the services of a professional engineer to complete construction plans, if that's, if what I'm suggesting goes forward. Any future crossing of that outlet channel for a footpath or for small vehicles that are used for service vehicles should, that crossing should span the entire outlet channel without, you know, an arch going over the outlet channel so that you're not driving down through there and dragging material in and raising the elevation of the lake. The County Surveyor hopes on behalf of the County Drainage Board that Mr. Jewell will complete sufficient work and repairs to resolve the petitioner, Ms. Murray's concerns before the date set for this hearing. If not, the County Surveyor's recommendations and suggestions will be conveyed in a more formal manner at the hearing, and the Board will make its appropriate and legal findings in accordance with the statute at that time. That's all that I have to say on the Murray petition at this time.

President Melcher: Okay.

Bill Jeffers: The second one is Delores Rapp.

President Melcher: Excuse me.

Robert Goff: (Inaudible. Not at microphone.)

President Melcher: If you would like to make some comments, this would probably be the best time, don't you think, Bill?

Bill Jeffers: Okay, before anyone makes any comments, I want to reiterate what I said to this gentleman on the phone and in the field and anyone else that would care to listen, the only thing that this Board and the County Surveyor's office is concerned with is the alleged obstruction, which is material, boards, sediment, gravel, branches,

overgrowth, whatever it is, in that outlet channel. That's the drain. We're not concerned about the lake, we're concerned about the drain being obstructed. I don't care, and I hope this Board doesn't care about somebody's dock that they built, or some pipe over here, or somebody's rocks over here, or anything else. We're only concerned about the alleged obstruction in the drain. The ownership of the lake, the fact that it went to tax sale, the fact that it was deeded to this person or that the Homeland Security showed up, or that DNR says that there needs to be gravel there to prevent erosion. I'm not concerned about any of that. I hope the Board is not concerned about any of that.

Commissioner Abell: When you say that, do you mean that that's not in our jurisdiction?

Bill Jeffers: It's not within the boundaries, the parameters of the statute for us to act on. Our only thing is to determine whether an obstruction exists, whether it was intentional, if it was intentional to order its removal, to be paid by the person on who's property it exists. If it's unintentional, everybody that benefits by the removal pays. Yes, there's many, many concerns surrounding this issue, but our focus should be on the drain. I hope that's where it remains. Thank you.

Commissioner Abell: Bill?

President Melcher: You'll have to come up to the microphone, sir. State your name, so we have it for our record.

Robert Goff: Robert Goff. My question is, did I understand him correctly that he has established that the level of the lake is to be 381 feet?

President Melcher: He's going—

Robert Goff: And that the drain would be based accordingly?

President Melcher: I'll let him repeat that, but he said it could be two elevations. He's got to figure out which one it is. Bill, is that right?

Bill Jeffers: The plans that I'm operating off of indicate that Sam Biggerstaff's plan was for that lake to be 381 feet above sea level. The qualifier is according to the data that Sam Biggerstaff used. Since the day that Sam Biggerstaff did the survey, the Geological Service has made some adjustments to data. So, we have to correlate all of that data together. What we're operating on today may be divergent from what Mr. Biggerstaff used in the 70's and 80's.

Robert Goff: But, you're starting from 381, Mr. Biggerstaff and adjust it from—

Bill Jeffers: I'm going to try to determine what Sam Biggerstaff intended by the figure 381 feet above sea level. That's what I'm shooting for.

Robert Goff: Thank you.

Bill Jeffers: Yes, sir. Thank you.

President Melcher: Thank you very much.

Madelyn Grayson: Commissioners, you made a motion and a second on that 7/26/11 hearing date, but do you need to take a vote on it?

Commissioner Winnecke: We haven't vote yet.

Madelyn Grayson: Okay.

President Melcher: I thought we might just vote on all of them at one time.

Bill Jeffers: Okay.

Commissioner Abell: Bill, I have a question.

Bill Jeffers: Yes, Ma'am.

Commissioner Abell: Did this person admit that he did this? Or, I mean, you say if it was intentional, do we know it's intentional? I mean—

Bill Jeffers: There's been many statements made as to who did what and when, but I think it will become clear if we have a hearing—

Commissioner Abell: Okay.

Bill Jeffers: —that certain objects were placed intentionally and certain objects and material were placed either by an unknown person or naturally washed in there, fell or washed in there. But, when you see boards that were placed across the drain to walk across, and when you see a railroad tie that has a board lashed to the top of it and it's pinned down with reinforcing rods, you know somebody did it. There had been statements made to me, conflicting statements as to who did what, but it remains that the material and objects that are lined within the drain meet the definition, the statutory definition for an obstruction. If they significantly impede the drain, they must be removed, and they are on someone's property and that person's responsible for that person's property. That's kind of the way I think—

Commissioner Abell: Even if somebody else did it?

Bill Jeffers: Even if someone else did it.

Commissioner Abell: Okay.

President Melcher: But, we're going to get that information on—

Bill Jeffers: Right, like if I parked a junk car on your yard, and you couldn't trace it back to me, and it didn't have a license, you're still responsible to remove it, I believe. That's just kind of the way it operates.

Commissioner Abell: Okay.

President Melcher: We're going to discuss all of that July 26th.

Bill Jeffers: Yes.

Commissioner Abell: Okay.

Bill Jeffers: I understand what Commissioner Abell's concern is though, because there have been many statements made, and I'm sure some Commissioners have heard things, I mean, everybody in town has heard, in the government agencies, just about every government agency has been dragged into this at one time or another.

President Melcher: Okay.

Bill Jeffers: Okay, and when I'm, I don't mean to be confusing about that 381, but the USGS datum was adjusted in 1988 to a new datum, and we have to make certain adjustments. Now we're using satellites, we have to make other adjustments, and when we're talking about this gentleman would like the lake, at its current level, to be lowered six inches, and some of those adjustments are like three inch adjustments. I need to make sure that what I say is 381, quote 381, is what Mr. Biggerstaff intended to match up with all of the street elevations, because right there on the plans it says put your house one and a half feet above the crown of the street. You don't have much to play with there, when the street drains are connected directly to the lake drains and the houses are supposed to be a foot and a half above that, we'd better be really, really tight, you know. Because that is where the concern is coming in, is that water is backing up towards the house.

President Melcher: Alright, before we go on, did you have anything else to say?

Robert Goff:: No, thank you. (Inaudible. Not at microphone.)

President Melcher: Okay.

Helen Murray: (Inaudible. Not at microphone.) After we had that real hard rain—

President Melcher: You're not getting on our tape at all. You have to be at the microphone and state your name, please.

Helen Murray: I'm Helen Murray. When we had that hard, hard rain and it rained, and rained, and rained, we would have really been drowned if I hadn't, my neighbor and I went down there and we unstopped the lake. No more than we would go down there and unstop that drain, he saw us come back, we would see him go down. Him and his wife, they would stop it back up, but in the period of time we did get a little water out of the lake. It was in my yard, it was in the sides of the road, both sides, the drain wouldn't clear in the whole road. My bank is caved in, my rocks is caved down, and he don't care. We go down and unstop it and he would stop it up. We definitely know he done it, because we seen him go down there and do it. Then we would go down and check it and it would be stopped up. Also, he finally put this railroad tie in there, he thought Julie, my next door neighbor and I are widows, and we don't have a man to go down there and pull that up. He thought well I'll put that in there and she can't lift it. Which he did, and we couldn't lift it, but anyway, that's what I've got to say. He did do it.

President Melcher: Thank you for the information.

Helen Murray: Thank you.

President Melcher: Okay, Bill, do you want to move on?

Bill Jeffers: Yes, sir, I would like to move on to number two, which is the second from the bottom, Delores Rapp. I'm going to be real simple on this one. The first time I

went on this was 1998. If you read my report I say it's long standing, basically there's an eight inch pipe in the drainage easement, unauthorized, and subsequent owners...the first complaint in 1998 and subsequent owners each time it came in after one of these springs like we've had, I've suggested that they ask the neighbor to remove the eight inch pipe and restore the open swale. Nothing has been done. The current owner of the house that has the undersized pipe is not the man who put the pipe in the ditch, he's the second or third owner himself. So, we're dealing with houses that have changed hands more than once since 1998, and the current two owners possibly do not understand the full impact of the history on this. I don't even know to what extent they were notified by the owners who sold them the homes, but they should have been made aware that there was an existing drainage problem, long standing. My suggestion has been, always has been, and continues to be remove the eight inch pipe from the drainage swale, or from the drainage easement and restore the swale. Or, retain the services of a qualified engineer to design a modified plan for a pipe of adequate size and bring that plan to the Drainage Board for approval. Problem with going through the Drainage Board as a code infraction, is that 409 Hunters Green, where the pipe lays, is in the portion of the subdivision that was constructed before the current 1994 ordinance. So, we would have no, you know, it's not subject to those violations, and that procedure that we could just say, okay, \$100 a day until you do it. So, Delores Rapp must come through the obstruction petition route to accomplish this. That's what I suggested she do, and she is doing that. So, we need to set a date here, other than July, what was it you just did?

Commissioner Winnecke: 26th.

Commissioner Abell: 26th.

Bill Jeffers: Something other than July 26th, and something before August 23rd, or on or before August 23rd. So, I guess, you're, here your opportunities are August 9th and August 23rd.

Commissioner Winnecke: I would move that we set this for hearing on August 9th.

Commissioner Abell: Second.

Bill Jeffers: Thank you. The third one is –

Brenda Jeffers: (Inaudible. Not at microphone.)

Bill Jeffers: Pardon me?

Commissioner Abell: Hold on.

Brenda Jeffers: (Inaudible. Not at microphone.)

Bill Jeffers: Oh, the date Mrs. Rapp filed her petition? I have June 1st, what meeting did it come to.

Madelyn Grayson: This is, it hasn't officially been received yet.

Bill Jeffers: Okay, it's coming to this meeting?

Madelyn Grayson: Yeah.

Bill Jeffers: I guess you should officially receive the rest of them so that I can make these reports. You should receive Delores Rapp, Mimi Slanina, and Guoyuan Huang.

President Melcher: That one just got here this evening, didn't it?

Bill Jeffers: Right, Guoyuan Huang.

President Melcher: So, we need a motion to receive these three right now?

Bill Jeffers: Yes, sir.

Commissioner Winnecke: So moved.

President Melcher: Second?

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Bill Jeffers: Okay, they've been received today. They've been received as of today, so, now we have to wait 30 days to have a meeting, and we can wait no longer than 90 to have the hearing. So, the motion, I believe was, on Delores Rapp for August 9th. That was approved, wasn't it?

President Melcher: Uh-huh.

Bill Jeffers: Okay, so the next one would be, that you just received is Mimi Slanina. This is a situation that has baffled several of us in the past, because when we went out there we could not find the obstruction. It didn't seem as if an obstruction existed, and we have said that there is no obstruction, yet when I went out there yesterday to take a final look see, somehow the water had washed all of this debris off of the grate and away from the front of the grate, and I was able to see just a piece of, it was a strip of....Marsha, you might have to help me here. But, a coal mine has a tipple and then there's a conveyor belt that loads it out to the barges, and it has that rubber material that the coal rides on out to the barge. A fella took a piece of that and cut a strip out of that and kind of molded it against the grate and either lashed it down or put some heavy rocks up against it to hold it in place. That formed a water tight seal—

Commissioner Abell: Oh, yeah.

Bill Jeffers: —like a weir so it raised the level of the lake up, and the water has to go over that. Well, I just (Tape Flip) to see this. The respondent, Jeff Kleinschmidt, told me today, yes, indeed he did that. The purpose of it was, he says several lake owners said the water needed to be raised up. The water, the lake was too low, the water quality was declining, the lake was too shallow, a lot of scum was growing on it every summer. I'm getting the impression that they said, well, during the summer season let's raise the lake, then in the winter we'll lower it back down. That's why he put kind of this flat thing there. It seemed like a pretty ingenious idea to me.

However, Mimi Slanina, and I'm sorry if I misspelled that or am mispronouncing it, has some objection to it at this time. Something to do with raising the water level to the point that it negatively impacts some of her landscaping and her trees. Since I discovered there is, in fact, material and objects placed in a drain that may significantly impede the flow of water through that drain, it may kick this statute in. However, what I'm saying is, it is not known, nor can it be determined by the County Surveyor, me, to what extent the materials impede the outflow. I cannot, I am not able to counsel the Drainage Board as to what extent those materials constitute an obstruction according to the statutory definition. In other words, the statutory definition is, "objects or material that prevent or significantly impede the flow of water through the drain". This, these object do not prevent the flow, the County Engineer and others have gone out and looked at it. I've gone out and looked at it during high water events, the water rapidly leaves the lake through the rest of the grate. Whether it significantly impedes the flow of water, I'll have to tell you, I'm just not qualified to make that determination. I think a licensed engineer, and Mr. Kleinschmidt has contacted Easley Engineering for this purpose, should conduct, because it's private property, should conduct a study and evaluation of just what's going on there before anyone can say it significantly impedes the flow of water. However, on the other hand, according to the statute, the petitioner, Mimi Slanina, basically, by her petition attests that removal of that material will improve the drainage of her property. So, there we are. What do you say, Mr. Ziemer?

Ted C. Ziemer, Jr.: Is Mr. Kleinschmidt willing to remove the strip of tipple that is in there?

Bill Jeffers: The last message I got from him, about an hour ago, he is willing to remove, as I suggested, remove it, at this time, and then he wants, he has his granddaughter over there, or grandchild over there right now, and he doesn't have time to really think about it at the moment. He wants some time to, he's already had Easley come out there today, all of this happened today, and give him a rough estimate of how much it would cost to do a study. It's somewhere in the neighborhood of \$2,000 at this point. So, he wants time to think about it and see what value it would have to him to go forward, and see if some of the neighbors would share the expense, the neighbors who own the lake with him, including Ms. Slanina, and see what the value of raising that lake would be and what the best procedure would be to take. So, I think we should give him that time, but should we not set a date, like a deadline date here, by setting a hearing? Or, do you think on this one we should wait until the next meeting?

Ted C. Ziemer, Jr.: It's just that if he removes this tipple, or the strip—

Bill Jeffers: If he removes it, it's done.

Ted C. Ziemer, Jr.: — it's over with.

Bill Jeffers: Right, until it reappears.

Ted C. Ziemer, Jr.: Well, but then, it can be brought back, I guess, at that time, but, I mean, it wouldn't have to take the Drainage Board's time, or anything else this time.

Bill Jeffers: Do you want to table this one then?

President Melcher: That sounds good.

Bill Jeffers: Okay, let's table this one. Everyone seems pretty amenable on this one, but the petitioner is very insistent. So, I'll bring this back if need be, okay?

President Melcher: Okay?

Bill Jeffers: The last one we received today, just, oh, at 4:00 or so, is a petition from Guoyuan Huang, 741 Sunflower Circle, alleging that Candice Huston has placed soil, stone, decorative walls, landscape walls, pipes, etcetera and altered the easement. This one could either go as a petition to remove an obstruction, if I find that one exists and report to you as such, or it could go as the enforcement of a drainage code, because this is in a subdivision constructed under our current code which states that no alteration of a drainage easement, placement of materials, pipes, fences, etcetera, etcetera shall be made without the express, written authorization by the Drainage Board, and you don't do that unless you see a drainage plan. We have not seen a drainage plan, and in that easement there have been alterations to the flow of the drainage, there have been walls, fences, rocks, everything you can think of put in there, swimming pools, nearby at least, possibly the swimming pool deck. The petitioner himself has a fence in the easement, so. My suggestion is on the back page of this, remove all unauthorized objects and materials from the drainage easement on both sides of the property line, from both properties subject to this complaint, restore the drainage easement to its designed condition as shown on the grading and drainage plan for Ashley Place prepared by Easley Engineering, and approved by the County Drainage Board several years ago. In the future, submit an appropriately engineered and designed plan to the Board, via the County Surveyor's office, for the Board's approval before modifying the drainage easement. If it's not resolved within the parameters of the county drainage code within a reasonable time, I would give them 30 days, bring it back in here and start corrective measures, including possible enforcement of violations. Now, what you're going to hear from the respondent is that she brought down, on two occasions, site plans, first for an above ground pool, then for an in-ground pool, in all occasions, I guess, the Building Commissioner signed off on the drainage, on the site improvement plans, but if you look on those plans there's the easement and it clearly states nothing in the easements.

President Melcher: So, your recommendation is give them 30 days?

Bill Jeffers: Give them 30 days, if I come back here after 30 days and it's not resolved, set a meeting date, or set a date for an action to start being taken and take code enforcement actions on this one.

President Melcher: Okay, I'll entertain a motion for that effect.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Bill Jeffers: Then, did you want to approve your other dates?

President Melcher: Yes, I thought at this time we could approve the August 9th date, the 26th date and tabling the other one.

Commissioner Winnecke: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye. Opposed?

(Motion approved 3-0)

Approval of Ditch Maintenance Claims

Bill Jeffers: I have some claims here, and a couple of them, I think I said in my e-mail, I authorized emergency removal of large trees that were blown over by the wind storms into a couple of our drains up in Scott Township. That was done by the Rexing Brothers. They've submitted some small claims for that. They don't charge very much, but I thought they had to be taken out immediately, and I hope you authorize my emergency action on that, and approve the rest of the claims, all of which have paperwork attached and have been inspected and found to comport with the specifications for this work.

President Melcher: Is there a motion?

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Other Business

Bill Jeffers: I hope the rest of you had as much of fun today as I did.

President Melcher: It sounds like you might of had more fun. Anything else, Bill?

Bill Jeffers: I have nothing else, sir.

President Melcher: Alright, any other business to come before the Drainage Board?

Commissioner Winnecke: Motion to adjourn.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: We're adjourned. Thank you.

(The meeting was adjourned at 6:08 p.m.)

Those in Attendance:

Stephen Melcher

Bill Jeffers

Brenda Jeffers

Others Unidentified

Lloyd Winnecke

Ted C. Ziemer, Jr.

Robert Goff

Members of Media

Marsha Abell

Madelyn Grayson

Helen Murray

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
JUNE 28, 2011**

The Vanderburgh County Drainage Board met in session this 28th day of June, 2011 at 5:55 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll just go ahead and start our Drainage Board meeting. It's Tuesday, June 28, 2011, it's about four minutes to six. Bill?

Approval of the June 14, 2011 Drainage Board Meeting Minutes

Bill Jeffers: Oh, let's see.

President Melcher: I guess we need approval of the previous meeting?

Bill Jeffers: Yes, sir.

President Melcher: I need a motion.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

LEED- Sheffer Subdivision: Final Drainage Plan

Bill Jeffers: Okay, good afternoon. I have one drainage plan, and it's the LEED-Sheffer Subdivision, replat of lot one, Stonecreek Section Six, 9515 Seib Road. You just considered the road plans at your preceding meeting and acted on them. The County Surveyor has reviewed the drainage plan, this is a final drainage plan. You've already approved the preliminary. This particular final drainage plan is submitted by Andy Easley Engineering. It was brought to me by Justin Shofstall who is in the audience to answer any questions, if there are any. It follows exactly the same layout as the preliminary drainage plan, and the primary plat that was submitted to Area Plan Commission and discussed at length. It meets the minimum requirements of the county drainage code, and therefore I'm obligated to recommend approval of it. I would say, in my personal opinion, that there is one ditch along the north line of lot five that's going to have a ten foot wide bottom with a very low, slow flow. Because of its width, the velocity will be very slow, and because of the very flat grade, about .2 percent, it will have a very slow flowing volume velocity passing through it, and is subject to stagnant water, meandering flow line along the bottom, kicking back and forth like this across the ten foot bottom, and cattails and other type things that would grow in such a swampy condition. So, as I said, it meets the minimum requirements of the drainage code in that it has a 16

inch wide concrete liner, low flow liner, but without other additions to that, such as under drains or a completely paved bottom, parabolic shaped concrete bottom...well, that's what I would suggest. I would suggest to the developer that he step above the minimum requirements and have his engineer add some additions to the flat channel that would facilitate better drainage. But, it's not required by the code, and I'm obligated to recommend approval of the final drainage plan for LEED-Sheffer Subdivision as presented.

Commissioner Winnecke: Bill, does it make sense to, based on our earlier action, let me rephrase, would the drainage, is it likely the drainage plan would change if the developer made changes to, further changes based on a previous conversation?

Bill Jeffers: That's an excellent question. I would anticipate that there will be some changes, whether they're in response to your earlier action of tabling the street plans, if the street plans change the drainage plan changes. Okay? Also, there is another set of plans floating around that I want to make very clear tonight that I am not recommending the other set of plans that's floating around, because they are incomplete and they do show a different configuration for this property. They are preliminary, let's call it site plan that's floating around that moves the location of the drainage facilities and moves the location of the building itself, and that is not the set of plans that I'm speaking to tonight. I'm speaking to this set of plans right here which follows the same layout as the preliminary approved drainage plans. So, in answer to your question, yes, I actually do anticipate there will be some possibly significant changes to the layout, and therefore changes to the drainage plan. But, that's just an assumption on my part, because that has not come to me in official form.

President Melcher: The reason why I voted for the plan last time, just so it would just go to the Area Plan, and it passed Area Plan. I'm not really in favor of this drainage plan, and I'm glad you brought it up, Commissioner, I was going to bring that up too. What happens if there's, if they end up having to go in on 57? That's going to bring INDOT into this too, wouldn't it?

Bill Jeffers: Yes, it will, and, in fact, INDOT would have to possibly approve the plan we're looking at, because any discharge of storm water into INDOT's right-of-way requires their approval, as well as ours.

President Melcher: Because if I remember right, it's going to go through that ditch then through a culvert to the ditch on the other side of Kansas, right?

Bill Jeffers: I believe the way that it's designed currently it stays outside of State right-of-way, but if....different things could change that if you're talking about an entrance off of State Road 57 rather than Kansas Road or Seib Road. But, as I said to Mr. Winnecke, Commissioner Winnecke's question, Commissioner Melcher, your question or comments are very appropriate and pertinent as well. Anything could change this drainage plan, anything in the road plans could change this drainage plan.

President Melcher: So, it might be better for this Board then, what you're saying is probably to hold off on this plan until we have a street plan? Or, if you're going to do it with INDOT, then we just do it all at the same time?

Bill Jeffers: Well, I'm not sure I'm at liberty to say that, because I've reviewed the drainage plans and found them to be in compliance with the minimum requirements

for the drainage code. It's my understanding that the developer, his client, etcetera are on a time line. If the street plans are approved under a different configuration, it automatically has to come back with a new plan that I would have to review and bring to another Drainage Board meeting, which usually follows the Commissioner meeting, almost in every case. So, I would assume that if your discussions with the developer result in an alteration of the current street plan, I will see a modified drainage plan about the same time as Mr. Stoll sees the street plan, the new street plan.

President Melcher: Okay.

Bill Jeffers: But, it's, the code also allows the County Commissioners as the Drainage Board discretionary, to use their discretion in approving or disapproving drainage plans regardless of code compliance.

President Melcher: Does anybody have any questions? I was going to ask that. Do you have any other questions?

Commissioner Abell: I don't have a question, but I just wanted to make a comment that when we were under the floods and we had all of the back water, I did drive out there, remember there was initially some concern that the retention pond was not adequate and it was going....well, everything was flooded, but that retention pond was still within its banks. I just wanted to let you know that I went out and looked at that.

Bill Jeffers: Yes, I will tell you this, that, as you know, I live in the neighborhood, and I watched the entire development be built, because I was supposed to not only review the plans and find whether they were, for the entire Stonecreek I also assisted Mr. Stoll and his staff by frequently inspecting the construction site, along with Mr. Wathen. Well, sometimes I would simply ride my bicycle up there and get some exercise. I'm sure there's someone in the audience who wishes that I still would ride my bicycle up there and get some exercise, since she paid for it. But, I did see one time where the water coming down Seib Road actually got right up to the edge of the pavement of Kansas Road. I mean, that much water does come down that hill under unusually heavy conditions. All the drainage basins were running bank full. Now, how this plan ties in with everything else, there is no way that I will recommend final approval of a set of construction plans that don't route that water from Seib Road around the gas station, or whatever goes in there, because right now Seib Road acts as the ditch. So, anything that happens to intercept Seib Road, in other words, planting, the fill or the building or the gas pumps or anything where Seib, you know, in other words, I think I put that on the sheet that came to me about the vacation of Seib Road. I would not recommend the vacation of Seib Road until a drainage plan is approved. Okay? So, you can take that in chronological order, hypothetical chronologic order and decide what you want to do here. But, until a drainage plan is approved that routes that water off of Seib Road as it currently lies, and routes it around to Kansas Road and gets it into the creek, until that is approved, I would not recommend the vacation of Seib Road, because it currently does serve as the drainage way.

President Melcher: Okay. We don't have any (Inaudible)? Justin do you have something to say?

Justin Shofstall: I just want to add a few little points to clarify.

President Melcher: State your name and that when you get up.

Justin Shofstall: Justin Shofstall with Easley Engineering. Our office represents Mr. Sheffer and this project. I just would like to reiterate and confirm the statements that Mr. Jeffers has stated in regards to this drainage plan. It is, as per the preliminary plan, that was originally approved, with a few additional comments and concerns addressing original issues that had arisen from the preliminary plan. I would like to point out too, as far as, because with the original preliminary meeting, and then also during the Area Plan Commission meeting, I was kind of cut short and didn't have the chance to fully rebut as far some of the comments. But, everything that is being proposed and is part of this plan that has been given preliminary approval and also being recommended for approval by the County Surveyor, significant improvements are going on in regards to drainage for that total 60 acres upstream that comes down Seib Road. Looking at the plans, the existing roadside ditch on the east side of Seib Road is insufficient in capacity and cannot even carry a ten year storm event. Everything that we are proposing will handle the 50 year storm event and beyond, as far as either an open ditch, and we also have calculated out as far as if they did decide to go ahead and pipe that ditch, the necessary pipe size that would be required. Now, everything as far as, if they put that entire watershed going through, the minimum size pipe they need to have to carry that water is a 54 inch pipe. So, if they decide to go through and close off the ditch and then pipe it, they're going to have to put in a substantial size pipe. That is part of the drainage report. Also, as far as, this is something very common, and the Commissioners have seen this in the past, and is what Mr. Jeffers has stated, if they go and propose any type of site improvements that do not conform with the master drainage plan that has been approved by the County Commissioners, that requires both the site and an amended drainage plan to come before the County Commissioners for approval. So, again, with what we have here, it's still meeting the recommendations and requirements set forth by the Vanderburgh County drainage ordinance. It meets those requirements, and that any other additional changes that may come about as far a future purchaser of lot five or four or three, that decides, hey, we don't want to have this ditch back here in the back end, we want to go ahead and pipe it off and we can just go ahead and put it in with either a box culvert or a 54 inch pipe of adequate capacity to get that water out, meeting the original intent of the plans, but as far as anything significant with those changes, it would still have to be before the Commissioners again, and that different site plan and an amended drainage plan would be before the Commissioners once again to be heard for approval.

President Melcher: Any questions?

Justin Shofstall: Also, just one additional thing that I just remembered on that. As far as with the ditch itself being a ten foot wide flat bottom for the major re-route which comes down on the east side of Seib Road, then along the north line of lot five, then down along the common lines of lot five, four, three, two and out to Kansas Road in county right-of-way. That is still all part of their requirement to where they would have to maintain that to prevent it from silting up, keeping it mowed like grass. With the type of and size of these lots, for the type of developments that would be on those lots is limiting itself mainly to small retail, a professional office, and restaurant types. So, as far as anything, as far as major strip malls or anything of that sort, there's just not enough room to put that type of development on that site and have the proper on-site parking and meeting other code requirements set forth by subdivision code and Vanderburgh County.

President Melcher: Any questions?

Commissioner Winnecke: Justin, I have a question, not related necessarily to the drainage, but to the issue that we discussed earlier, and maybe you can't answer it now, but what are the proposed, have you, are there proposed traffic flows back within the development?

Justin Shofstall: As far as with, a subdivision of this nature, it's always recommended that they have interconnects on that, with the majority of the traffic, and, again they would have the interconnect as well, especially with that right turn in, right turn out that was allowed with the subdivision, off of Kansas Road, that is essentially sized for passenger vehicles. Right now, Elite Fitness, which is currently developed on lot one, does not warrant any type of heavy truck traffic to come in for deliveries. Right now, I believe everything that they're limited to is essentially your standard service box truck delivery. The largest vehicle that would be associated with lot two, if it does go in as a convenience store/gas station, would be that tanker truck making deliveries and possibly the other next sized truck would be Pepsi, Coke distributors bringing in their products. With what that set up is, as far as with their traffic coming in off Kansas, on to Seib, coming around with the improvements as being proposed for both intersections and coming down to the site and then having to get out. As far as with the layout that we had worked with, that's what we have. I mean, it's not going to be heavy commercial truck traffic going in there every day. It's going to be your typical, as needed for lot two. With the size of lot three, four and five, again, if it's professional offices and that sort, they are going to be limited to the box truck deliveries, your UPS, which goes through subdivisions and the City of Evansville and Vanderburgh County roadways on a daily basis many times over. But, the largest influx would be passenger vehicles.

President Melcher: Any other questions?

Commissioner Winnecke: Thanks, Justin.

Justin Shofstall: Thank you.

President Melcher: Thank you. Anybody else? Bill, do you have anything final?

Bill Jeffers: No, I would just like to confirm and agree with what Justin has said, regarding drainage.

President Melcher: So, what is the pleasure of the Commissioners on this?

Commissioner Abell: I would just as soon table this with the same we tabled a minute ago. We have another meeting, we always have a drainage meeting, as Mr. Jeffers pointed out, after the Commissioners meeting, and when we approve, or do not approve, the plan that Mr. Stoll has gone back to work on, then I think we take this up at that time. So, I would like to table it. I would make that as a motion.

Commissioner Winnecke: Second.

President Melcher: We have a first and second. Any further discussion. All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: So, we're tabling it for this evening. We'll get it back when you have a new street plan.

Justin Shofstall: Thank you.

President Melcher: Thank you.

**Relaxation of Right-of-Entry: Crawford Brandeis Ditch:
Sharon L. Nance: 1980 & 1984 N. Burkhardt Road**

Bill Jeffers: The next item of business is the relaxation of the right-of-entry for Crawford Brandeis Ditch, as that right of entry goes across the properties of Sharon L. Nance, address 1980 and 1984 North Burkhardt Road. Okay, that's up on your board. I had shot a few e-mails around saying that I couldn't read a couple of notes on the digital copy that was sent to me by Marco DeLucio, a lawyer representing the applicant. Mr. Joe Kiefer, Vice President of the Hahn Realty Company, brought this to me, and I am able to clearly read all of the notations on here, and they do meet our requirements and our concerns. What the, what Sharon L. Nance, owner of the property is requesting is that the 75 foot right-of-entry be relaxed to 50 foot from top of the bank of Hirsch Ditch, that removes the right-of-entry from crossing her building. It still allows entry through the entry apron off of Burkhardt Road for our machinery, and allows more than sufficient room for any activities we anticipate in Hirsch Ditch, such as excavating, mowing, improvements of Hirsch Ditch. A 50 foot right-of-entry is plenty for those purposes. So, the County Surveyor does recommend at this time that the County Drainage Board relax the right of, the statutory right-of-entry for Hirsch Ditch as it lies along, just a moment, replat of lot 30, Smyrna, or lot 30 replat of Smyrna, the Town of Smyrna, to 50 feet from the top of the bank. This is allowed by IC 36-9-27, wherein the Drainage Board is able to relax the right-of-entry for a regulated drain that is an urban drain. Hirsch Ditch is an urban drain constructed after 1981, so it meets the statutory requirement for relaxation.

Commissioner Winnecke: Motion to approved as recommended.

Commissioner Abell: Second.

President Melcher: Any further discussion? Anybody else? All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

**Drainage Easement Encroachment Agreement: Sharon L. Nance:
Crawford Brandeis Ditch/Hirsch Ditch**

Bill Jeffers: On your table, brought to you by your legal representative, Ms. Kathryn Schymik, is an application also brought before the Board by Marco DeLucio on behalf of Sharon L. Nance, owner of lot 30, replat of Smyrna, asking for the permission and entering into an agreement for the encroachment of the 50 foot right-of-entry for Hirsch Ditch with pavement and other surface level improvements that exist at the site. Within that application there also is noted, I believe, five concrete standards that were placed there for lighting without the permission of the Drainage Board by a previous occupant, without the knowledge of Ms. Nance. She was not aware of it. I, several years ago, halted that person from proceeding with the

installation of light standards, but the concrete bases remain. I said, at the time I would allow that man, the tenant, to leave those remaining until he recouped his financial ability to remove them or to enter into an agreement with the Drainage Board. So, in all fairness, I think I should allow Ms. Nance the same recommendation at this time, to allow them to remain there until a change of use takes place and she works out an arrangement with the new occupant to either improve those or enter into an agreement with us to maintain the easement in such a way as, well, actually, this document that's sitting on your table, the encroachment agreement, would allow us to have them removed, order them removed at the owner's expense if we actually needed to get in there and work around them and weren't able to do so. But, I did get a phone call today from a contractor who wanted to know what would be my preference if he were to remove them, and I said, saw them off at ground level and remove them and cap the electricity. I believe he may be submitting a bid to either Ms. Nance or representatives of Ms. Nance for what that would cost. So, there is some action out there going on towards that, and maybe Mr. Kiefer could speak to that.

Joe Kiefer: Hi, Joe Kiefer with Hahn Realty. Yes, there is an agreement between the buyer and the seller to pay to have those removed. It's just it won't be able to happen until after the closing, so that's why we needed this agreement to be reached, the encroachment agreement to be approved. Thank you.

Bill Jeffers: Okay, with that information, which is encouraging, I will continue to recommend approval of this agreement, which I understand has been found to be in order and ready to record by your attorneys, found by them to be in order. So, I do continue to recommend it, and I will attest at this time I can work around those concrete light bases until such time as they are removed, and reiterate that the agreement allows you to order them removed if they happen to be in our way, and for some reason haven't been removed.

Commissioner Winnecke: Motion to approve.

Commissioner Abell: Second.

President Melcher: So, we have a second. Any further discussion? All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thanks.

Surveyor's Status Updates on Obstruction Petitions

Bill Jeffers: I had an item on my agenda called Surveyor's status update, which is just another way of saying that I was going to bring you up to date on some of the petitions to remove obstructions without saying so, for obvious reasons. So, we'll start with number one, Helen Murray. I went out there with a survey crew yesterday, I've submitted a report, I encourage you to read it word for word at your leisure. It's four or five pages long, don't want to go into it in detail at this time. However, I will say that the respondent, Mr. Donald Jewell, has removed all of the timber, lumber, woody items, that type of thing. They are stacked well away from the drain, and

should not float back into the drain. They are up on a high point on the dam over there where they should remain. I talked to Mr. Jewell yesterday, he seemed amenable to my suggestion that he also remove some of the accumulated gravel and sediment in that drain and somewhat restore it, or go ahead and restore it to an open channel that would carry water more effectively. I did make some observations in my report about the level of the water in the lake, as I found it yesterday, within 24 hours after a heavy rainstorm. Some other observations with regard to elevation data that we collected in comparison to elevation data that we find on drainage plans that were approved by the Board of Works for this subdivision, and so forth. If you'll read along through there you'll see that we'll probably end up going ahead with, onward towards the hearing, but in a much better shape than we were two weeks ago. Hopefully, by the time of the hearing, Mr. Jewell will have accomplished enough improvements and repairs to that channel that I will be able, at the hearing, to tell you that an obstruction no longer exists in that channel. That's my hope. Number two is Delores Rapp, 405 Hunter Green. That's a long standing obstruction that's been confirmed several times, and should continue to move forward. I haven't heard anything from either party indicating that any progress has been made. Number three, Mimi Slanina, Slanina, pardon me, Ms. Slanina. The respondent, Jeff Kleinschmidt, called me the day after our last meeting and told me he had removed the rubber material from the drain that was acting as a weir to raise the lake level a few inches. I went out there this morning on my way to work and confirmed that that has been removed. In my brief report, also on your desk at this time, I make some observations about the fact that anytime it rains hard in that neighborhood, you're going to get limbs and branches washed out of the wooded areas collected against that drain. They really need to get together on that and monitor it closely and remove any accumulation of debris that naturally comes to the drain. It was not placed there intentionally. It's just a natural occurrence for that terrain. If Ms. Slanina pursues her petition, she may do that, but at this time I don't find, and I say so in the report, that sufficient material placed there, by whomever, constitutes an obstruction, because it does not significantly impede the flow of water through the drain at this time. So, I don't see any reason to set a date for that hearing. The fourth one is Guoyuan Huang, 741 Sunflower Circle. I wish Justin had been able to stay, because he could confirm, but I'm sure he would confirm that he has been to that site, because Easley Engineering designed that subdivision originally. I had a discussion with Ms. Candace Huston, 742 Trillium Way, and suggested that she retain the services of an engineer to evaluate the condition of the easement in her yard and develop a plan in the next 30 days to restore the easement to its originally designed condition or a condition able to equally convey water, whether it was modified in some way or not, to only modify it in such a way as would still be serviceable in accordance with the original plan. Justin Shofstall has been out there and has agreed to take that job and come back with a plan, but he asks you, through me, to move the deadline from July 12th, which was 30 days, to July 28th, because of all of the other things he has working. He doesn't think he would be able to complete that plan by July 12th. So, I'm asking you to also extend, that would be another 16 days.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: Any further discussion? All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Bill Jeffers: I will convey that to Mr. and Mrs. Huang.

Madelyn Grayson: Did you mean to set that for the 26th?

Bill Jeffers: Pardon me?

Madelyn Grayson: Was that supposed to coincide with a meeting date?

Bill Jeffers: Yes, Ma'am.

Madelyn Grayson: That's July 26th.

Bill Jeffers: Pardon me, July 26th. I will bring it back to you on July 26th. You can leave it the 28th, that will give them two days to mobilize after the 26th.

Ditch Maintenance Claims

Bill Jeffers: Okay, that concludes my noise.

President Melcher: So, there isn't any claims or anything this evening?

Bill Jeffers: I did not have any claims presented to me to bring down here. That's just a standard item that's always on the agenda, in case some claims come in late.

Other Business

President Melcher: Is there any other business to come before the Drainage Board this evening?

Commissioner Winnecke: Motion to adjourn.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

(The meeting was adjourned at 6:30 p.m.)

Those in Attendance:

Stephen Melcher
Bill Jeffers
Justin Shofstall
Members of Media

Lloyd Winnecke
Kathryn Schymik
Joe Kiefer

Marsha Abell
Madelyn Grayson
Others Unidentified

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
JULY 26, 2011**

The Vanderburgh County Drainage Board met in session this 26th day of July, 2011 at 5:25 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll go ahead and start the Vanderburgh County Drainage Board. It's Tuesday, July 26, 2011. It's about twenty five after five.

Approval of the June 28, 2011 Drainage Board Meeting Minutes

President Melcher: We need a motion to approve the minutes of the previous meeting.

Commissioner Abell: So moved.

President Melcher: Second. All in favor say aye.

Commissioner Abell: Aye.

President Melcher: Aye.

(Motion approved 2-0)

Preliminary Drainage Plan: Poet Square

President Melcher: Bill, do you want to go ahead and talk about the preliminary drainage plan for Poet Square?

Bill Jeffers: Yes, we have a preliminary drainage plan for Poet Square, a new, proposed development on the east side of Peck Road, between Old State Road and Baseline Road. This is what Area Plan had a rezoning hearing for this past Thursday, and the Commissioners will hear it, I guess, at your next meeting?

Madelyn Grayson: August 9th.

Bill Jeffers: Okay, the reason the preliminary drainage plan comes to you at this time is because if the rezoning is approved by the Commissioners at your next hearing, it will go back to Area Plan Commission at their next hearing in August, for plat approval, and plat approval must be preceded by preliminary drainage plan approval. The plan was presented by Glen Merritt, an engineer who's present in the audience tonight with the plan. He's with Cash Waggner and Associates. The plan comports with the minimum requirements for a preliminary plan in accordance with the drainage code. There are some details that we are working on to make the easements and facilities a little more property owner friendly, but they will not represent significant changes. The recommendation is to approve the preliminary drainage plan for Poet Square.

Commissioner Abell: Is Poet Square directly behind the new high school?

Bill Jeffers: Oh, you're right, I forgot to mention that. It's immediately east and across the road from the New North High School being built between Peck Road and U.S. 41, near Baseline Road. There will be an entrance somewhere along there for the athletic fields onto Peck Road, and there's a proposed entrance from this new development also onto Peck Road.

President Melcher: That's just proposed right now.

Bill Jeffers: At this point in time it's proposed.

Commissioner Abell: Does that new development also have another entrance and exit they could use in the event they couldn't get out on Peck?

Bill Jeffers: Yes, it exits over towards the east into an already developed project that outlets onto Old State Road up by Scott School.

Commissioner Abell: Okay.

Bill Jeffers: So, the old, it has one primary entrance, the pending primary entrance would be on Peck Road. Would allow it, I think there's, there was, I'm sure Commissioner Melcher knows the exact number, but somewhere around 200 lots. It had a use and development commitment of 200 and something lots maximum.

President Melcher: I believe that's right. There was concern about Peck Road and about that in 2006 Area Plan sent something to the Commissioners asking them to put that in their plan to widen it and make it better and it hasn't happened.

Bill Jeffers: Right.

President Melcher: The School Corporation has widened Peck Road. The School Corporation is also using our TIF, the county's TIF, to do the Baseline-41, which I really wasn't in favor of at the time of them doing that. So, it's just kind of coming up with what kind of money we can get for that.

Bill Jeffers: Right.

President Melcher: But, you're going to get something from the Area Plan about the Commissioners need to be looking hard at Peck Road for the future.

Bill Jeffers: Right, that would be independent of drainage—

President Melcher: Right.

Bill Jeffers: —except for that portion of the drainage that uses the Peck Road side ditch, but I do understand everyone's concern about the traffic and the width of the road. I'm very familiar with it, but I would note that with the addition of these new residences, as they are filled up, will provide more customers for the commercial area within the TIF, and, hopefully, there will be expansion by new businesses into that area so that you can recoup your TIF investment when these people begin purchasing at the new commercial establishments that we are hoping for.

President Melcher: What they also said is that this is not going to built overnight, that along with everything it's going to take awhile to get this built. So, that money would be coming in as they are building it. Maybe it's something that the county needs to

plan for to start doing. I said I would support, as a Commissioner, to get something done on Peck Road.

Ted C. Ziemer, Jr.: Let me just comment that previously the Vanderburgh County Redevelopment Commission approved an expansion of the economic development plan for the Baseline Road-Azteca TIF, and in connection with that they approved a series of improvements that might be developed if money is available. Those would include added turn lanes on Baseline Road at U.S. 41, Peck Road, the school entrance south of Old State Road, Peck Road school entrance north to Baseline Road, then a northbound right turn lane on U.S. 41 at Baseline Road. The total estimated cost of all of those improvements is about one, \$2,900,000. The Baseline, I mean, the Azteca TIF is anticipated to have at the end of 2011, \$1,176,000 in it.

Commissioner Abell: So, we're short.

Ted C. Ziemer, Jr.: That's against \$2,900,000 in proposed cost. I do have a copy of a resolution that was adopted by the Area Plan Commission at their meeting on July 14, 2011. I don't know if that's been disseminated to the Commissioners or not. Well, I'll send this to you tomorrow, but it resolves at the end that the Commissioners do everything they can to do all of the improvements to Peck Road. It's a little bit—

Commissioner Abell: Surprise.

Ted C. Ziemer, Jr.: —like recommending to the State of Indiana that they complete I-69 in a short term. But, there are plans in place, it is proceeding, as you know, John Stoll is not here today, perhaps at the next meeting he can discuss this. The Commissioners have been working to help improve the roads in that area, not just to benefit the School Corporation, but for the county. It will, in fact, not benefit the School Corporation, it will benefit the students who will be attending the new North High School. So, I did call Joe Harrison, Jr. today, the attorney for the Plan Commission, to ask him about this. He said that they just wanted him to pass this, they wanted to pass this resolution and send it on to the Commissioners. We have received it, and all I can say is the Commissioners already, in advance of receiving this resolution, I believe are doing everything they can towards those improvements.

Commissioner Abell: I have to say, although it has nothing to do with the Drainage Board, but my biggest concern, well, I have a huge concern about when all of those residences are in there and the safety of the children that are going to be trying to drive to and from school. While that's being built, I would hope that this county will have the foresight to force those construction vehicles to go somewhere besides behind the back of that high school.

Bill Jeffers: That can be done. That can be done with load limits on Peck Road.

Commissioner Abell: There need to be—

Bill Jeffers: I mean, you have a bridge, and you have this and you have that, you can post load limits. I'm sure you can make that as part of your—

President Melcher: This subdivision—

Bill Jeffers: —it could be made part of the requirement, but I would, you know, aside from that, that resolution by the Area Plan Commission members is a non-binding resolution, is it not?

Ted C. Ziemer, Jr.: I mean, it's just a resolution encouraging the Commissioners to do something they're already doing, as far as I see.

Bill Jeffers: Right, and it's significantly political in nature.

Ted C. Ziemer, Jr.: I'm not going to comment on that.

Bill Jeffers: As a past member of Area Plan Commission, I will say two things, it is significantly political, and I significantly agree with it, politically. However, you know, my comment in subdivision review was you can't hold a private, I don't think you should hold a private developer accountable to a higher standard than you're holding EVSC. EVSC was only held to the standard of improving the road from the entrance of the athletic field south, to Old State. They were not held accountable for anything going north. So, that was kind of where some of the discussion started. I'm no longer on Area Plan Commission. I wasn't in attendance at that meeting. I don't know where it led, but I've heard. So, that's kind of, I mean, just, you know, something thrown out there, and you also, I agree 100 percent with Commissioner Abell, that road should be restricted from construction traffic, especially during school use hours and athletic field hours. That can be done.

Ted C. Ziemer, Jr.: Couldn't it be done just through the county's truck ordinance? I mean, there are designated routes for trucks—

Bill Jeffers: Whatever.

Ted C. Ziemer, Jr.: — and that's not a designated route.

Bill Jeffers: The pavement can't handle it, it's restricted to five tons or whatever. I don't know. So, they can come in some alternate way. So, that can all be handled. The last thing I would say about it that's not drainage related, is that in today's economy and looking into the future, this number of lots will not fill up as quickly as, it will not generate as many trips per day as soon as the number of trips per day generated by the athletic fields. Just throwing that out there.

President Melcher: That's kind of what I was talking about, it's going to take a few years for that to get to that point.

Bill Jeffers: Right.

President Melcher: The one good thing about this subdivision, it's tied into a couple others, and they've got some bicycle routes and walking routes that are safer for the kids to walk on.

Bill Jeffers: But, repeating, it comports with—

President Melcher: I understand.

Bill Jeffers: — the drainage code for the minimum requirements of a preliminary drainage plan. The recommendation from the Surveyor's office is to approve it.

President Melcher: This is just a preliminary stage.

Bill Jeffers: But, it's good to get the other issues out there so everybody knows what we are looking forward to seeing happen.

President Melcher: I agree with you. I'll move for approval.

Commissioner Abell: So moved.

President Melcher: Ask if anybody else wants to speak?

Commissioner Abell: You're President.

President Melcher: Oh, that's right.

Commissioner Abell: You're running this show, Steve.

President Melcher: I switched gears. Is there anybody out there in the audience that would like to speak on this? Would you like to come up? I forgot what meeting I was in I've been in so many meetings today.

Bill Jeffers: You need to carry two hats.

President Melcher: Three, I've got one after this one.

Connie McDivitt: My name is Connie McDivitt. I live at 15625 Peck Road. What I want to know is this going to be a closed ditch, an open ditch or what? Because I will tell you right now what is going on, that when we get heavy rains, we get mud from the School Corporation. Everything, about '96 I had a guy come out from the Soil Conservation, he said you've got 90 acres draining in your ditch. When that road floods between Dr. Epperson's and our drive, the water has no place to go because it's coming right off the field, about that far from our culvert. It has blown out three times in '96, for 15 years we fought and fought and fought to keep that driveway. It blew out again about a month and a half ago. A month ago we put a lot of rock in her, it lasted one week. We are getting water from where that subdivision is going to be right down. My question is, where are our rights? We can't stop them from draining, but they can destroy our in and out. We are landlocked, landlocked. If she blows again, we can't get a fire truck up there, we can't get an ambulance or nothing.

Commissioner Abell: Where's your house in relation to that?

Connie McDivitt: Jack, where would it be?

Jack McDivitt: (Inaudible. Not at microphone.)

Bill Jeffers: You would have to expand the (Inaudible).

Brenda Jeffers: I think I can move it.

Jack McDivitt: Our house, I think that's our driveway right there.

Connie McDivitt: Right there? Okay.

Jack McDivitt: All of this—

Brenda Jeffers: I can pull this down.

Jack McDivitt: — it just, when all of these fields and stuff—

Connie McDivitt: That upper north—

Jack McDivitt: — it just (Inaudible. Not at microphone.)

Madelyn Grayson: Sir, can you make comments at the microphone?

Jack McDivitt: (Inaudible. Not at microphone.)

President Melcher: I'm sorry, if you could jump on this microphone, that way we have it on the minutes.

Jack McDivitt: Okay.

Madelyn Grayson: State your name please also.

Connie McDivitt: Your name.

Jack McDivitt: Jack McDivitt, okay.

Commissioner Abell: And that's your driveway that we can see?

Jack McDivitt: Well, it goes up off of Peck, all the way up through there.

Connie McDivitt: Where she corners it out at the—

Jack McDivitt: I think right here's our house.

Brenda Jeffers: You can use this laser right here. Just press this button.

Connie McDivitt: Oh, okay. This is our house right here.

Commissioner Abell: Okay.

Connie McDivitt: We come off of Peck and go up. Okay? We're landlocked. We're landlocked.

Jack McDivitt: When they seeded for the high school over there, they put hay down. The first time it rained, all the hay packed their culvert full, all of the mud come across the road and packed in our culvert, the hay packed in our culvert, which overtopped it, which took all of the rock.

Connie McDivitt: Half of our rock is now laying—

Jack McDivitt: I've got five hundred and some odd dollars worth of rock in the ditch.

Connie McDivitt: Yeah, laying in the ditch.

Jack McDivitt: Right now.

Connie McDivitt: One week. We were getting ready to go on vacation, so we put the rock in there because my granddaughter is there.

Jack McDivitt: I can't get a fire truck, right now, you can't get a fire truck to my house.

Connie McDivitt: We can get a car in, that's it. In and out, and there's other people, there's another house that people live up there. This is what we've been dealing with, but nobody cares. I've been told repeatedly—

Jack McDivitt: It's a rental house. They don't care about that.

Connie McDivitt: I've been told repeatedly, they can drain it. So, they blow out our driveway, we just keep putting rock in.

Jack McDivitt: So, right now I've got another permit to put a culvert in, but if you're going to redo Peck, why should I waste two or three thousand dollars putting another culvert in—

Connie McDivitt: So we can get in and out.

Jack McDivitt: — to get in and out, if you're going to redo Peck?

President Melcher: Well, we don't know when we're going to be able to do Peck. Right now there isn't any money to redo Peck.

Connie McDivitt: This road sits like this right now. There are approximately three or four spots on Peck where there's holes that they put rip rap on. A school bus, a truck, anything hits those things just right, they're in the ditch. Nobody has maintained that road. It is ate up. The School Corporation hasn't had heavy equipment in there since they first started that project out there. They're all coming in off of, what is that, Baseline? They're coming in that way. So, the road can't handle it. The walls of the ditch are falling, which is causing—

Jack McDivitt: Erosion.

Connie McDivitt: —right now there's a crack right up against Peck, right up against her. We get heavy rains, she's down. You watch her, you can watch the ditch fall with heavy rains.

President Melcher: No, we probably need to send our Engineer out there to look at it.

Jack McDivitt: He's already been, he's supposedly been out there to look at the ditch.

President Melcher: Well, we'll do that. Bill, do you have any comments on what they're saying?

Jack McDivitt: If you're familiar with the area, you know that the road's right up, the ditch bank is right at the edge of the road.

Connie McDivitt: I won't go past, if there's a car coming, I will not go past unless say just to the south of Dr. Epperson's property. I don't trust the road. I mean, there is like holes, and you get down closer to our drive and she's like this. Then past our house, of course, she levels out.

Bill Jeffers: The road has been reported to be approximately 14 feet wide, and there's no shoulders to speak of, and the ditch is right there. That's correct. With regard to drainage, the project that's proposed is Poet Square, will have substantial

storm water detention facilities. We could recommend in the final drainage plan that those be temporarily enlarged to serve as sediment detention basins, as well as storm water detention basins. During construction you always get far more runoff than you do after the grass has been grown.

Connie McDivitt: That I understand, but right now that field is there, I mean, she's sloped, don't get me wrong—

Bill Jeffers: No, I understand. I'm very familiar with the project, and there is not detention on that field now. So, you get 40-50 percent of the water that hits the ground, runs down the ditch. That's true.

Connie McDivitt: And, we're the only ones that driveways get lost, you know.

Bill Jeffers: Ma'am, I understand all that, and what I'm telling you is, there will be detention facilities placed there. I could request in the final drainage plan for a sequenced installation of detention and temporary sediment control facilities, and require that the sequencing be done in such a way that they are put in first, okay? It should have been done on the school project. If there are violations of our very strict erosion and sediment control ordinance that the Commissioners passed, in what, 2004, you can instruct your soil and water sediment control technician to go out there and issue citations and enforce that ordinance. The straw that they're talking about commonly does wash off new seedings. Anything that leaves the site, anything that leaves the construction site, it's the responsibility of the construction site operator to go pick it up and remove it. So, that can be done by your sediment and erosion control specialist. He can cite the operator of the School Corporation project to do that. So, you have many avenues you can take to address these citizens legitimate complaint.

President Melcher: Well, I think we probably need to do all of the above right now.

Commissioner Abell: Yeah.

President Melcher: And try to help you out, because you shouldn't have to be putting up with that.

Connie McDivitt: No.

President Melcher: The School Corporation has to follow the same rules that everybody else does.

Jack McDivitt: Well, we've been putting up with this since 1996. Higgins was still engineer.

Connie McDivitt: I mean, they told—

Jack McDivitt: We went through him. Well, he finally died and then another, there was a—

Connie McDivitt: Nobody, it's just that we've been fighting this, and we're the only ones out there that pay for it. That's my point. Nobody to the north or to the south, it's us, because our culvert is right there. We're, our ditch I'm going say is anywhere from 4 ½ to five foot deep, and what's on the other side is (Inaudible).

President Melcher: Do you have e-mail?

Connie McDivitt: Uh-huh.

President Melcher: After this meeting could you give Madelyn your e-mail address and everything so we could keep you up to date on what's happening.

Connie McDivitt: Yeah.

President Melcher: Because this is just a preliminary one to move the project forward.

Connie McDivitt: We understand.

President Melcher: Like Bill said, he'll be coming with a final one, that way you'll be notified of that too.

Connie McDivitt: Okay.

President Melcher: And, we're going to have the rezoning coming, you can come to that too and ask it.

Connie McDivitt: You know, we can't, we can't stop everything, but what I'm saying if they're going to come in and do "x, y and z", then we need to have, we've lived out there and all of a sudden it's like, oh well.

President Melcher: No.

Connie McDivitt: That's the way we feel about it, because this is what's been happening for, since '96.

Jack McDivitt: Would you like, everytime it rains—

Connie McDivitt: Wonder if you can get out?

Jack McDivitt: —hope that you can get out of your driveway?

Connie McDivitt: We have to go down—

Jack McDivitt: Or hope you can get a fire truck if you have a fire?

Connie McDivitt: Yeah. We've had to go down there first thing in the morning to see if—

Jack McDivitt: I've dropped my truck in it once as I was going across, through the water it just, the whole thing blew out.

Connie McDivitt: You pray going across it that this going to hold.

President Melcher: I think you've been heard.

Connie McDivitt: Yeah.

President Melcher: We're going to see what we can do to help you. We'll start these steps ourselves.

Connie McDivitt: Okay.

President Melcher: We'll see where that takes us.

Connie McDivitt: Okay, well, I appreciate it.

President Melcher: Because you shouldn't have had to put up with that when that went into your culvert.

Connie McDivitt: I mean, you know.

President Melcher: Like Bill said—

Connie McDivitt: You can understand some things—

President Melcher: The School Corporation might have to dig that back out for you. We'll find out.

Connie McDivitt: I don't, our ditch is deep enough on one side, and it's deep enough on the other, but it's just like—

Jack McDivitt: It's all of the 90 acres goes right through that culvert. I thought how big a culvert do I need? They told me a 42, they said it was 30 some odd inches. Well, I put that in there, well, they come and they dredged the ditch out, that wasn't big enough, so the county put two different, a culvert in there, two different sizes. Well, then it blew up in the middle. So, her and I had to crawl in the ditch and concrete in the crack to keep it from blowing up in the middle of our driveway.

President Melcher: Well, I think we know about it now, it's on record now. So, it will be in some minutes. We'll see what we can do. I can't promise you nothing, but I will see what we can do to help.

Jack McDivitt: Alright, I mean, it's just everytime it rains, we hope and pray that we can get out or get a truck up to us.

President Melcher: Okay, Marsha do you have anything?

Commissioner Abell: Bill, will you handle all of this for us?

Bill Jeffers: I'll bring it to the attention of Mr. Wathen, your soil—

Commissioner Abell: Okay.

Bill Jeffers: — erosion control technician. We were scheduled to go out Friday, and that's, believe it or not there's two other people complaining as well. Okay? One of them at the corner of Korff and Baseline, and we intended to visit him. So, we will be out there Friday.

Commissioner Abell: Okay.

Jack McDivitt: Oh, yeah, they flood bad. When they put this subdivision in, you might as well build moats around your houses.

Connie McDivitt: It's a lake back there.

Bill Jeffers: We'll be out that way Friday.

Connie McDivitt: Okay, then.

Bill Jeffers: Thank you for coming.

President Melcher: Thank you very much.

Commissioner Abell: Thanks, Bill. Okay, you're show.

President Melcher: Is there anybody else that wanted to speak? Okay, Bill.

Bill Jeffers: Did you vote to pass that?

President Melcher: No, not yet. All in favor say aye.

Commissioner Abell: Aye.

President Melcher: Aye.

(Motion approved 2-0)

Helen Murray Obstruction Petition Public Hearing

President Melcher: So, we're going to hear the Helen Murray petition hearing?

Bill Jeffers: Yes, we have a hearing scheduled tonight for Helen Murray to present her case and her petition to remove an obstruction that exists on the property of Donald and Ruth Jewell at 2301 North Thomas Avenue, Evansville, Indiana. I've sent several preliminary and subsequent reports to you via e-mail. I'm sure you enjoyed reading all of those. We have some pictures to show the status of the case. Then I will turn it over to you to invite persons to speak. Without the lights being dimmed, well, you can see it on your screen pretty well, I don't know about the folks in the audience, we might have to dim the lights if we have to. But, anyway, this is the outlet channel, that's a survey stake in the middle of the channel indicating an elevation of the water when I first saw it. Let me get my notes. When I first viewed it, it had timbers, boards, lumber and so forth across this channel, serving as a walkway, and I reported to you that those objects significantly impeded the flow of water during high water conditions through this lake outlet channel, and that those things should be removed, and they have been removed. Slide number three, no, three, that's looking away from the lake towards Pigeon Creek. That's the natural overgrowth of vegetation that remains in the channel. This was not intentionally placed by anyone. It's just something that Mother Nature provided. I'm just showing it to you as a matter of record. There it is. We'll discuss that a little later on, but it doesn't significantly impede the flow of water through the channel. In fact, the roots of that vegetation helps hold the embankment of the channel from becoming a gully. Number four, slide number four, one up, that's five. Four shows you the timbers that were removed. You can imagine if those were in that channel as a crosswalk that

they did significantly impede the outflow of water from the lake. That's what generated the complaint and the petition. That has been removed. It's stacked over behind the dam. Number five is an old sign, I just took a picture of it to show you that at one time it was intended that that lake be maintained and used by the lake owners or homeowners association. Number six is a very deeply eroded gully from the outlet channel into Pigeon Creek. This is why I'm saying that it might not be prudent to remove all of the vegetation from the upper part of the channel, because if you did, the channel would start to look like this 20 foot deep gully. Number seven is some beaver activity immediately adjacent to the outlet channel. I'm only showing you that because there obviously is a beaver population in the lake, and I want to make the owner aware that he will probably have to do some maintenance from time to time, because the beavers like the lake as full as possible. Number eight, this is the petitioner, Ms. Helen Murray's, shore line. It's rip rap, that's her yard to the right, the lake to the left, and the rip rapped shore line showing you her concern was that some of that rip rap was being adversely impacted by high water. Now the water has receded since then, and the level is lower since the obstruction has been removed from the channel. Number nine—

Commissioner Abell: Bill, wait a minute. Is the, about three quarters of the way down on the right side, are those the timbers that we saw in the previous pictures?

Bill Jeffers: No, Ma'am. I think that might be an overturned boat.

Commissioner Abell: Oh, okay.

Bill Jeffers: I think. To keep the rain water out, not to....okay. This is number nine. The next one. I believe that's number eight. There you go, yeah. Number nine is the Jewell, Mr. and Mrs. Jewell's shore line. This is the neighbor who owns the entire lake lot, and the Jewell's are the respondents in this. It shows you that their shore line essentially is the same thing. It's rip rap, however, the grass has stabilized the rip rap a little more than Mrs. Murray's. I guess that rip rap's been there longer. That plastic pipe extending out into the lake is the street drain. Okay, number ten is a close up of Ms. Murray's shore line, just showing that the rip rap pulled away from the top of the bank just a little bit. That's what, back up one please.

Brenda Jeffers: Is that it?

Bill Jeffers: Yeah, that's it. That is what Mrs. Murray was concerned about, the rip rap being constantly inundated. It appeared to her it was pulling away from the shore line. That was alarming to her. I believe now that the water level is back to its normal stage, hopefully that will cease. Number 11 is a wooden dock that is across the cover from Ms. Murray's house. That was of some concern to her, but as you can see it's no longer flooded. Then number 12 is another dock owned by another neighbor, and the water has receded below the lowest platform. Then number 13 and 14, you probably see them on your screens on your desk more clearly, but I believe those show you that the lake has receded to its former pool elevation, because you can see the mud exposed along the shore line. That looks like any normal lake at a normal pool elevation. That's a particularly good picture right there. So, my report to you at this time is that the substantial impediments to the flow of water through the channel had been removed. I would, if it were mine, remove a little more gravel from the bottom so that the channel bottom is flat, two three feet wide flat. I think I have a drawing of what I suggested. This isn't a requirement, this is a suggestion, because then the water evenly flows across the bottom during a high water event, rather than flowing through a vee shaped trench which I would be afraid

would erode down and become that gully. This is my suggestion. I would further suggest that Mr. Jewell employ an engineer or an erosion control specialist to design a trench footer to go across, cross ways, perpendicular to the flow line to form like a footer that would serve as a weir to hold that water elevation as a set elevation that's the desired pool elevation, so that it would arrest the erosion. That's my report. I believe the substantial obstruction has been removed at this time. If you don't mind I'm going to sit down over here.

President Melcher: Okay.

Bill Jeffers: In case I'm asked any questions.

President Melcher: Is there anybody that would like to come speak on this? Just come up one at a time and state your name and address for our record.

Julie Julian: My name is Julie Julian. My address is 2215 North Thomas Avenue, and I own the property with the white fence around it where the gentleman said that the water has receded below the dock, which is not true. Only part of that dock is now exposed, most of it has been underwater most of the year. I've encountered, you know, considerable damage to that dock. My rip rap is almost disappeared from below my dock, which it used to be the same as in Mrs. Murray's. Also, there is a gap now where the dirt, where the water had gone so high that the dirt of my yard has eroded to the point where there's a gap between the dock and my yard, so that my ten grandchildren who are ten and under get their foot caught in when they try to cross from yard to the dock. Furthermore, you know, the fact that Mr. Jewell stopped up the drain over and over again, some of us actually tried to remove some of the blockage so that our properties wouldn't be damaged, when we did that he would come to our yards as a bully, stand in our face and point at us and tell us that, he would make threats to us. One person even has had to get a restraining order. Helen Murray can't even speak right now for her nervousness over what the horrible things he has said to her and accused her of. So, we do appreciate the fact that you're looking at this. We hope that you will address this with a permanent decision, because we can assure you that this will continue to happen just as a matter of control, if for no other reason. So, you know, again, we thank you for your time. We appreciate your intervention here.

President Melcher: Anybody else?

Bill Jeffers: Mr. President?

President Melcher: Yes.

Bill Jeffers: If I may interject at this time, I would like, I know that the—

Julie Julian: (Inaudible) pass around at this time, if you don't mind, pictures.

Bill Jeffers: Go ahead.

Julie Julian: Before and after it was stopped up.

Bill Jeffers: I would just like to remind everyone on the Board and in the audience that while the County Commissioners always are very diligent and liberal in their hearing of citizen complaints, that this situation was brought to the County Drainage Board's attention only after Ms. Murray contacted nearly every agency in town; fire

departments, police departments, Homeland Security, City Engineer, Board of Works, I could go on, but I'm beginning to forget. It's a long litany of complaints that went to....Department of Natural Resource, State Department of Natural Resources, Emergency Management, Army Corps of Engineers, none of whom have had a hearing, none of whom have provided a solution, some of whom reviewed the drainage plans and approved the drainage plans for this lake in 1984 and again in 1994, the city did. No one has addressed this problem but the County Drainage Board under a statute that is very limited in its scope and only requires the County Surveyor to immediately investigate the allegation, using the petition as his warrant to enter onto private property, in the City of Evansville, not in the county jurisdiction, and that was all done, and file a report with the Drainage Board asap, which was done. The Drainage Board set a hearing to give the petitioner, the person who's name appears on the petition, and the respondent, the person against whom the complaint is lodged, to give their two sides. It's up to the Commissioners, if they wish as the Drainage Board, to hear the entire neighborhood, but I would remind you that no one but the petitioner and the respondent are named in the complaint. The petitioner is the one who filed the petition, and it was her \$100 that pays for the hearing. If there are damages to properties outside, also I should say, the petition through the statute only allows me to go within 75 feet of the alleged obstruction, and not to look at anything else, but only at the invitation of the petitioner did I go on to her property and take these pictures. If she's not going to speak, that's fine, I suppose.

Helen Murray: Do you want me to speak?

Bill Jeffers: After I do, but when it comes to damages if there is a nuisance created by an alleged act by a property owner that can be handled in the Circuit and Superior Court as maintenance of a nuisance. If threats were made, those can handled with restraining orders. If bullying occurred, same thing, and if, but I'm sure that the decision of the Board will be final. It's at your discretion exactly how much you want to hear and assume jurisdiction over, but I remind you that this is in the city.

President Melcher: No, I understand we have to follow the guidelines. I just want to make sure everybody gets their say.

Bill Jeffers: Oh, and no one else contacted me--

President Melcher: Okay.

Bill Jeffers: --besides the petitioner and the remonstrator. Anything else you hear from anyone besides the petitioner and the remonstrator, I mean, and the respondent I have never heard, because no one has contacted me besides them.

President Melcher: I understand. Is there, Ms. Murray, do you want to say anything? I know you have before, but you are the petitioner.

Helen Murray: Okay, the level of the lake is not right yet. It's still going up the drain that drains the street. It's under a couple docks that you can look right out in my yard and see. When it rains it gets over the docks. When it rains it fulls up the drain that goes to the street. July the 7th I was up all night, water couldn't drain off from the road because the lake was going into the pipes, water was on the street, on the sidewalk, it was in my yard. It comes up over my rocks. I've got hunks of dirt coming out of my yard. I've got my rocks caved in due to every time it rains. It's no drain down there. We've never, I've lived there 20 years, we've never had any problem

until it was stopped up. We always had a drain. We've never had this kind of a level on the lake. I'm not the only one, it's damaged other people's property up at the front of the lake there's a fella up there that our homes was built to the level of the lake and under our house has drains to drain water out from under our homes. There's a fella at the front of the lake he's got sump pumps under there, but water was going up there so fast that it knocked these sump pumps out. He's got mold under his house. He was supposed to be here tonight, but he wasn't here. But, it's a problem I've never had, I've been there 18 years, 19, I've never had this problem. I lose sleep over it, because water is coming at me front and back. I am lower. This Jewell, when he built, he built higher. He throwed dirt in the lake, (Inaudible) a point out into the lake, which might have something to do with it draining, but he was looking out for Jewell. This lake was established years ago, and it wasn't established for the level he wants. He wants a deep, pretty lake. I see what he wants, but it's an old lake it needs drudged, I mean, he can't have his water that high because he's going to damage all our property. Docks that's been built due to the level of what we was supposed to have, you know, not what he wants. I'm sorry, and I thank everybody for what help I've got out of them, but, I mean, I'm 81, I will be 81 in August, and I don't need this.

President Melcher: Thank you.

Helen Murray: Thank you.

President Melcher: Yes?

Commissioner Abell: Bill? Bill, can you tell me where this area is?

Bill Jeffers: It's, you go out Morgan Avenue past Boeke, and on the left, before you get to John Friend's office, there's Thomas Drive. It goes back up through there. It's a very nice subdivision that was built in the, basically in the 90's, late 80's-90's.

President Melcher: You can come on up. We would just like to hear something new.

Commissioner Abell: Thank you, Bill.

President Melcher: Something that hasn't been said. State your name and address so we have that for the record.

Carolyn Mott: My name is Carolyn Mott, I live at 2117 Pine Shore Court, which is basically catty corner from Helen Thomas. I just want to say that I've lived there 12 years now, the lake has never been this high consistently. Occasionally, when we have a great big, huge rain the rain might put the water over my boat dock. It's the boat dock with the boat upside down so it won't float away right now. In a couple of days it's all drained back down. It's not true, my boat dock is still basically, partially underwater, not totally. My land is eroding, the rip rap is now totally underwater there's been so much erosion on my property. I also have water in the house. This is my sister Sheila.

Sister Sheila Adamson: I am Sister Sheila Adamson, her sister and house mate, as long as we don't float away. The water under the house concerns me. I think every house in our neighborhood has crawl spaces, not basements. Of course, water is going to find its level, whatever happens, and we can't afford to have this, you know. I mean, we have lots of disputes which can't be handled here, I understand. Why this man every owned the lake, when we bought our property 12 years ago we were told

that everybody who had a house around the lake were co-owners. As far as addressing you, sir, we have a neighborhood association, and I think most homeowners like myself expected that, you know, our issues were being directed in that manner, that we didn't have to call individually, because there were several meetings about the problems that this has caused. Why the city sold the property to somebody out of town, and why this guy bought it when we were getting money together to buy it so we could buy whatever we thought was ours to begin with, I would say that everybody that lives on the lake has no desire to have the ecology harmed. There's a lot of fowl, water fowl, we have Blue Herons, and I thought I had seen a beaver on our porch one time, but it didn't make any sense, but that tail, as soon as he said that, I knew then that was what I saw one evening. The water is what you're there for, you know, if you just want to stare at it and see the sunset reflected on it, or if you want to take your boat out, just, people fish there. Every year we contribute to putting more fish in the lake, stocking it, we don't want the level going up and down because it's just bad for us as property owners. I fear if we ever want to sell our homes, we're going to have problems. We bought this place 12 years ago after seeing it on t.v., in one of those ads, and, you know, they were across the lake and shooting up onto our dock, and the area right approximating our house, and nowhere did anyone say that this property was going to be available for sale, and that someone could, in fact, seize it and take control away from the homeowners association and individual persons living there. I think that's probably all I have to say. Thank you.

President Melcher: Thank you.

Bill Jeffers: With regard to the homeowners association issue, the limited amount of research I did on that after learning of those issues, the original plat is 1984, recorded 1984, okay? It does not mention a homeowners association that I could find. However, a subsequent plat for section A, in which so far all of the persons who have spoken are in section A, was recorded August 26, 1993, Plat Book O, Page 119. It reiterates that the drainage was approved March 21, 1984 for Pine Lake Estates, including the storm sewers for Pine Lake and Pine Lake Estates, Section A, which is the section we're dealing with. It says streets for Section A were accepted by the Board of Public Works, November 2, 1988. So, if there's any problem with street drainage, I would suggest that the Board of Works be contacted. Then the last note, number eight, says Pine Lake Homeowners Association, which is limited to the owners of lots in Pine Lake Subdivision and Pine Lake Estates Subdivision, Section A is responsible for the maintenance and upkeep of Pine Lake. The Association will be the owners of Pine Lake. I don't know how you interpret "will be", because things happen. However, that's why I showed you the slide of the original hand painted sign, which appears to be rather, has a good patina on it. So, I would say that I have discovered since that the homeowners do have concerns that are legitimate. The ownership of the lake lot, I believed, remained with the original developer of the property, yet dues were being collected from the homeowners as represented to be a homeowners association in effect. There was a period of time, apparently, when the original developer neglected to pay the property taxes on the lake lot, and it went to tax sale. That is a normal procedure for properties with unpaid taxes. It's not like somebody forcibly took anything from anybody, the act of not paying your taxes results in your forfeiture of your property. While it was going to tax sale, I understand that the developer or representative thereof tried to transfer the title to the homeowners association, but before that occurred it went to tax sale and an out of town buyer bought it, subsequently selling it to the current owner. Again, these types of issues—

Ted C. Ziemer, Jr.: Bill, how big is the lake?

Bill Jeffers: –are not Drainage Board’s issues–

President Melcher: No, we understand–

Bill Jeffers: – these are court–

President Melcher: –but we’re just trying to get a handle–

Bill Jeffers: Right

President Melcher: –on what it is.

Ted C. Ziemer, Jr.: Bill, how big is the lake?

Unidentified: 12 acres.

Ted C. Ziemer, Jr.: Okay, thank you.

Bill Jeffers: Oh, it’s a substantial lake, and a substantial lake lot, and it would take substantial funds to maintain it. You might hear from the respondent what he’s spent to maintain it thus far–

President Melcher: Okay.

Bill Jeffers: –whenever he speaks. Oh, I would ask for the slide number ten, maybe, to be put up.

Brenda Jeffers: That one?

Bill Jeffers: Yes, that’s the pipe that Mrs. Murray would prefer that that pipe not have standing water in it. As you can see, yesterday it had about an inch or two of water standing in it at this time. However, I would note that plastic pipe, two things; that pipe is not a part of the approved drainage plan, it was installed after the drainage plan was approved with an open ditch flowing into the lake, and, two, plastic pipes are flexible, so, if someone were to stand on that pipe it might be at a lower elevation on the end than it was originally. Yes, there’s a couple of inches of water standing in it.

President Melcher: Okay.

Helen Murray: May I say something?

President Melcher: If you can make it quick. Go ahead, at the microphone please.

Helen Murray: That pipe, there’s another one in the subdivision just like it. I don’t know what happened there, but whoever, the developer or whoever put it in got away with two of them, not just one that’s on my property. Water gets stopped up, when it rains the water comes up more, we have no drainage. That’s what I’m asking for, only a drainage of the lake and the level to go down. I mean, I’m not asking for more than what I think I should have.

President Melcher: And, I think there's a level that was set, wasn't there a level set, Bill?

Bill Jeffers: Okay, again—

President Melcher: 381?

Bill Jeffers: — again, looking at the recorded plats, the plat from, the original drainage plan, no, excuse me, the original plat for Pine Lake Subdivision, October 22, 1984, following the approval of the final drainage plan by the Board of Works of the City of Evansville, shows the lake elevation at 381.25. That's one quarter of a foot above 381. One quarter of a foot is three inches.

Helen Murray: Then when it rains it comes up higher. It goes in the drain. The street can't drain.

Bill Jeffers: Okay, in answer to that, this is a very unorthodox outlet drain for a lake. I have my suspicions as to why it is what it is.

Helen Murray: Well, I don't know. When I bought the lot—

Bill Jeffers: I believe, there's an older drain for the lake that's a foot and a half or so higher than this one, okay? A concrete—

President Melcher: Okay.

Bill Jeffers: —flume, like it's supposed to be. A legitimate outlet flume. The lake, I believe used to be a foot or so higher than this, and when they went to develop this as a subdivision, I suspect, but have no proof, that rather than haul in a million dollars worth of dirt to raise the elevation of the lots above, so that they would not flood, they simply dug a channel through the dam and lowered the lake a foot or so. That's my suspicion, but I have no proof. I know how things go, and that would be the most effective and quick way to eliminate a foot and a half of fill dirt over what, 40 acres. So, anyway, digging an open trench through a dam is not what I would consider an appropriate outlet channel for a 12 acre lake, because you can't control that. It should be a pipe, or it should be a concrete flume. It should have a weir wall in it. It should have a control structure, something to prevent erosion, something to set the elevation at point "x" so that you know what the elevation is for eternity. But, again, the Board of Works approved this drainage plan on March 23, 1984, and it was revised on August 4, 1984. I assume it was re-approved, because 22 days later, no, on October 22nd of the same year, the plat was recorded with the notes that are on the plat. So, again, if there is a need for a legitimate, appropriate design for this, and there's a homeowners association and all that can be rectified and they can all come to a consensus on what the lake elevation should be, I would suggest they hire a licensed engineer to study this lake and provide a design for an appropriately sized and properly built outlet channel, and have at it. But, the statute that we're operating under, as I understand it, is to identify any significant impediment to the flow of water through a drain and order its removal. We're not here to set design elevations. We're not here to settle neighborhood disputes on homeowners associations. We're not here to give approval or assess damage to boat docks of unknown design to us. It's simply a matter of is there an obstruction. If there is, remove it.

President Melcher: Okay.

Bill Jeffers: That's my opinion, and I'm sure that there's other opinions that people don't share with mine.

President Melcher: Mr. Jewell, would you want to come up now? Just like everybody else, just state your names and address.

Don Jewell: I want to give you these pictures too that our lovely neighbor is always doing this with us. Her and her little cohorts.

President Melcher: Well, this is just a meeting for us to hear.

Don Jewell: I understand, but, you know, to know where we're standing—

Ruth Jewell: I think they're already saying how we were.

Don Jewell: — we're the bully and they're standing up acting like they're masturbating. I'm sorry, that's a little ugly—

President Melcher: We really don't want to hear that.

Don Jewell: I understand, but, I mean, that's part of where we're at. This whole thing has gone crazy. We're getting accused of doing things that we haven't done. Everytime we turn around they're giving us the finger as we walk through.

President Melcher: Just—

Don Jewell: I know, but....where I'm at is on the, I got a report from, it's updated Murray petition. It says Mr. Biggerstaff, point of date on the County Surveyor and field crew determined the lake pool to be 381.56 feet above sea level at noon June the 27th, and that a steady stream of water flowed out of the lake at approximately four inches, and, so through the channel outlet previously alleged by the petitioner to be obstructed. When considering the observed lake pool elevation of 381.56, one should consider there was a recent heavy rainfall within the 24 hour period preceding the inspection. There was evidence that the lake had been six to seven inches higher within those hours. You know, all of the obstruction that was there was away, that all was there way before we ever came. You know, we got there around 12 years ago. Well, we actually bought the land 13 years ago. All of that stuff that was there in that ditch was all there. All those boards that was there, none of that was mine. That was the people that was, the whole time those boards was there. I had people too that I could have brought, but Mr. Jeffers, not being ugly with you or anything, but you told me not to bring anybody, because you said that, you know, this was just, that wasn't that kind of a meeting. Then they bring the whole neighborhood—

President Melcher: We're just hear to listen.

Don Jewell: I understand, but, I mean, part of the deal is, you know, is what's going on in the neighborhood. It's not about this lake. It's not about, you know, okay, back to the data, approximately four inches lower, the lake pool elevation on June 27, 2011 equal or nearly equal to the elevation of the lake pool shown on one of the two plans held. They're saying that one set of record plans shows the lake at 381, while the other set shows the lake pool at 381.25. So, in all reality there's a stake, do you have the stake deal?

Ruth Jewell: The picture, you mean?

Don Jewell: The picture where the stake is in the ground?

Bill Jeffers: That's picture number two. Slide number two.

Don Jewell: You know, with that, no, the stake where the drain is.

Brenda Jeffers: Right here?

Don Jewell: Yes. You know, I've got a picture in here with my finger sticking down by that stake, which is that deep. Now if that's at the 825 level, actually, you know it could have been two inches higher. So, I mean, it was legal. The lake level was where it should have been. There shouldn't have been any taken out of this lake at that level. They don't know which data to do by, either it's four inches one way or another. So, but if that's true, then that stake, he told me it should be six and a half inches shorter from the top of that stake, that being, you know, right here. But, if it's, or three inches, a quarter of a foot is three inches. So, I mean, actually the level would have been here. So, you know, it was all okay, there was no problem there.

Bill Jeffers: To clear that up, you see the stake, and down at the bottom where it goes into the ground, well, actually what's painted orange is called a "lath" like a lath that you use to plaster wall with. At the bottom there's a hub, it's a two by two oak piece that's driven into the ground, down into the gravel there. It's sticking up about three inches out of the gravel. The top of that hub is 381.56. So, you take three inches off where the gravel level is, is about 381.3. So, you can see the lake yesterday was at 381.25 more or less. That's what's on the original plat that accompanies the drainage plan. There is, yes, another elevation shown, 381.0, at a later date. I don't know if that represents the lake after it evaporated and they took another shot. Over here at that pipe, where Ms. Murray's street drain discharges into the lake, there's an elevation for the invert elevation of that drain is 381.5. The same elevation as the top of that hub. Usually drains come in at the elevation of the lake. You want to match the I.E. with the pool elevation so it doesn't cause any scour. But, anyway, I'm saying that that lake is 381.25, give or take an inch, right now, today.

Don Jewell: We're at the level we're supposed to be.

Bill Jeffers: But, again, I'm not here to design the lake pool elevation. That should be done by an engineer, a licensed engineer hired by the owners, or the homeowners association to properly analyze this lake, collect enough data to say how big this drain should be. I would suggest it be a pipe or paved drain, but that's not up to us. That should have been done by the Board of Works.

Don Jewell: The picture with the boat dock, may I have that up there?

Bill Jeffers: The wooden one, or the one with the white fence?

Ruth Jewell: The wooden one.

Don Jewell: It doesn't matter. Both of them, either one of them.

Bill Jeffers: Number 11 and number 12.

Don Jewell: The boat dock is actually only supposed to be six feet out period. You know, it's about ten feet, I mean, everybody's, you know, the other boat dock that is actually sunk down in the water, it should be on floatation, but it's on poles and big, heavy people have stood on it and it's marred down into the ground. If you look at it, it's leaning. You know, if it was on floatation like it was supposed to be, then it wouldn't have been under water, and that's what was one of her main control, or complaints was. You know, and it's also about 15 feet too long. You know, our rules and our regulations in our subdivision was supposed to have been six feet, but nobody obeys any of the rules, except for we're supposed to. You know, we've tried to comply and talk to the people. I have got a bid for \$3,500 to fix all of that, from it's Adler's, Ken Adler Excavating. They came out and gave me a bid. You know, what this whole thing amounts to is about two and half years ago after we had lost the lake, or almost five years ago we lost the lake due to nobody paid their taxes. After two and a half years of not knowing if we had a lake any longer, we decided well, you know, we would like to have a lake. Well, nobody in the subdivision talked to each other, they're just all mean and ugly. So, anyway—

President Melcher: Just talk and don't bring up all of those adjectives, that works better.

Don Jewell: But, anyway, we decided, well, after two and a half years, nobody's done anything, so we went and saw about getting the lake. We talked to some other people about getting it, and nobody responded, so, we just went ahead and bought it. Well, we thought maybe everybody would be kind of tickled about this, now nobody in the neighborhood has to worry about we no longer have a lake.

Ruth Jewell: We don't have to worry about losing the lake, and we don't have a problem with everybody coming and enjoying the lake, but we do expect to pay dues, I mean, to help keep the lake up, like the gentleman said.

Don Jewell: They supposedly paid dues before.

Ruth Jewell: We actually, 13 years ago, we paid dues, because that's what we thought, everybody, actually we would pay more than what our dues were. Even trying to keep it up, and our neighbor that would have came too, she made that remark also that, but there's was nothing ever being done about the lake. Nothing. Actually, the lake got in a position where, condition where it was almost empty it was that bad.

Don Jewell: There was a hole in the side of the lake.

Ruth Jewell: Until we bought it.

Don Jewell: There was a hole and the lake was drained down. Last year it was so ugly, last year they were all calling and complaining that there was mosquito problems and that it was a mud hole. They were calling around to all of the city people then trying to harass us that way. You know, they're constantly doing different things just to harass us. They've called every city department like he told you earlier, just to harass us. We haven't done anything. They've violated, or vandalized our house six times, and they've broken our stuff all up. You know, they've tore our yards up, they tore all of our property up—

President Melcher: That's, again, I understand—

Don Jewell: I understand, but, I mean, I'm just saying the stuff that's really going on here. It's not about an inch, the lake level is like he said, it's right where it's supposed to have been.

President Melcher: We only have, we've got rules that we have to go by, and that's what we have to go by, regardless of who says what to what.

Don Jewell: But, anyway—

President Melcher: We don't have a choice here.

Ruth Jewell: Well, the dock itself, the DNR when he came out, he walked along the lake, he was impressed how it was looking now, but he said that wooden dock, it's actually angled like this, it slants down, and he said that it should have been on a floating situation. Also, that over the years, I guess, you know, it does sink. I mean, so that's why the water is up like that to that particular boat dock. All we wanted to do was to make this beautiful. We bought this lake, this home, the land and had our home built there because we want to retire there. I'm a retired teacher, and I went, I bought that because I wanted to retire and live happily ever after, and a beautiful lake. We just don't want to lose the lake or anything. We waited and waited for the association, that there was no association legally, to buy it and everything, but, I mean, nothing was happening. It was like it fell in our lap, because they came to us, the guy that owned it, he said, you know, are you interested—

Don Jewell: Their lawyers.

Ruth Jewell: —yeah, this lawyer, so, and he said I want to be honest, after, you know, we made this deal, he said, I want to be honest, I called everyone—

Don Jewell: That was interested.

Ruth Jewell: —that was interested and he never got a reply.

Don Jewell: Not one person replied.

Ruth Jewell: That's how we ended up with it. I mean, hey, I would rather just pay dues, and be done with it.

Don Jewell: Yeah, I would much rather pay the dues.

Ruth Jewell: But, we did not want to get in the situation again that time after time that lake was being lost, it wasn't being taken care of or anything, and we were tired of it.

Don Jewell: There was trees that grew from the inside of the lake where the water was, all the way across the whole dam. I mean, we're talking trees that should have never been inside of a dam. We're talking 2,000 feet of trees. We went over and cut them out. It cost me over \$10,000. You know—

Ruth Jewell: We've spent a lot of money.

Don Jewell: —we've got over \$20,000 in this lake right now, and not one person has offered to pay a penny—

Ruth Jewell: They want to play and not pay.

Don Jewell: –but they all say I’ve got all the rights to fish, I’ve got the right to boat, I can do anything I want. That’s Ms. Murray, of course, but, you know, I can do it all. I can do whatever I want to do. She’s just really ugly.

President Melcher: I think we understand what’s, what it is. Like I said, we have to go by what we do here. So, is there anything you want to add to what you–

Ruth Jewell: We want (Inaudible).

Don Jewell: Our house is important too–

Ruth Jewell: Yeah.

Don Jewell: – I mean, it’s probably the second most expensive house in the subdivision.

Ruth Jewell: We’ve got an expensive home there.

Don Jewell: We don’t want our house flooded either. So, I mean, I’m not going to flood somebody else’s house just to be an ugly guy.

President Melcher: As long as it’s at 381.25, I guess, that’s–

Ruth Jewell: Alright, that sounds good to me.

President Melcher: –but, I want to hear, Bill, I need you to give a final. Thank you.

Don Jewell: I’ve already actually started working on it.

Ruth Jewell: Yes.

Don Jewell: Actually, the legalities to say who gets to help pay for it. If it was my fault that all of this stuff was going on, there was paperwork here that says, you know, that I’m responsible, but since all of that stuff was there before I ever came, 20 years ago this was built and put there, then the neighborhood is just as responsible to take care of all of these repairs. You all have, actually the legality, it says on this paper, to make that happen.

President Melcher: I don’t think that’s part of our jurisdiction. We’re doing what we can here.

Bill Jeffers: Well, what the law says is that if the obstruction is determined, if the Board finds, or determines, that the obstruction was placed intentionally, then the property owner where the obstruction lies is responsible at his and her cost to remove it. Okay? Regardless of who placed it there. It’s on their property. So, in other words, they’ve allowed it to exist, it was, and you determined it was placed intentionally, it’s their cost to remove it. That has been done with the timbers. They’ve been removed. The only thing I’m suggesting at this time is that the bottom of that channel be leveled out and any significantly obstructing material, if that gravel needs to be moved around and made more flat, or if there’s any chunks of concrete or something that are sticking up in the bottom of the channel, pick them up and pitch them down the hill. The reason I showed the overgrowth is because if an

obstruction is unintentional, that would be anything that was washed into the channel, tree limbs, beaver dams, overgrowth, sediment, the gravel is not sediment, the stuff associated with the gravel is sediment. The unintentional materials that were placed unintentionally, or naturally, they are not responsible to pay for that. The persons who benefit from the removal of it are responsible to share in the cost, equally, according to their, according to how much it benefits them. So, now you've heard a lot of people speak that something needs to be done to benefit them and make their drainage more effective, if they wish to join together and pay for it, the unintentional obstruction, yes, that can be ordered by the Board as well, but, I would tread lightly on that one. If I was on the Board, I'm not. The, that's the way the law reads to me. You have you a lawyer over there though that can correct me.

President Melcher: Well, we're going to get his opinion in a minute. He's going to be last.

Bill Jeffers: I'm saying the significant obstruction, the significant impediment has been removed. There are some less significant materials and objects still in that channel. I would close by saying that I would strongly suggest, no matter what the Board decides, that someone, preferably the owner of this property, arrange for, whether with or without the consensus of the homeowners association, to retain someone that knows something about lake construction to go out there and make a more appropriate outlet so that everyone's, including this man's and this woman's interests are protected against further loss. I will also say that the removal of, it's my opinion the removal of the obstructions has or will benefit the petitioner, Ms. Murray, excuse me, will cause better drainage of her property without causing undue damage to the property owner.

Don Jewell: Those streets were actually never flooded. We didn't bring those pictures with us, because the lawyer has them, but that's a lie. You know, I mean, water in that drain's got nothing to do with anything. I mean, you know, it's a drain.

Ruth Jewell: Our street never flooded this year and we were having floods everywhere all over town.

Don Jewell: You could walk down our (Inaudible)--

Ruth Jewell: We've got pictures of it.

Don Jewell: --and take a six foot stick and you could have touched our lake water and you could have touched the river water. We were within 12 inches of having the river in our flooding their houses. All of Evansville, we couldn't even get out of our subdivision on Morgan Avenue and go east--

Ruth Jewell: On Morgan where it hits--

Don Jewell: -- and we couldn't go up Oak Hill because it was so flooded.

President Melcher: That's because the State built the bridge lower than what it originally was.

Ruth Jewell: Right.

Don Jewell: I'm just saying--

Ruth Jewell: But that was all flooded, but ours never flooded.

Don Jewell: – our street never was flooded.

President Melcher: Okay.

Ruth Jewell: Actually, everyone that came out that you mentioned earlier, they see no problems. It was draining like it was supposed to drain.

Don Jewell: Every one of them, we asked them, I asked the Army Corps of Engineers, because I said is there a problem here? Do you see a problem that I need to take care of? You know, I mean, of all people they ought to know.

President Melcher: Okay.

Ruth Jewell: Because we don't want our home flooded either.

Don Jewell: I don't want anybody else's home flooded either.

Ruth Jewell: And no one else's, so, why would we, you know, intentionally let this go on.

President Melcher: Okay, thank you. Thank both of you for coming.

Ruth Jewell: Thank you.

Don Jewell: Do you want me to take those pictures back?

President Melcher: Yeah, we didn't want to lose them. So, I always send them down that way. Okay, I would like to, I've asked the attorney to give us his advice on what our position is at this point.

Ted C. Ziemer, Jr.: Basically, the County Surveyor, Bill Jeffers, has correctly stated the law. I think we have two things here. We have an allegation of a drain being obstructed, and that's really what this hearing is about. I'm not sure we've heard the recommendation of the County Surveyor relative to whether, you mentioned that there has been wood planking causing the obstruction, that that has been removed, and you're recommending some additional work being done to the gravel, but, generally the Board relies on your recommendation as to whether, number one, there is an obstruction, number two, whether in your opinion it's an intentional obstruction, and then based on those recommendations makes a decision. The other thing, I think clearly the Board has before them tonight that shouldn't really be before them is the neighborhood dispute as to, you know, how this lake should be handled, what the level of it should be, who's doing what with their docks and who's built their dock out too far, and who's not obeying the rules of the homeowners association and who's supposed to pay dues and who isn't. Those are neighborhood disputes that have nothing to do with the question before the Drainage Board, which is whether or not there's an obstruction of the drain--

Madelyn Grayson: Your microphone is not on.

Ted C. Ziemer, Jr.: – maybe I was talking loud enough, I don't know. Whether or not there was an obstruction of the drain, and that's really the only issue, I think, that the Drainage Board has to deal with. Otherwise, these are problems, these are civil

problems that exist in that neighborhood, and they need to be settled between the parties, even going to the point of you each getting your own attorneys and dealing with this problem. It's not something, generally, to be handled by the Drainage Board. Mr. Jeffers, I would ask what your recommendations are relative to the obstruction being complained of.

Bill Jeffers: The law defines an obstruction, and I'm paraphrasing, as objects or materials within or near the drain that prevent or significantly impede the flow of water through the drain. I identified those in the report as timbers, wooden planks, other manmade material that spanned the drain, or was pegged to the bottom of the drain, that has been removed. I included, as part of the obstruction, in this picture you are looking at the gravel that you see on the far side of the bottom, away from you. There's a little, you can't see the proportion there, but there is a little gravel bar there that I think should also be removed. I still think that significantly impedes water during a low water event enough to back water up into the pipe that drains the street through Mrs. Murray's property line with Mr. Jewell.

Ted C. Ziemer, Jr.: Do you have an estimate of what the expense would be to do that work that you're talking about?

Bill Jeffers: Two hours with a flat point shovel, one man.

Ted C. Ziemer, Jr.: Thank you.

Bill Jeffers: If you show the next photograph, those chunks of concrete and rip rap that have fallen into, unintentionally fallen into the creek, or the outlet channel, I think represent a significant impediment to the low flow of water during a relatively low water event, and those should be picked up and thrown out of the channel, or thrown on down the gully. That would require a little more than one man to pick up that one big chunk, unless he's one heck of a man, like Mr. Ziemer over there, but those need to be removed. The rest is insignificant and I don't believe needs to be removed. Other than that, I will say that the removal of those final remaining items should be done by the property owner, at his expense and quickly, and I don't believe the expense of removing those, I do believe the removal of those will improve the drainage from the petitioners property without causing significant damage or expense to the respondent.

Ted C. Ziemer, Jr.: Is all of this on the respondent's property?

Bill Jeffers: It's all on the respondents property, yes. My closing suggestion would be that either the respondent, Mr. and Mrs. Jewell, by themselves, and this is just a suggestion, this is not with regard to the obstruction, a strong suggestion that by themselves or with the homeowners association retain a licensed engineer or someone who really knows something about lakes of 12 acres or larger, to assist them with some sort of design for a permanent, for the establishment of permanent weir in this channel to establish the correct elevation of this lake so that it will forever function properly. Or at least as long as we all shall live.

Ted C. Ziemer, Jr.: Is that a recommendation in connection with the obstruction?

President Melcher: No, it's just a suggestion.

Bill Jeffers: Right now it's a suggestion.

Ted C. Ziemer, Jr.: Okay.

Bill Jeffers: Because the law doesn't allow me to make a recommendation in that regard.

Ted C. Ziemer, Jr.: Okay.

Bill Jeffers: If I could make a recommendation to the Drainage Board, if this was in the county, then, yes, I would require it, but that would be for a drainage plan that you had the authority to pass judgement on.

Ted C. Ziemer, Jr.: Right.

President Melcher: This is in the city.

Ted C. Ziemer, Jr.: Right. What we traditionally have done, Mr. Jeffers, I believe, in these cases is the Drainage Board has accepted your recommendation, have asked the respondent if they're willing to do the—

President Melcher: The last two.

Ted C. Ziemer, Jr.: —the last two items that you mentioned in connection with the obstruction, and continue this for 30 days to see whether that's been done. If it's been done, the matter is concluded.

Bill Jeffers: That's because this Drainage Board is so cordial. The law doesn't require you to do that, but you all have done that and more.

President Melcher: Yeah, we understand that. Mr. Jewell, would you mind coming back up here?

Bill Jeffers: I think, I commend you for it.

Don Jewell: Pardon me?

President Melcher: Would you come back up to the microphone? Mr. Jeffers, the Surveyor says that you need to move a little bit more of that sand and that concrete, are you willing to do that?

Don Jewell: It's already been done.

President Melcher: You've already moved this concrete?

Don Jewell: I still would like to have, you know, some of them to have been responsible, but, you know, that's not going to happen.

President Melcher: That's not going to happen.

Don Jewell: So, we'll take care of it. It's taken care of.

President Melcher: But, you've already done that?

Don Jewell: It's already taken care of.

President Melcher: Okay.

Don Jewell: Now, yeah, we'll go from here.

Ted C. Ziemer, Jr.: What about those rocks that he mentioned?

Don Jewell: It's all been done.

Ted C. Ziemer, Jr.: Oh, that's been done? Okay.

President Melcher: Okay, well, what we'll do, I'll entertain a motion that you do that, even though you've already done it. Bill we'll go out and check and make sure that it's done, just for our record, and then that's about the best we can do. But, I do agree with Bill, everybody needs to somehow to get together if you want this lake, for everybody to work with and get past the personalities the best you can. Because you need to do something.

Don Jewell: Why should they? They have all the rights, that's what they keep saying.

President Melcher: I'm just saying it starts somewhere, and it needs to start, since you've done what this petition is forcing you to do, somebody needs to start that if you want. If not, then you'll probably be back here in four or five years again. I just think that, so, you've already done it, so, do you want to make the motion?

Commissioner Abell: I will so move that that debris be removed, and that Mr. Jeffers will go out within the next 30 days and inspect it.

President Melcher: I'll second it. All in favor say aye.

Commissioner Abell: Aye.

(Motion approved 2-0)

President Melcher: Then we'll have a final, and you just come, if he's already done it, you could probably come to the next Drainage Board meeting and just say it's done and it will be over with.

Bill Jeffers: I will remind you that these pictures were taken yesterday.

President Melcher: Okay.

Ruth Jewell: Yeah, but we have pictures that we've had it done today.

President Melcher: Okay, that's fine. I'm just saying we gave him 30 days, if it's already done—

Bill Jeffers: Oh, it's a beautiful area, and I don't mind taking a hike on a daily basis, but, I just, you know, but I'm going to tell you something there's cases where I've been asked to go out and look at things and there's snow and ice on the ground and I've been told things were done and there was snow and ice on the ground and I didn't appreciate going out there then.

Don Jewell: It's a shame the rest of the neighborhood couldn't appreciate it as well as you did.

Commissioner Abell: Mr. Jeffers, if you will call me when you go out there, I'll go out with you.

Don Jewell: There you go. Knock on my door, I'll walk back there with you.

Ruth Jewell: We went out there and he got it all done today.

Bill Jeffers: Oh.

Ruth Jewell: There's where it's all cleared and everything, but you can go out and look at it. It looks good.

Don Jewell: But, trust me, it didn't happen for no amount you were talking about.

President Melcher: Okay, but we—

Ruth Jewell: We have to pay for it.

Bill Jeffers: Well, they've cleared additionally beyond what I was saying needed to be done.

Ruth Jewell: Yeah, we've done way more.

President Melcher: Okay, I understand. So, with that—

Bill Jeffers: I'll report to you before the next Drainage Board meeting. Thank you very much.

President Melcher: So, this part—

Ruth Jewell: (Inaudible. Not at microphone.)

President Melcher: Excuse me, this part of the hearing is over. I do recommend that everybody try to get along and try to get together. Just because you all live out there and you have a lot of money invested in your homes. Everybody needs to get past that. We have neighborhoods that somehow never get past that, and sometimes eventually a miracle happens and they do get past it, because it's for the common good.

Public Comment

President Melcher: We've got another, the gentleman you wanted to speak during the hearing. Do you want to come up?

Bill Thomas: Bill Thomas, 8200 Heather Place, that's in Evergreen Acres in the county. I'll try to keep this, without interjecting personalities and so forth, because I'm an individual and I really don't have an axe to grind with a particular individual, despite the fact that there is somebody responsible for the reason I'm here. There's a lake between Pine Place and Holly Hill. I live on Pine Place, as a matter of fact I live at the corner of Pine Place and Heather Place. This lake I mentioned is approximately 329, I think it is, Pine Place, so it's due west of me, a full block and a half. It's all downhill from this lake to where I am. Heather and Pine Place is the low man on the totem pole when it comes to drainage.

Commissioner Abell: Sir, could I stop you and ask you a question?

Bill Thomas: Yes, Ma'am?

Commissioner Abell: Is this in Evergreen Acres?

Bill Thomas: Yes, Ma'am.

Commissioner Abell: Okay.

Bill Thomas: Thank you. I bought this house about four years ago, I've lived in it for three years, and walk the dog daily up and back Pine Place and all through Evergreen Acres. My wife actually does the yeoman's part of that, but every now and then I chip in and walk the dog. Walking past the spillway, the grate, the drain, it's a metal one, and I wasn't aware of the fact that you guys were so high tech and I could have brought my memory stick with me and given it to the nice lady here to produce some pictures. I do have some pictures though. Earlier this summer, walking past the spillway drain I noticed that there was a rubber like conveyor belt up on the grate. What for, who by, I don't know, I just noticed it. I started to notice when we had some of these huge rains that debris was accumulating on this area and so forth, and I sort of understand some personalities within my neighborhood have been kind of going at it about this particular issue. I have remained out of it. The rubber mat has been removed, but it was replaced by a lot of rip rap, piled up in front of the open grate. This is a steel grate the size of this table here and it's a semi-circle, and now there's rip rap piled up in front of it, which started to accumulate more debris, logs and limbs and leaves, just stuff. Then we had a rain, the 13th of this month, my wife walked the dog the morning of the 14th, she came back and I heard her say, what I heard her say, not what she said, I heard her say the dam had been breeched on this lake. Oh, my, so, boy I hike up there. No, it wasn't breeched, what she meant was, and what she probably said was, I just didn't hear it, was that the dam overflowed. I have some pictures here, and, I guess, for the benefit of Mr. Jeffers, I will give the pictures to him. He's very aware of the situation, I think. This is a wallowed out place, the fence there, just right back here is the water, and this is another area where the water came over the top and you can see all of the debris piled up there. These pictures aren't perfect. Now, this is another situation, and this is the condition the thing was on the 14th. I've given Mr. Jeffers pictures of where the water came over the top of the dam and then eroded the back side of the dam. Also, the debris has piled up, which I'll give you all a copy of. This is looking straight down from above, the green or blue there is the fence. I was shooting the picture over the top of it. I walked up to see this area on the 14th, and the lady that lives right next to this area Pine Place, she was out in the yard, so I'm talking to her. I said, gosh did you realize the dam overflowed last night? She said, really. I said, yeah, how did you know that? I said, well, my house, which is a block and half due east, downhill, there was about three inches of mud and leaves all in front of my driveway. I have a driveway that is in front of, one, two, three, I've got five garage doors facing Pine Place, and in front of those five garage doors in the street was about three inches of mud and about two inches of leaves all stuck on top of it. I thought, what in the world is with this. There were some logs and limbs and just lots of debris and lots of mud. I thought, huh, this is all connected. Well, when I talked to the lady adjoining this grate, we were just standing there talking, and she's a little active, pretty spunky for an elderly lady, and a lady went walking by, I didn't know who the lady was, it didn't make any difference, some lady just went walking by. So, the lady and I talk for a little bit and I went back to my house. I'm in my office doing some business, and all of a sudden somebody rings the doorbell. So, I walk out back and here's the lady

that was walking by. I will mention her name only because she and her husband are the owner, owners of the property that contains the spillway, the overflow drain, and they are the Kleinschmidt's. They actually live on Holly Hill at 320. 320 Holly Hill Drive, the Kleinschmidt's. They are the owners of the overflow. So, I went to the door, she says we're the owners of the property where the grate overflow spillway thing is. I saw you speaking with the other lady—

Ted C. Ziemer, Jr.: Is that Mrs. Slanina?

Bill Thomas: Yes.

Ted C. Ziemer, Jr.: Thank you.

Bill Thomas: Apparently you're familiar with her.

President Melcher: We've heard a lot of this already. This is just a rerun right now.

Bill Thomas: Well, this is new, because all of this mud and stuff is piled up in front of my house, and the logs and so forth which I had already taken care of. So, the lady says we own that, and we're just fed up to here with her. I'm thinking, oh, I don't want to get in the middle of this dog fight. I've got enough issues going on. I said, well, was speaking to her because the dam overflowed last night. Oh, it did not. I said, oh, yeah, it did. She says, where? I said, well, if you look at the house at 329, I think, their driveway comes out to Pine Place, it's right across from their driveway where there's two places where it's come over top of the dam and the wallowed out a place on the back side. She said, well, we're so fed up, we're not doing a thing. We're not going to take care of that grate. We're not going to clean it. We're not going to do a thing. I thought, well, Ma'am, that's a problem for me, because I live down here. Well, how come there's no mud up there, and all this mud's down here? So, where did all of that mud come from? I said, from the back side of your dam when it overflowed. She said, well, how come it's not in the block and half between here and there? I said, well, I don't know, I'm not an engineer on this stuff, but I think because it's all rather sloping downhill, it was rushing down here at 100 miles an hour, and when it got down here, it's flat, and it's all accumulated here. The gal goes, oh, okay. So, off she went. She and I did not have words. In other words we didn't get into a debate. It's just Ma'am it did overflow. Go look. That was the end of that and I haven't spoken to her since. I understand there's been some charges filed and so forth and so on with respect to this situation. I will admit, I went up there yesterday and the grate has been cleaned, despite the fact the owners, the Kleinschmidt's had said, she had said, Mrs. Kleinschmidt, said they weren't going to touch this thing, they were hands off on this thing. They were going to let the system, whatever that is, work this thing out. Mr. Jeffers I think is very aware of this thing, and I'm not trying to accuse anybody of anything other than the fact that the rubber mat that was put over, that's, can't do that. The rip rap, there may be an issue with that, because it's higher than the water level today. That causes, the debris comes over there to start accumulating, because it won't let it go into the drain. So, with that, I will conclude. If you have any questions for me, I'm more than happy to answer them. I don't want to get into the situation like the previous speakers have.

President Melcher: I wouldn't let you.

Commissioner Abell: We're not going there.

Bill Thomas: Okay, I can understand your position on that. All I'm saying is if they're blocking that drain with rip rap, rubber mats, and not removing the debris, now I've got an issue. I've got a problem.

President Melcher: Okay.

Commissioner Abell: Well, at this point you're okay? You're property's not being damaged? You're not having any—

Bill Thomas: Well, other than all of this mud that then accumulates in front of my driveways. As a matter of fact, once it dried and people drove through it and got most of it packed down and all, and a lot of the mud had drug off it up the street, I took a flat shovel and a wheelbarrow and I accumulated six wheelbarrow, big wheelbarrow loads of dirt. Like I say, I had already hauled off all of the limbs and stuff, you know, but this was after cars had drive through it and it had turned to dust. So, you know, six wheelbarrow loads was just a small portion of what really was there to begin with. This is the first and only time I've had this issue. I've got another issue but it's not for this Board, with respect to water. It has to do with the sewage department, but we won't go there.

President Melcher: No, that's not us.

Bill Thomas: We won't go there tonight. Okay, thank you.

Ted C. Ziemer, Jr.: Did you say that the grate is now clear?

Bill Thomas: The grate today is clear.

Ted C. Ziemer, Jr.: Okay.

Bill Thomas: There is still rip rap that's higher than the water level that's once again going to accumulate logs, limbs, debris and so forth.

President Melcher: But, he believes the rip rap that was put around it is keeping it from draining.

Ted C. Ziemer, Jr.: Yeah.

President Melcher: Bill, do you want to make a comment on this? I know that's—

Bill Jeffers: Well, as you know, Ms. Slanina, filed a petition, and I went out there within days and observed what this gentleman observed, Bill Thomas observed that there was rubber mining conveyor belt strip that had been cut to fit over that drain in such a way to raise the lake elevation about a foot, foot and a half. I contacted Mr. Kleinschmidt and he removed it the next day. I went back out there and confirmed it had been removed. Yes, there is some rip rap on each side of this grate in the picture. There's rip rap piled up on each side, and there's some rip rap in front of the grate facing the lake, an insignificant amount really, and I didn't think that the remaining rip rap significantly impeded the flow of water into the grate. Okay? I did tell Mr. Kleinschmidt two things; number one, somebody's going to have to keep the grate clean, because we've had a series of ice storms, wind storms, and there are people who think a ditch is a real good place to dump their clippings and other yard debris. That's just a fact of life. Everytime it rains hard, and believe me, and Mr. Thomas can confirm it, there have been many heavy rainstorms in Evergreen Acres

this spring and summer, and everytime that happens there will be a substantial amount of debris washed out of the wooded areas, and that is a very wooded area, into this lake and driven up against this grate. Somebody is going to have to clean the grate. Again, I believe there's a lake owners association involved, and they need to come to some agreement between themselves who's going to take turns cleaning this grate after every, single storm. The grate is not, the grate is specifically designed to keep the debris from going into the county drain. It's not intended for the debris to in there.

Bill Thomas: Yeah, I understand that.

Bill Jeffers: That's called a trash grate, or, you know, a trash trap or whatever you want to call it. It's supposed to snag that debris, because if it goes into the pipe, it stops the pipe up, and then the lake will be overtop every time it rains, not just during heavy storms, because the drain will be plugged with that debris. You can imagine from the amount shown in this picture it won't take long to plug that pipe. So, along with enjoying a lakefront lot, the responsibility comes to maintain the outlet of that lake. That's why they have lake owners associations, and that's why everybody pitches in with either money or labor to keep that clean. Now, I also suggested to Mr. Kleinschmidt that he contact Clark Dietz Associates, I gave him the address on Crown Pointe Boulevard, or wherever it is out there, because they're the designers of this drainage system. They designed that for the county. They should have designed that to be at or over, to be able to take at or over capacity for a certain type of storm. If the rip rap that's placed around there, I think to prevent some erosion more than anything else, if that represents blockage to the designed flow of that grate, it should be removed too. I agree. At this time I don't know that that's a fact. So, one, somebody should contact Clark Dietz and confirm whether or not, after this grate has been cleaned off, that the remaining rip rap constitutes an obstruction. And, number two, the need to get up off their air conditioned butts and keep this thing clean.

Ted C. Ziemer, Jr.: Who put the rip rap there? Do you know?

Bill Jeffers: I don't know. Mr. Kleinschmidt said he and his son fiddled around over there when they put that rubber strip on. They may have moved some of that rip rap around there to hold the rubber strip in place.

Ted C. Ziemer, Jr.: Right, okay.

Bill Jeffers: So, if that's an intentional act, he should be told to move it.

Commissioner Abell: So, who do you think should get off their butts?

Bill Jeffers: Air conditioned rear ends?

Commissioner Abell: Yeah.

Bill Jeffers: The people who either own the property that this drain is on, that would be the Kleinschmidt's, after every storm, or hire somebody to do it. Or, if there is a lake owner's association that shares in the maintenance of that lake by some agreement, that's not a party to the county, then they should all pitch in and do it.

President Melcher: Do you think Clark Dietz needs to go out there and look at it?

Bill Jeffers: I would like for them to, but who's going to pay them to do it?

President Melcher: It won't be us.

Bill Jeffers: I can—

Commissioner Abell: Mr. Ziemer, could we write a letter to the Kleinschmidt's and tell them to get off their air conditioned place and clean that up, and if there's a home owner's association that's supposed to do it leave it up to them to find out who they are?

Ted C. Ziemer, Jr.: Yes, certainly we can.

Commissioner Abell: I think that's what we ought to do.

Bill Jeffers: Is that a motion?

Commissioner Abell: That's, I put that in the form of a, well, I'll clean it up a little bit. I think we should sent a letter to the Kleinschmidt's, under the direction of Mr. Jeffers, directing how we should word what needs to be done, and in the letter inform them that if they feel there is an association that owns that lake, they would be happy to let us know who the members are, we would address a similar letter to those people.

Ted C. Ziemer, Jr.: Bill, if you'll give me the necessary technical information, I'll write the letter as County Attorney.

Bill Jeffers: Yes, sir.

President Melcher: Were you going to say something about Clark Dietz before Marsha made that motion?

Bill Jeffers: I could call out there. My contacts out there now work for the city. Mike Labitzke.

President Melcher: He was mine too. That's why I don't know—

Bill Jeffers: So, I'll have to call him and ask who should I call out there now.

President Melcher: Yeah.

Bill Jeffers: And see if they would voluntarily meet me out there and take a look. If it's been cleaned off we can get a good look see.

President Melcher: Well, if you wouldn't mind just doing that just to see if they would look at it.

Bill Jeffers: Then follow up with Commissioner Abell's directive. Is that fine? Is that okay?

President Melcher: Okay, yeah, include all of us. That's was a motion. I'll second it. All in favor say aye.

Commissioner Abell: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: Okay.

Update on Huang Obstruction Petition

President Melcher: Anything else to come to the Drainage Board this evening?

Bill Jeffers: Okay, I did have some other stuff. I don't want to dwell on it though.

Don Jewell: Can I just one thing? I just wanted to apologize. I didn't mean to be ugly earlier.

Ruth Jewell: He felt bad.

President Melcher: No, we're okay.

Don Jewell: You know, I didn't mean to be (Inaudible. Not at microphone.)

President Melcher: We go through zonings, vacations—

Don Jewell: When they said there was a harassment thing against me, and I was bullying people, I thought, you know, this is crazy, and I just wanted to apologize. I just wanted to show you the pictures. I just wanted to say how it was really turned around. They actually had a neighborhood meeting and they said that, some guy told me, the guy next door knew somebody that went to the meeting and they said it was actually a lynch mob. They said we wanted no part of this. (Inaudible), my wife and I.

President Melcher: Well, we can't take things personal or we wouldn't be here.

Don Jewell: I just, I felt kind of bad, I kind of started that way.

Ruth Jewell: He wanted to apologize to you guys.

President Melcher: Okay, thank you. What do we got to approve, Bill?

Bill Jeffers: Oh, we have a pending petition from Mr. Huang saying that on Candie Huston's property on 742 Trillium Way, there's an obstruction that's adversely affecting their property. I just wanted to let you know, she did turn in a report, Justin Shofstall prepared it from Andy Easley Engineering. It does show what he recommends, what Justin recommends to fix the problem and return the easement to its designed condition. Then they're going to apply for an encroachment permit for the pool wall and retaining wall, but they'll be able to get enough of a swale in there to restore the design flow. But, it will require the removal of the Huang's wooden fence to do this work. So, with your permission, I will notify the Huang's that their fence will be removed, and laid down and not re-erected. They can dispose of the material as they please, or reuse it outside the easement. Or, they can apply for a permit to encroach the easement, so long as it doesn't obstruct drainage, and direct Ms. Candie Huston to proceed with her plan at her expense. If I don't get a

positive reaction from that, I'll come to your next meeting and ask you to set a hearing date.

President Melcher: Okay.

Approval of Ditch Maintenance Claims

Bill Jeffers: I do have some claims from ditch contractors. The work has been inspected and approved, and the necessary paperwork is attached. I ask you to approve those claims.

President Melcher: I need a motion to approve the claims.

Commissioner Abell: Oh, I guess.

President Melcher: I'll second it. All in favor say aye.

Commissioner Abell: Aye.

(Motion approved 2-0)

President Melcher: Aye. Do you need a motion on your other one with, or are you just going to do it?

Bill Jeffers: I'm just going to do it.

President Melcher: Okay.

Bill Jeffers: If I don't get a positive reaction I'll ask you for a motion at the next meeting.

President Melcher: I don't think there's any other business. So, we'll stand adjourned.

(The meeting was adjourned 7:15 p.m.)

Those in Attendance:

Stephen Melcher

Ted C. Ziemer, Jr.

Julie Julian

Sister Sheila Adamson

Connie McDivitt

Others Unidentified

Marsha Abell

Madelyn Grayson

Helen Murray

Don Jewell

Jack McDivitt

Members of Media

Bill Jeffers

Brenda Jeffers

Carolyn Mott

Ruth Jewell

Bill Thomas

**Vanderburgh County
Drainage Board
July 26, 2011**

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**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
AUGUST 9, 2011**

The Vanderburgh County Drainage Board met in session this 9th day of August, 2011 at 6:44 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll go ahead and start the Vanderburgh County Drainage Board. It's August 9th, it's about a quarter till seven.

Approval of the July 26, 2011 Drainage Board Meeting Minutes

President Melcher: Bill, I guess, we need a motion to approve the minutes of the previous meeting.

Commissioner Abell: So moved.

President Melcher: Second. All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: I guess those are ayes.

Home Depot West: Modified Plan for Service Road

President Melcher: Do you want to go ahead and talk about the Home Depot West?

Bill Jeffers: Yes, sir. Home Depot West is located on Pearl Drive in Eagle Plaza Subdivision, commercial subdivision out there on the west side. Okay, it has a large parking lot, and, as you can see, that's the construction of it there on your screens. The water generally drains out the parking lot down here at this northern end, is collected in a series of inlets along the service road, and conveyed to the detention basin before it's temporarily stored and discharged down through a branch of Bayou Creek. We've encountered several years during which there have been some very intense storms that exceeded the ability of the storm water system to capture enough of the excess storm water from this parking lot to prevent a large amount rushing out through the service road, onto Pearl Drive, and it comes down here to this cross hatched lot, which is now occupied by a car wash, Royal Car Wash. Because that's the low spot in the, in Pearl Drive, the water stacks up sufficiently to run through the car wash, and than goodness it is a car wash and not the bank, I believe that's Fifth Third there, isn't it?

Commissioner Winnecke: It is.

Bill Jeffers: Yes, and this is Hacienda. Luckily, neither Hacienda nor Fifth Third is in the path of that water. It goes through the car wash bays and down into the basin there. Well, this still causes a problem for the owner of the car wash, obviously, and, briefly stated, Jeff Tibbits, who's here today from, I believe, Columbus, Ohio or Cincinnati, Ohio, to present or answer any questions you may have, has brought this plan to us whereby he's going to modify some of the inlets along the service road,

because the underground pipe is large enough to take much more water than is being put into it, and he's going to add some, modify and add some inlets right here where the service road turns and goes north into Pearl Drive. He's adding a couple of double inlets, and he's adding an extra pipe or two to pick up the flow from those inlets and take it over here to the detention basin. He's also repaving the road, the service road in such a way that it creates about a nine inch sump, or a nine inch trap for the water to gather in, and there's a crest out here right before you get to Pearl Drive to prevent as much water as possible from rushing out into Pearl Drive. This will capture a significant amount of additional water than it does now, and, hopefully, will, in most cases prevent any water from leaving the parking lot area and going out into Pearl Drive. Obviously, there still could be storms in excess of a hundred year storm, or freak occurrences where debris or plastic covers one of these inlets and causes an enormous build up, but in most cases, I believe, this will work much, much better than it does now, and prevent the frequent flooding of the Royal Car Wash. The only other solution would have been to put kind of a cattle grate in down here to catch the water, but that would interrupt traffic. This is their truck entrance. You see, you've got your delivery semi trucks coming in this way and going behind Home Depot to unload. It would interrupt all of that, plus it would remove one major entrance for customer traffic as well. So, we think this was a viable alternative. As I said, Mr. Tibbits is the engineer who designed this. He's here if you have any questions. If you don't, I would recommend approval of this plan as presented. I have the hard copy if you need that to look at.

President Melcher: Is there a time frame?

Bill Jeffers: I'll let Mr. Tibbits answer those questions as to his scheduling of the completion.

President Melcher: Alright, thank you, Bill. We just need you to state your name, and what your title is.

Jeff Tibbits: Okay, my name is Jeff Tibbits with WD Partners, Dublin, Ohio, address 7007 Discovery Boulevard, Dublin, Ohio, 43017. The time for completion, I spoke to Home Depot's construction manager this evening before the meeting, and they are already in process of obtaining bids. So, as soon as the plans are approved for construction, it will begin immediately. Now, immediately may be two to three weeks from now, or from the time that it's approved, but, essentially, this is a project that they plan to complete as soon as possible.

President Melcher: We understand all of that, immediately, so. Do you have any questions?

Commissioner Winnecke: I would just say this is an issue that we've dealt with for at least two and a half years, if not longer.

President Melcher: Since two of us has been on here for sure.

Commissioner Winnecke: So, it's, I'm pleased to see that we're at this point.

President Melcher: I appreciate you coming down here to do that, because we didn't think we had any answers or solutions for this.

Bill Jeffers: I hesitated to ask Mr. Tibbits to make the long trip, but it has been complicated arriving here, not because of anything Mr. Tibbits did, because he was

always willing to use his professional ability and experience to present us with a plan. It was simply a matter of getting to the point, who was responsible for what, and what were the existing conditions, how did we get here, etcetera. He's done a wonderful job, and, as I said, I do recommend approval of the plan as it's been presented. I do very much appreciate Mr. Tibbits making the trip from Ohio. I did notify Mr. Keith Rupp, the owner of Royal Car Wash that we were having this hearing today. I don't know if he's in the audience, but, I believe he chose, he was so thrilled apparently that something was getting done, he may have got excited and tripped over himself.

President Melcher: He's celebrating already.

Bill Jeffers: Yeah, I hope so. I would encourage Mr. Tibbits to use every power he has to move this as quickly through the construction phase as possible before we get back into a rainy season this fall.

President Melcher: Any other questions by Commissioners? Anybody in the audience? Is there a motion?

Commissioner Winnecke: I would move that we approve the Home Depot West modified plan for the service road as recommended by the County Surveyor.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Okay. Thanks for coming down.

Jeff Tibbits: Awesome. Thank you.

President Melcher: Thank you again, and thank you for coming down.

Commissioner Winnecke: We appreciate it.

Jeff Tibbits: Thank you.

LEED Sheffer Subdivision: Old Seib Road (Tabled)

Bill Jeffers: I was going to make some comments about the Sheffer-LEED Subdivision, but I believe that's been extended to a later date. So, in the, just to grant mercy, we'll move on to the Delores Rapp petition.

Delores Rapp: Obstruction Petition Public Hearing
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Bill Jeffers: Delores Rapp is here in the audience tonight. She is the owner of 405 Hunters Green, Evansville, Indiana. She alleges, in her petition, that was duly entered into the record, she alleges an obstruction at 409 Hunters Green, a neighboring property, and that the obstruction consists of an undersized pipe, insufficient to handle the flow of storm water through the drainage easement, along

with the earth that covers the pipe, and other materials, including and maybe not limited to fencing, a garden, some other objects associated with the pipe and filling the easement. Upon receiving the petition I completed an investigation. Again, this is a long, and I've provided you with all of the information that I have, other than the actual documents that remain in our file from previous complaints from the owners of the same property, who owned the property before Mrs. Rapp. This is a picture of Mrs. Rapp looking at the problem area, which is a chronically wet area. Behind those utility boxes is a small pipe. One of these pictures will show, well, no—

Brenda Jeffers: Do you want the pipe?

Bill Jeffers: The pipe with the shoe. There you go, one more. There's the small pipe right there, it's about an eight inch pipe. Next picture is the shoe of a County Commissioner who, I would judge from her stature that's about a number four or five shoe.

Commissioner Abell: It's a six.

Bill Jeffers: Oh, excuse me, a number six shoe, to show that that is about an eight inch pipe at the greatest. Okay, we can go down through some more pictures. This is the backyard of 409, you can see that there's no water way, ditch there. The ditch, you know, the pipe is underneath the garden. The pipe comes out in this yard, oh, where's my pointer? Up here the pipe comes out underneath the fence. There's some lattice work there, you can probably see it more clearly on the screen on your desk. The lattice work allows the pipe to flow out into this swale here in the next yard. That's the neighbor, this isn't the subject of the petition. This just shows you that there is a drainage swale. Previously you saw it on Mrs. Rapp's property, now you're seeing it on the neighbor on the other end. Let's see, there's, that doesn't mean, well, that was just my way of saying thank you SIGECO for putting a box in the swale too. Okay, then here's the swale as it goes down, and there's an inlet right here, this is two or three yards down from Mrs. Rapp, the swale continues and water is put into this inlet and taken through a pipe out to the street. Let's go back to the first picture in this show. This basically is an aerial photograph of Mrs. Rapp's house on the right, 405 Hunters Green, and the respondent is, pardon me a moment. The names have changed over the years. Mr. Goldblatt, I'm sorry.

Brenda Jeffers: Goldbach.

Bill Jeffers: Let me get that name properly pronounced, I'm sorry. Okay, Daniel Goldbach, G-o-l-d-b-a-c-h. I'm sorry for mispronouncing it first. Daniel Goldbach, 409 Hunters Green, this is his property. The pipe is back here. What happens is, a great amount of water comes down from farther up in the subdivision, can't get through the pipe, turns and runs along Mr. Goldbach's wooden fence and actually crests the high point between the houses and comes out into the street here. That should not happen. Of course, after it's happened over a period of years, the fence has become rotten, and all of the area back here that should be nice lawn grass is basically very poorly vegetated and chronically wet and hard to maintain. So, yes, the County Surveyor did find an obstruction to exist, as alleged, and recommends that the Drainage Board order the removal of the obstruction. I believe that is down here in my report. The recommendation is, the undersized eight inch pipe be removed from the drainage easement, along the south line of the 409 Hunters Green. I might add, along with any other obstructing materials, including dirt and fencing, and the previously existing open swale be restored in accordance with the original drainage plan for North Greens. As an alternative, the owner of 409, Mr.

Goldblatt, Goldbach, pardon me again, may retain the services of a qualified civil engineer to design a modified plan for a pipe or other facility of adequate size to convey the designed storm water in accordance with the original calculations for the subdivision. So, essentially, what I'm saying is, yes, an obstruction exists. Yes, the County Surveyor recommends it be removed, the drainage swale restored, at least temporarily until a new design can be produced, if Mr. Goldbach wishes to have a pipe. I might say that we would never have, under any circumstances, since I've worked for the county, and we've had a drainage ordinance since 1986 requiring a minimum size of 12 inch pipe, we never would have recommended or approved an eight inch pipe. The smallest we've ever approved is a 12. That doesn't mean that a 12 will handle the flow at this location, it just means that contrary to one of the letters that's in our files, the County Surveyor never recommended an eight inch pipe, and the County Drainage Board never approved one for this location. Also, we never would have recommended a single wall, flexible corrugated pipe. We would, our minimum requirement is a double wall, smooth bore pipe. I don't believe that the petitioner wishes to speak, or that's what she indicated to me. She doesn't feel comfortable speaking on this. So, I presented her petition now. You may ask the respondent, Mr. Daniel Goldbach if he would like to respond. If you don't mind, may I sit over here?

President Melcher: Sure.

Bill Jeffers: Thank you.

President Melcher: Is Mr. Goldbach here?

Daniel Goldbach: Yeah, I didn't know when this meeting would get started. I missed the first part.

Commissioner Winnecke: Just come on up.

President Melcher: Come on up.

Daniel Goldbach: Okay.

President Melcher: I think you basically know what it is. You just heard the recommendation, so. Just state your name and address.

Daniel Goldbach: Daniel Goldbach, 409 Hunters Green.

President Melcher: Okay. What do you, Bill's, our Surveyor gave a recommendation of taking that pipe out and putting the swale back or putting a larger pipe in, maybe getting an engineer, are you willing to do that?

Daniel Goldbach: Well, I've been there for three years, and everything, I haven't changed anything in the backyard. You know, when I moved in I had everything inspected and everything. I didn't know anything about the drainage problem to begin with, but my question is is there, I mean, do we have proof that that was put in after the home? I mean, was this done by a previous owner? I mean, I don't know any of this.

President Melcher: Obviously, we don't neither.

Daniel Goldbach: Because, I kind of, the other, the neighbor to the left of me, I noticed, I talked to her in the past two days, and that would be the one to the east of me, that pipe goes on into her property, I think four or five feet or so. I mean, so that's, to me I would think that if a previous homeowner had put this in, they would have to get approval for this. I did dig through a bunch of old paperwork I found in the house, a bunch of original papers. I found a receipt, these are all 1998, four of '98, they had purchased a 20 foot section of eight inch corrugated pipe and an eight inch corrugated coupling. That was along with the original receipt for the fence, and also like it had five hours of excavating work done. So, to me, it looks like they had just extended an original pipe just out farther past so they could get a fence put in, you know, because the yard, I think is like 80 or 90 feet across. So, you know, 20 feet wasn't going to go from one end to the other. So, I kind of assumed that that pipe was already originally there, and, you know, this previous, this first owner of the house bought this extension and just extended it so they could put a fence there.

Commissioner Winnecke: So, your, I think your question is, what is your legal obligation versus a previous owners? Is that what you're asking?

Daniel Goldbach: Yeah, I mean—

President Melcher: That would be, you're on board.

Ted C. Ziemer, Jr.: Well, you've bought the property, so the property is now yours. Any problem that exists, pardon me, any problem that exists on the property would now be yours. You may have an action against the individual who sold you the property for recovery, if they made representations to you that turned out not to be true, but, otherwise, the property is yours, and if there's a problem with it, it's your problem.

Daniel Goldbach: Okay.

President Melcher: I believe, if it is coming from your property, I think it is your property that's causing this problem, we have to take the recommendation of the Surveyor. He's the one that knows. So, Bill, you're recommending exactly what you're saying, that he needs to make the old swale back? Because, I don't think you'll find any, you probably didn't, you didn't say anything about having permits or anything to do anything.

Daniel Goldbach: I mean, these papers like this fencing and everything it said—

President Melcher: I would have thought that would have probably been with it if it was.

Daniel Goldbach: Well, it did say like all subject to approval on this.

President Melcher: That could have been all approval with the owner.

Bill Jeffers: The a, Mr. Goldbach is correct. He purchased the property, when he purchased the property the pipe was already in place. It was through no fault of his that the pipe was there, because in, December 4, 2001 I received a complaint from Mr. and Mrs. Bisson of 405 Hunters Green, the same address as the petitioner, notifying, you know, that a plastic pipe was already there and that they were having a problem with it. I told them what their options were, which were the same options that Mrs. Rapp has exercised, and that is to either seek a legal remedy through the

court, or come here with a petition. They chose, they didn't want to do that with their neighbor, they wanted to live with it. They sold it to the next people, and then in, oh, I think it was 2009 I got letters from Tamara Labhart, same proceedings and went through the same situation again. She decided not to do anything about it. (Tape Flip) to Mrs. Rapp, and when Mrs. Rapp called this spring with a complaint, I went through the same explanation one more time, and said, I'm sure somewhere in your paperwork you've been notified there was a drainage problem there, because if the seller did not notify the buyer of the problem that's been known to exist since 2001, someone is liable here. She looked in her paperwork and found in her paperwork a handwritten note notifying her that there was a drainage problem to the extent that there was this pipe back there. I do have, as I say in one of my reports, addressed May 18, 2011, which you have a copy of in your packet, that Mr. Bisson received a letter from Gerald McDowell, owner of 409, offering extensive reply and explanation of the chronology of alleged events by which Mr. McDonald went about, he installed the plastic pipe in the open drainage swale, and that that plastic pipe has been the subject of numerous complaints. The County Surveyor takes issue with some of Mr. McDowell's explanations. As I said earlier, specifically that our office has never recommended, nor approved any pipe of a size smaller than 12 inches in diameter, and never suggested that a property owner install or cause to be installed a pipe into a drainage swale, within a platted drainage easement, without a plan designed by a qualified individual, submitted to our office and subsequently approved by the County Drainage Board. He made some allegations that it happened some other way. It did not. So, I do feel sympathy for Mr. Goldbach. He bought the problem. He did not cause the problem, but our statute only allows me to make an investigation, which I did, confirm whether or not the obstruction exists as alleged, which I did, and suggest or recommend to the Drainage Board that it be removed and proper steps be taken to restore the drainage as it was designed in the original plan that was approved by the Drainage Board in the 1990's. The drainage plan for Mr. Goldbach's lot was approved prior to the 1994 drainage ordinance. So, he's operating under one drainage ordinance that doesn't give us any enforcement, just an order of, well, I won't go into that, but that, if this had been designed after 1994 we wouldn't have had to go through the legal proceedings. We could have just notified him to remove it, but the rest of the subdivision was designed and approved under the 1994 drainage ordinance, and that only leaves Ms. Delores Rapp with the option to come here with her petition, which she did.

Delores Rapp: May I say something? We've stayed on good terms through all of this. We both kind of—

President Melcher: Wait, you'll have to state your name and speak into the microphone.

Delores Rapp: Oh, Delores Rapp. I live at 405 Hunters Green. This has existed for some time, evidently. When I bought the house in November, I had been looking, well, there was a lot going on in my life, and they did give me this written, short, written notice that there was a problem. It was said in a minimal way. Then at the closing, but I didn't really, you know, it was a list of all the conditions of the different things in the house, and this was at the very bottom, and, I guess, I just didn't go that far. But, then at the closing he, the owner, right before, as we were going in to sign papers, did mention it, but made it sound like not much. It is much. When it rains any at all, it hits that pipe and it backs up to about a third of my backyard I would say. I have to say that the property that I live in has had nothing to do with creating the situation, it's just the result of.

President Melcher: Any questions? Mr. Goldbach, do you have anything else to add?

Daniel Goldbach: No.

President Melcher: Okay. What's the pleasure of the Commissioners?

Commissioner Winnecke: I would make a motion that we accept the County Surveyor's recommendation to have the pipe removed from the drainage easement, along with all other obstructing materials and objects and the previously open swale be restored in accordance with the original drainage plan.

Commissioner Abell: Second.

President Melcher: I have a first and a second. Any further discussion? Anybody else in the audience? All in favor say yes.

All Commissioners: Yes.

President Melcher: Opposed?

(Motion approved 3-0)

President Melcher: So, it's ordered that it has to be removed. Do we want to—

Bill Jeffers: Well, I would only say that you, because it was done intentionally you have to put the burden of the cost on the owner of the property where the obstruction exists. If he's correct that the pipe extends a couple of feet beyond his property line, I suppose I missed that, because when we went out there and looked at last week again, and I've looked at it previously, all I see is the pipe coming out from underneath his fence. Now, if that's not his fence, if that's someone else's fence or if the fence is over the line, I missed that, because I didn't survey the lot.

Delores Rapp: Are you talking about in my direction?

Bill Jeffers: No, in the eastward direction. So, we may actually be ordering the removal of a small portion of the pipe on, that would be, I suppose, 413 or so. What's the next one over? Anyway, you have, you almost have to say that the cost must be borne by Mr. Goldbach as part of the order, I believe. I think we should give him the benefit of the doubt as well. I don't know if he has young children, I don't know if he has dogs or other animals that are living within that fenced area, but at some point in time, I mean, first of all I think you need to say he's the one that has to cause the removal of that obstruction, because if he doesn't then you're going to turn around and order me, after a certain period of time, to hire a contractor and go do it and bill it back to him. But, I would like to work a little more closely with Mr. Goldbach on that to coordinate the removals so that it doesn't cause excessive damage to his property in the, you know, in other words I don't want somebody to just go out there and start ripping the fence down. I don't want, when the fence comes down that he is, suffers loss by possibly a child or a dog or something being able to run out of the yard and get hurt on someone else's property. So, I guess we need to work out some details.

President Melcher: Well, can you work that out with him then?

Bill Jeffers: If he says he's willing to work on that, I will be happy to work with him—

President Melcher: Then you're going to check and see about—

Bill Jeffers: — and Mrs. Rapp.

President Melcher: — the pipe on the other property too?

Bill Jeffers: Right, if there's a little bit of the pipe on the other property, I'm going to have to notify those people it's coming out too.

President Melcher: Are you willing to work with the Surveyor?

Daniel Goldbach: Yes.

President Melcher: Okay. Was there somebody else that raised their hand at the end? Would you mind coming up then?

Commissioner Winnecke: No.

President Melcher: No, we didn't catch her hand in the beginning. I didn't see it up.

Susan Holstein: I waited too late. I didn't know how quickly things were going to happen. I'm Susan Holstein, and I'm at the property 419. So, I sit east of his property. There's, I put up fence to finish out the fence that comes between he and I. So, you're saying you're going to take that fence down, and it has to stay down?

Bill Jeffers: Yes, Ma'am. Either stay down or provisions have to be made to convey the water under that fence, because right now there's lattice work on it and other things that are holding the water back.

Susan Holstein: The lattice isn't, seriously, I live there and the lattice, I laid that lattice against that fence just because my dogs were wanting to get toward his dogs.

Bill Jeffers: Right.

Susan Holstein: That's just laying there. The water comes through. I've been there since 2006, and if it rains more than just sprinkles, that ground is clay. When you go down about eight to ten inches it's clay. The water just, it comes rushing through there. I have, sometimes, I mean, I have a ditch, a little ditch area that's been there since I came on. That's just how it is. It runs out the other side underneath my fence over there on the opposite side of his house, so, the east side. That lady gets water on her property. So, you know, I don't know, I don't pay attention usually to the other people's backyards. I've got a fence, or he has his fence there, there is a privacy fence, but there's been water there since I moved in. There was water there before, because it's from that natural drain.

Bill Jeffers: When did you, Ma'am, when did you move in?

Susan Holstein: '06.

Bill Jeffers: Okay, and that's not a natural drain, that's a manmade drain.

Susan Holstein: Okay.

Bill Jeffers: Okay, can we see the first picture again?

Susan Holstein: I missed the part where you were showing where the water went through.

Bill Jeffers: Yeah.

Susan Holstein: I wish I had seen it.

Brenda Jeffers: Right here?

Bill Jeffers: The next, well, I'm sorry, the picture of Mrs. Rapp standing looking at the water in her backyard. Then, that next picture, do you see the damage that she's sustaining in her yard outside of the ditch? In other words, all of that area is a mudpie.

Susan Holstein: Yeah.

Bill Jeffers: But, it's not just in the ditch, okay?

Susan Hostein: When it rains, it actually, for me, when it's like this torrential stuff that we've had, it's worse, I mean, it's not, I probably don't have that much—

Bill Jeffers: Right.

Susan Holstein: —but, I mean, I have, it comes out of the ditch on me.

Bill Jeffers: Right, but it probably—

Susan Holstein: It goes from—

Bill Jeffers: — stays within the drainage easement. I mean, one third of her yard is being damaged by the fact that the water, that that pipe is so small that it cannot handle the volume of water that that ditch was designed to handle. Your, the water you're seeing come out the other end of that pipe is just the water that's able to get through that eight inch pipe. If that eight inch pipe was a 12 inch pipe, you would see twice that much water coming out.

Susan Holstein: So, is that what's going to happen to me?

Bill Jeffers: Well, I don't know. The rest of the water that's not being able to go through the pipe like it's supposed to is running through her side yard out to the street. That's how much water she....you don't have water running between your house and your neighbor's house out to the street.

Susan Holstein: No, I have water that runs under in that ditch.

Bill Jeffers: In the ditch, right.

Susan Holstein: And to the next neighbor under the fence.

Bill Jeffers: Ditches are intended to convey water. Her backyard is not intended to convey water that should stay in the ditch. That's the whole point of the drainage system, that it remain free and open flowing so that, you know, when you buy it

there's a ditch back there, the water should stay in the ditch. It certainly shouldn't deny her full enjoyment of one third of her yard.

Susan Hostein: I'm just, I'm concerned now that you're talking about taking down a fence because I have dogs that I've gotten—

Bill Jeffers: Yes, Ma'am.

Susan Holstein: — since, you know, I put up the fence thinking I was okay to do that.

Bill Jeffers: Right.

Susan Holstein: I didn't know there was any reason I couldn't. If he takes his down—

Bill Jeffers: Well, on your plat it says no fences, on your plat it says no fences are allowed in the drainage easement.

Susan Holstein: I didn't know that.

Bill Jeffers: Right.

Susan Holstein: I never got any of the paperwork from when I bought my house. I never got the rules of what you can and can't do. They never gave it to me.

Bill Jeffers: Did you borrow your money from a lending institution?

Susan Holstein: I did.

Bill Jeffers: Okay, there's a piece of paper you sign that says by signing this paper and accepting title to the property you agree to abide by the covenants and restrictions of the, you know, and one of them is—

Susan Holstein: It also said I was supposed to get copies of any and all, that's what I never get.

Bill Jeffers: — no fences. Right, and those are to be provided by your real estate agent or your banker.

Susan Holstein: I thought it was saying that the owners were supposed to hand them to me, because I never got any.

Bill Jeffers: Okay. Well, this is very, you know, I don't want to be combative, but this is very common throughout this county, and I'm sure other municipalities, and we don't go around looking for people's fences in the drainage easement, but when a complaint is lodged that one exists that's causing a problem, we are obligated to follow up on it.

Susan Holstein: So, I just need to bring my fence—

Bill Jeffers: Out of the drainage easement, yes.

President Melcher: I think what you need to do is wait until Bill comes out there and works with Mr. Goldbach, and maybe you get involved too and that way everybody's on the same page at the same time.

Susan Holstein: Yeah, because I mean I have to make provisions.

President Melcher: No, and I understand, that's why—

Daniel Goldbach: I do too, I mean, I have dogs too.

Susan Holstein: Yeah, exactly.

Bill Jeffers: That's why I didn't want to rush into the work that needs to be done, because if you have animals in the backyard, provisions need to be made to contain them while the work is going on and subsequent. For example, if Mr. Goldbach decides he wants a pipe there, and he hires an engineer to design a pipe, and the design is sufficient to pass review and be permitted by this Board, and that pipe is put in, all chances, you know, chances are you could have a fence across the easement again.

Susan Holstein: Okay.

Bill Jeffers: With an encroachment agreement, which indemnifies you and us against damages back and forth. So, that could be done. Or, you could stretch a pipe across an open ditch and make provisions underneath the ditch to contain the animals without inhibiting the free flow of water. Of, the fence could be such that, you know, it would be outside the easement, but there would be a gate to get back to your yard barn, which would be on the other side of the easement, because in the case of these backyards there is ground on the other side of the easement that we should allow you to use because it's not in the easement, you're paying taxes on it, and it should be usable. For example, the man's yard barn is on the other side of the ditch, there's nothing wrong with that as long as the crossing of the ditch to get to the yard barn does not interfere with the flow of water. So, those things can all be worked out.

Susan Holstein: Okay.

Bill Jeffers: I don't want to cause you undue alarm. That's why I was asking the Board to allow me a little time to work with Mr. Goldbach, with whom I've never spoken, even though I've sent communications to his house, I've never had the opportunity to speak with him.

President Melcher: I think that's—

Bill Jeffers: So, I would like to coordinate that now.

President Melcher: I think that's the answer tonight is everybody just get together.

Susan Holstein: Okay.

President Melcher: If you could wait until after the meeting and get with Bill and swap phone numbers, e-mails and stuff.

Delores Rapp: We have talked, and we remain civil, but I would like something very direct so that I know it's going to be done.

President Melcher: It's been ordered to be done. All Bill is asking for is to see a way that everybody will come out on top.

Delores Rapp: So, this is official?

President Melcher: Uh-huh.

Delores Rapp: Okay.

President Melcher: Anything else on this one?

Bill Jeffers: No, I appreciate your indulgence.

President Melcher: Okay. Is there a motion?

Ditch Maintenance Claims

President Melcher: Do you have claims, Bill?

Bill Jeffers: No, I do not have claims. I do not have other business. There may be a public comment.

Public Comment

President Melcher: Is there any public comment this evening? Any other business?

Commissioner Winnecke: No, he's got, he's—

President Melcher: Okay. You've got to state your name again.

Roger Feightner: Good afternoon. My name is Roger Feightner. I live at 1950 Plaza Drive. I'm here today in reference to an erosion problem we have on the rear of my property. It is at the entrance of Kolb Ditch water retention pond. We moved in in 1993, water would flow into the pump in both directions, entrance and exits, heavy rains, you know, during heavy rains until capacity before going up underneath the interstate. In approximately 2002 the county did come and grade the entrance to have a smoother flow of water into the pond, because at that time we were already having erosion problems. They never did the exit area. We told them in the 90's that the area was eroding because of the backflow. For the last nine years, since they were there in 2002, we've not had a problem with the entrance area, up until 2010 which was just last year. They finally came and did something at the exit. Rather than grading the area to eliminate the erosion, they stopped the flow with a dam. The extra water did help sustain the level of the pond. Now, because we no longer get water from the east, the pond does not rise as quick, thereby creating an erosion problem at the entrance. Mr. Jeffers will say that the State changed the flow at the east end when I-164 was built. However, it was backflow erosion and erosion at the entrance that put more sand into the pond. The original banks of the properties have not been affected.

Commissioner Winnecke: It's right close to where we live actually.

Roger Feightner: Picture number one was pool stage in 1993, directly below it was virtually the same year shortly thereafter. The remaining pictures show you the entrance and exits of that area in 2001. After 1993 Season Ridge Boulevard area and Price Park was developed. If you look at the topographical map, that topographical map is, was taken prior to Outer Covert or the subdivision being built

between Pollack and Outer Covert. It shows the elevation of the land, as I read this the area that is starkly circled should be about 400 feet. The legend at the bottom will show you distances in that area. The following pages, as you skim through it, will show the development of that property and the new flow direction of the rain water. If you notice that Season's Ridge virtually from the top of that ridge or roughly 500 and some odd feet, all the rainwater that should have flown into Kolb Ditch now flows to the west and then to the south to a different ditch. It is my opinion that this redirection of rain water that would have gone into Kolb Ditch has created the unstable level of the retention pond, because in 1995 the pond began to recede. You may hear that the pond was supposed to be 45 feet deep and dug by the State to be used for I-164. However, the developer advised, he dug the pond to use the dirt to build up our properties to above the 100 year flood plain. The county allowed him to change the flow of Kolb Ditch into the hole created, creating the water retention pond. I am sure the county approved the original capabilities of this at completion. It does not matter who or why it was used for, because even the drain tiles, which you'll show in the pictures, from Marion Court, Plaza Drive and Ridgeway Avenue have always been five to six feet above pool in the pond. I'm not here to blame anyone, but for someone to say we have to spend thousands of dollars to try and reseal a pond when this may not have been a problem if others had had the foresight to see their designs would affect other areas shown, as mentioned on the previous Commission meetings. What I'm here to ask for is a regrading of the entrance down to the new pool stage at this time.

Madelyn Grayson: Sir, can you spell your last name for the record?

Roger Feightner: It's spelled, F as in fire truck, e-i-g-h-t-n-e-r. Any questions?

President Melcher: Go ahead.

Commissioner Winnecke: Bill, what's your, I mean, what's, as our technical adviser.

Bill Jeffers: On your screen is the lake that's in question. I'm not going to do any back and forth on why the lake was dug, whether it was for I-164 or for fill for Audubon Estates. That's immaterial. The lake existed before the homes were built. Kolb Ditch used to run, if you'll follow my laser pointer, it used to run straight through, in this alignment, and if I was going to back, back this farther out it runs from Price Park, out there on Covert Avenue, to the Indian Mounds. Mr. Bussing asked us if he could re-route Kolb Ditch from a point about up here, straight down into this borrow pit, which was 45 feet deep before it was filled with water, and then fill that pit with water and make a lake front, make lake front lots, and then build an exit from the borrow pit, which is now a lake back out to Kolb Ditch, at this point. This was somewhat coincidental with the construction of I-164, and we knew there would be a pipe, a six by twelve culvert carrying Kolb Ditch underneath I-164 and off down towards the Indian Mounds. It sounded like a very good plan to us. It created a lake front lot. It was designed by Morley and Associates for Mr. Bud Bussing, and as the lake was designed the water level came back up to this point, right here where my laser pointer is, which is a wooden fence on this lot over here in Eastland Estates. That's how far the lake went up this finger of Kolb Ditch. There was standing water all the way back up to here, right there, when the lake was finished. That was the design pool elevation. This is all a matter of plans that are in our office from the time that Morley and Associates submitted them. Our agreement with the developer was, we would maintain Kolb Ditch down to that point where the permanent pool elevation was, and that the property owner, which was the developer at the time, and subsequent owners....Brenda, can you turn on the property layer, parcel layer?

Okay, and then the parcels that front on the lake would maintain the lake from this point back here to about an exit point over here, somewhere in this lot. There's a pool elevation that used to be maintained back over here. You can see this row of trees here along the south bank, the water came all the way up almost to those trees. You can see old water lines if you look around here. If I zoomed in real close you could see several water lines. Today that lake is about eight feet shallower than it was when it was designed. Okay, it's a sandy, the borrow pit is sandy. I mean, it's pure sand. It's overlaid by an overburden of better soil that's not as permeable as sand, and for several years after it was built, the pool elevation remained all the way back up here, and the property owners of Mr. Feightner's lot, his neighbors lots, all maintain the shoreline of that lake. There's a dock on Mr. Feightner's property that you can see right there. The elevation of that dock is such that you can tell it was built when the water level was all the way up to that dock. It's at least six to eight feet lower than that today. Why is it lower? The State came along after they built I-164 and severed Chickasaw and Iroquois Park Subdivisions, they severed them, so they could build another road out....can you back out on that one? That picture please?

Brenda Jeffers: Make it smaller?

Bill Jeffers: Out, yeah the minus. One more time.

Brenda Jeffers: (Inaudible. Not at microphone.)

Bill Jeffers: I understand that. The State built this road out to Fuquay. What's that? Ridgeway, they built it from right here, all, or, well it's stubbed out right there by Mr. Bussing. They built that back out to Fuquay, and they took all the water from the northern side of these subdivisions that used to go down into, here, this is Kolb Ditch right here where my, used to run straight through like this. It picked up all the water. They took all that water and routed it backwards down this side of Ridgeway and through an easement that they purchased from homeowners in Audubon Estates, without our knowledge, and dumped it into Kolb Ditch right here. All that water should have been dumped into Kolb Ditch over here. By doing that, the water, this water gathers up more quickly than the water coming all the way up from Price Park through all of these subdivision streets. This water gathers up much more quickly, rushes down through here. These folks had fences in their backyard, that the water was so deep and at such a high velocity it knocked their fences down on several occasions. I'm sure Mr. Feightner can attest to that. It went backwards into this lake that was never designed to do that. We had a weir wall here to keep it from doing that. It overcame that weir wall, washed it out, and if you go back in you can see all of the erosion that it caused. When this first started happening, we notified the property owners, you've got a problem here, it's gouging out the overburden, the clay and silt over burden here and it's exposing that sand layer, and that's the water table and the lake started going down. We had a real drought year, I think it was 2004 or so, sometime in there, that lake went down about four feet. It exposed all of this area here, dried up, and when it first started raining again the water came rushing down and scoured it out some more. The lake level went down some more. What it's doing, it's fluctuating with the seasonal water table now. It comes up during rainy seasons, it goes down during dry seasons. The same way the river does. It's connected to the river. This used to be the river right over here, on the other side of I-164. That has a direct sub-surface ground water connection to the river. The lake goes up and down with the river. Knowing this, in 2004 I had a study done by an engineer of the entire Kolb Ditch, and I asked for recommendations of what to do about this lake. He provided me with guidance on how to seal, re-seal the bottom of that lake using bentonite. The estimates run between \$90,000 and a hundred and

something thousand dollars. This lake was never the responsibility of the County Drainage Board. That agreement was made with the original developer and should have been subsequently transferred to all of the property owners through either a lake owners association or other legal document. We went out there and spent about \$10,000 or \$12,000 on rip rap in this area I pointed out that used to be an arm of the lake. I did that to protect our ditch from the first erosion that Mrs. Feightner alerted me to. I went out there and saw that. It was pretty bad, yes. I spent the money on that, with authorization from the Drainage Board to protect the ditch from being back, you know, downgraded backwards all the way back to the public road. Because once you eat that silt and clay overburden away, all you see is sand, and the least little amount of water washes it into the lake. That lake is nowhere near 40 feet deep any longer. I doubt, I bet you could almost walk across it, unless it's quick sand now. The same thing is happening again. When this first, when Mrs. Feightner first alarmed me about it, and I performed that maintenance project, I sent her a copy of the recommendations from the, at some point after that I sent her a copy of the recommendations from our engineer as to how to seal that lake and didn't hear much more about it until more recently here. This fella, if you'll remember, I'm trying to think of his name, he's a police officer, he complained about the erosion in his backyard, we went out there and spent several tens of thousands of dollars putting up a floodgate to keep the water from the State project from backwashing into the lake in the opposite direction from which it should come. That was successful, and we regraded his property so it's no longer a mess back there. Again told the property owners who were interested that they needed to repair their lake and seal it with bentonite. I believe I provided the police officer with a copy of those recommendations. Then here more recently, in the last few weeks, Mr. Feightner called me to alert me to more erosion, which I went out and took pictures of. Yes, it's pretty bad, but I ask you how many times do we have to dump money into this hole before somebody responds by sealing the lake? Because we could dump money in that hole from now until doomsday and the first time you have a heavy rain the water is going to wash out all of repairs and re-expose the sub, the sand substrata and continue to damage that lake.

Roger Feightner: I won't deny everything that he's just said, but what my statement was with the subdivisions to the west of us that should have, the water that should have flown into Kolb Ditch would help the water level maintain, be higher, because it would get more water.

Bill Jeffers: All of that water still comes in to the ditch from the west. All of it. That's the only water that was ever designed to come into that lake is from the west.

Roger Feightner: Correct.

Bill Jeffers: And it still comes in.

Roger Feightner: That's the way it was supposed to have been, however—

Bill Jeffers: And it is.

Roger Feightner: —because of the way the State did their thing and forced the water in from that direction, that eroded all of that area. That was done and like that when virtually it was just vacant, there were no homes on it. Now, I don't know who's responsibility that part about it is, but everything that we have, we are supposed to maintain the banks. Essentially, what we've been doing is getting out there weed eating it, mowing it, trying to keep it down. You don't want to mow it too much

because too much, if you get it down too low you'll have more erosion off of personal properties. All of our stuff has been from the entrance and the exits. You know, back in 2001 the pictures show the way it was coming in off that area, which had that stopped at that time, if we had put a dam or whatever, it wouldn't have eroded that area and created all of the sand to get in there, washing away the clay or whatever. I still feel that the way they did the Price Park and that subdivision, the Jagoe subdivision out there, a lot of that water that would have gone into Kolb Ditch is directed someplace else. Which at 570 feet, which is the top there as you come off of Kolb Avenue, if you look at the map, 2,000 feet is a whole lot farther than that. From the top of that ridge all the way down to Pollack Avenue, the water there is diverted to the west, not anywhere near Kolb Ditch. The only water that's actually getting Kolb Ditch is what comes from Kolb Ditch from virtually north of Covert Avenue, what little bit there is at south of Covert, before the subdivision, Price Park we get that and a little bit from the parking lot, but any road, any water off the road Ridgeway heading towards Kolb Ditch is diverted into property the rain tile and Covert Avenue. It doesn't go into Kolb Ditch. It does go into Covert.

Bill Jeffers: Yes, all of the, we did not change the watershed and we did not allow any of the developers to change the watershed since 1981 to my knowledge. Everything that's been built out there remains the same watershed, patterns as existed in 1981. The only thing that changed anything was the extension of Covert Avenue, which was done by the city, I believe, they put drainage in Covert Avenue, that may be intercepting some from Arcadian Acres that used to come down that way, nothing that the Drainage Board can do anything about. As I pointed out, the construction of I-164 and the way that INDOT handles drainage review is they have a roll of papers about this big of a whole section of a highway, six or ten miles long, and they dump it on you about the middle of the month, say August 15th and it's dated August 1st and you have 30 days to review it and tell them if you like it or not. That's been my experience for the last 30 years. When I looked at that, there was no way we could review the drainage plans from South 41 all the way up around to Millersburg Road for this section of the project in 15 days. What they did here, the State even went to the extent of dedicating that easement that they bought through that subdivision, dedicating it to the Vanderburgh County Commissioners for care and maintenance, and recorded that down there without every running it through your office.

President Melcher: We should have dedicated it back then, shouldn't we?

Bill Jeffers: Huh?

President Melcher: We should have dedicated it back to them.

Bill Jeffers: You can dedicate anything you want to to anybody. All you've got to do is fill out a piece of paper and take it down to the Recorder's Office. So, you know—

President Melcher: I guess, to summarize what we're supposed to do—

Bill Jeffers: I'll tell you the honest truth, you know, I've been fighting this for a long time, I've done everything I can, and I'm not really appreciating the characterization of all of this.

Commissioner Winnecke: So, just, if I could, just to understand Mr. Feightner's request is for the county to come in and re-grade the bank of the lake?

Roger Feightner: The entrance. That way it will get back down to where it's basically what's going to be pool stage down. Because we're not getting the water from the east to bring it back up. So, the only water that we're going to be getting is off of Kolb Ditch and it's not going to be near enough—

Commissioner Winnecke: Who maintains the rest of the lake?

Roger Feightner: Basically it's all, the homeowners as you see it, everybody that, there's 11 of us that have to maintain essentially, but it's like nine of us that own the banks.

Commissioner Winnecke: To Mr. Jeffers' point earlier, why should taxpayers foot this bill versus the lake owners, whatever the technical name is?

Roger Feightner: The lake committee or whatever.

Commissioner Winnecke: Yes.

Roger Feightner: Essentially, it's just that had it stayed at the level when we first got in there in '93, '94 and '95, I mean, the water level actually stayed where it was at. Alright, then all of a sudden, there again, not being detrimental to anybody, but the subdivision to the west of us was built. It's from that point on, '95 when that started getting going and where the water flow coming in from the west wasn't, didn't appear to be as much as, you know, or was a lot more than what we get now.

Commissioner Winnecke: Not to cut you off, but if I'm reading you correctly, you're saying that the taxpayers should foot this bill because of the additional development around—

Roger Feightner: Something was approved for doing some, you know, eliminated...I mean, what should have come in there, you know, we wouldn't get the erosion. It wouldn't have been happening right now.

Commissioner Winnecke: Right, right.

Bill Jeffers: Again, I maintain that there's more water coming in there now than there was before those homes and streets were built, okay? The damage came from the east when the State put in the drainage system to take the water down to the exit of this lake and run it into the lake backwards.

Roger Feightner: Does that mean then we go after the State? Because the State did that to it and forced all of that water in there and drained all the silt and everything like that, creating the problem?

Commissioner Winnecke: I don't know the answer to that, but, you know, what you're asking, I think, if I'm understanding everything correctly, what you're asking us to do is for the taxpayers to go in and fix the problem of the folks who own this lake based on development that occurred years ago.

Roger Feightner: Essentially.

Commissioner Winnecke: Right.

Roger Feightner: Essentially.

Commissioner Winnecke: I mean—

Roger Feightner: Now, I could go in and get a truckload of rip rap and put it in the hole that's developed right now, you know, but that may create a dam that's going to end up going farther up the ditch. Is that going to be my fault?

Commissioner Winnecke: Yep, that would.

Roger Feightner: Because I didn't grade it, or all I did was just fill a hole with a bunch of, you know, rip rap. That's essentially what I mean, that's virtually where it's at now. It's just a five foot hole, a trench.

President Melcher: Marsha, do you have anything to say?

Roger Feightner: I really, you know, in all honesty we don't know what to do. We've come here to get some type of answers. I mean, there again, \$90,000, you know, to do something that wasn't all our fault. Whether it was the city's, the county's, the State's, somewhere along somebody did something. You know, it's like the one gentleman earlier in the Council meeting, you know, not thinking down the road what's going to happen. That's kind of our, my opinion that that's kind of what's happened. The State did their little thing and drained it in there and created all the water to go in and brought the lake up. It was doing really good.

Commissioner Winnecke: Except, I mean, not to be a referee, but your opinion differs from our technical adviser—

Roger Feightner: Well, yeah, I mean it's, I can understand that. I'm just a laymen.

Commissioner Winnecke: We're not trying to be argumentative with you, but Mr. Jeffers lives this, this is what he does for a living—

Roger Feightner: I realize that.

Commissioner Winnecke: — and he is our technical adviser. I am hard pressed to, and I'm not trying to, again, be combative or anything, but I have more stock in his take on this issue than yours right now.

Bill Jeffers: Now, I don't want to go, to put you in a position of going there as the Board. I would ask Mr. Feightner, I would agree with Mr. Feightner that when the water from the State drainage system came into the lake, it filled up more rapidly. Did it stay up for the whole summer, did it stay up?

Roger Feightner: No, I wouldn't say it did.

Bill Jeffers: No, it did not. It went back down, four or five feet down.

Roger Feightner: It would slowly go back down, right.

Bill Jeffers: That's what I'm saying. It scoured out the bottom of that lake, and, yes, during the rainy season the lake filled up. I agree. Then within a month or so it was down four feet again. Where did that water go?

Roger Feightner: Yeah, but it didn't get down quite as low as what it has been since, well, since—

Bill Jeffers: More damage has been done by the, you know, more damage has been done.

Roger Feightner: That's what I mean. It raised, before the dam it would come up quick, and it would keep the erosion out of the entrance—

Commissioner Winnecke: Right.

Roger Feightner: —now we no longer get that. So, now it's not coming up as quick. All the rain we've had here this spring, it raised up about a foot and a half.

Bill Jeffers: Lakes should—

Roger Feightner: It's gone about a foot since then, unfortunately.
Responsibility

Bill Jeffers: I guess, my point is, lakes shouldn't fluctuate by six to eight feet every month, after every rainfall. I mean, lakes should like fill up, stay at a pool elevation, and then have a two or three foot freeboard and when it rains hard it goes up, goes out the spillway and then goes back down to its normal pool elevation. This lake is fluctuating six to eight feet in a month.

Roger Feightner: Well, not quite a month.

Bill Jeffers: Well, if it rains hard. I guarantee it won't take a month, if that thing was full today it wouldn't take a month for it to be back down to where it is today.

President Melcher: I will say I think Commissioner Winnecke is right, there's not much we can do. Ted, do you have a solution for him?

Ted C. Ziemer, Jr.: No, I don't have a solution. I think you're alleging that the county must have done something that caused the problems with the fluctuation of the level of this lake. And, the county relies on the expert opinion of the County Surveyor. I can tell you that if he though the county was responsible for your problem, he wouldn't have the slightest compunction of telling us that that was the case, whatever the expense to the taxpayers. However, it's his opinion, as I'm hearing it, that he sees no liability on the part of the county for the problem that you're describing. That being the case, the County Drainage Board really has no other course than to accept his recommendation and to tell you that we don't think you have a remedy coming from the county. You may have a remedy coming from the State. We don't suggest that. You suggested that. If you do, you know, by all means, pursue it. You may have a remedy against the developers of the subdivisions, whatever direction it is from you, and if you do, that's a civil action that you and the other homeowners can bring against them. You are free, if you wish, to sue the county alleging that the county has a responsibility to you. We will defend that, the county, in that action if you should bring it, and we'll rely, to a large extent on the recommendations of Mr. Jeffers. So, you know, I appreciate your frustration, but at this point I've not seen anything to indicate that the county has any legal liability to you or your neighbors for the problems with this lake.

Roger Feightner: I appreciate you hearing me today. Thank you.

Ted C. Ziemer, Jr.: You're welcome.

President Melcher: Thank you.

Bill Jeffers: Before you adjourn the meeting, because I have no further business, and so that the Board has the greatest opportunity to be fair to this citizen who does pay taxes, and I know you already have sympathies in that regard, we do have, still have the report in our office from Wessler, Brian Mundy a professional engineer prepared, and we do still have money in this account, we have some surplus funds above what we need to maintain the ditch, mow it and so forth, and if it would be the pleasure of the Board I would ask you to extend Mr. Mundy's contract only to the extent that I ask him to come out and accompany me for one half a day to look at this project, which he's already seen and made recommendations on in the report, and to make an examination of what we've done since he made his report and the existing conditions of the lake, and then to spend half an hour coming before your Board at an upcoming meeting and give you his opinion of what he's seen and whether there's any updated recommendations he would make for the ditch or the lake as a part of an extended contract that we have with him. If that would be your pleasure, I would do that to address the concerns of Mr. Feightner and his wife and the other property owners, and that, hopefully, well, okay, that's it.

Commissioner Winnecke: I think that's a reasonable, I would hope that—

Roger Feightner: I would appreciate that.

Commissioner Winnecke: I would make a motion to that extent.

President Melcher: Is there a second?

Commissioner Abell: Second.

President Melcher: All in favor say yes.

All Commissioners: Yes.

(Motion approved 3-0)

Roger Feightner: Thank you.

Commissioner Winnecke: Thank you.

Roger Feightner: Can I have the photographs back?

Commissioner Winnecke: Madelyn has them.

President Melcher: Is there any other business to come before us?

Commissioner Winnecke: Motion to adjourn.

Commissioner Abell: Second.

President Melcher: We are adjourned.

(The meeting was adjourned at 7:55 p.m.)

Those in Attendance:

Stephen Melcher

Bill Jeffers

Brenda Jeffers

Delores Rapp

Others Unidentified

Lloyd Winnecke

Ted C. Ziemer, Jr.

Jeff Tibbits

Susan Holstein

Members of Media

Marsha Abell

Madelyn Grayson

Daniel Goldbach

Roger Feightner

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
AUGUST 23, 2011**

The Vanderburgh County Drainage Board met in session this 23rd day of August, 2011 at 5:40 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Bill are you ready?

Bill Jeffers: Yes.

President Melcher: We'll go ahead—

Approval of the August 9, 2011 Drainage Board Meeting Minutes

President Melcher: – we need approval, we need a motion to approve the minutes of the previous meeting.

Commissioner Winnecke: So moved.

President Melcher: I'll second that. All in favor say aye.

Commissioner Winnecke: Aye.

President Melcher: Aye. That passes.

(Motion approved 2-0)

500 and 512 Gish Drive: Ditch Piping Request

President Melcher: Bill, do you want to talk about the drainage plans? I think that's what's next.

Bill Jeffers: Yes. The first drainage plan that I was prepared to speak about tonight was at 500 and 512 Gish Drive, which is located in the Clearcreek Subdivision. I had sent out a recommendation, including the, let me find it here, just a second, including my reasons for recommending against the request, for five specific reasons, which I assume you have in front of you. I e-mailed that today, however, upon receiving my negative recommendation, Jim Morley, Jr. who is the engineer for the client consulted with his client and they are now asking me to table this issue until they have an opportunity to try to resolve the five objections I have to piping the ditch. But, I would like to mention, in advance of any action you take in that regard, whether or whether not to table it, that I was asked to put this on the agenda by more than one person, including two people who are neighbors to the project and have concerns about the project who are here in the audience tonight. That would be Miriam Gallagher and Patricia Scott. So, I'm not sure how you would like to handle that. I'm willing to table it, I'm willing to discuss it. At this point in time I don't see why I would change my reasoning, but that doesn't mean I will or I won't. It simply means that at this point in time I stand by what I was going to give as my negative recommendation, but it would be up to you whether you want to hear any comments, or what, or how you would want to handle it. Whether you want to hear from the applicant first, and then the, what you might call remonstrators. Or whether you just

want to go ahead and table it and let them work it out privately and in conjunction with our office and come back to you in your September meeting.

President Melcher: Well, that sounds like the way to go, but I just want to check with the people in the (Inaudible) out.

Bill Jeffers: Okay.

President Melcher: Do you want to hear it, and the petitioner is going to get Morley to come back with another plan? We probably wouldn't be voting on it tonight anyway.

Bill Jeffers: So, I guess, the question first would be to, the applicant has already expressed her desire to have it tabled for a month, but I would then ask if Patricia Scott and Miriam Gallagher be amiable to that and not mind having driven down here and viewed our construction site across the street and looked for a parking spot, etcetera without speaking. Is that okay with you two ladies?

Patricia Scott: I would prefer to talk about it since I'm here.

President Melcher: Well, that's fine with me if you would like to come up and talk about it.

Patricia Scott: Will this be on the record that we're here?

President Melcher: All of this is on record, but we're probably not going to vote on it tonight.

Patricia Scott: That's alright. We would like to (Inaudible. Not at microphone.)

President Melcher: Okay.

Bill Jeffers: Okay. Yes, everything, I would like to tell everyone in the audience that everything is on record, that's why we have you sign the sign in sheet, your names are on record as having attended. Everything is recorded on tape, everything is broadcast on Channel 9 as you speak, PBS, and then the recordings are transcribed by Madelyn Grayson into the permanent record, which remains part of the permanent record forever in writing. I would say though since we will probably be tabling this tonight and discussing it again within a month, that everyone would probably appreciate it if the comments were kept very brief and to the point. Thank you.

President Melcher: And, that's what I was going to say, if we could kind of keep it to the point. Basically, the Commissioners here and that, we've always tried to give both sides the opportunity, because we technically represent both sides, and we've always tried to allow both sides. So, if one side is always willing to go back to the drawing board, we have always pretty much said we could do that. We just didn't want to waste a lot of time, your stuff will be on the record, but then next time you come we'll ask you to say something new or different. So, if, and, you know, that's why we're trying to get this out front right now. We always usually leave it, but if you would like to come up to remonstrate maybe—

Patricia Scott: Would it be better for you if we would just come back—

Commissioner Winnecke: Would you come up to the podium?

President Melcher: Yes, it would be, yes, but I'm not saying you can't.

Patricia Scott: But, nothing as far as their petition will be done—

Commissioner Winnecke: Could you come up to the microphone?

President Melcher: We're not getting you on the record. I'm sorry.

Patricia Scott: Would it be better for us—

President Melcher: Can you state your name for us?

Patricia Scott: Oh, Patricia Scott.

President Melcher: Okay.

Patricia Scott: Would it be better for the Council if we come back in a month and get it all done at one time?

President Melcher: That's what we think. We think that maybe there might be something to be able to be worked out. Sometimes, you would be surprised, sometimes this is, if Morley is going to come out with another plan. One thing I will say that we're not drainage experts, by State statute we're here. We listen to the Surveyor, we've got the best Surveyor in the state.

Patricia Scott: Okay.

President Melcher: We've got the two greatest office, he's a great officeholder, and our Engineer is a department head and he's there also. Whatever they recommend is usually what's going to happen here with us three, or two tonight. So, it would even be better if we had a third Commissioner here, that way, because it takes two votes to fail, two votes to pass.

Patricia Scott: So, you are voting on it tonight?

President Melcher: We could of, maybe if the other one didn't want to come back. We're going to allow the other one to come back, the one that brought the petition.

Patricia Scott: Let's, okay, I'm just going to wait until the next meeting.

President Melcher: That would be best, that way everybody gets their say, and they don't have to worry about—

Patricia Scott: Right, right. Okay, I'll just wait until the next meeting.

Commissioner Winnecke: So, for the record that's September 13th, right?

President Melcher: Right, September 13th, it will be right after the Commissioners meeting. The Commissioner meeting starts at 5:00. It could be over at a quarter after, it could be 6:00. Thank you for coming. This happens a lot even on rezonings. Things come up and they ask, and we're always trying to reach out our hand to help.

Bill Jeffers: Okay, so, I assume that we are going to table this until September 13th?

Commissioner Winnecke: I would make a motion to table until September 13th.

President Melcher: I'll second that. All in favor say aye.

Commissioner Winnecke: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: So, we're holding this until September 13th. We'll have it first on the agenda, Bill, so that if they come down again—

Bill Jeffers: I'll put it at the top just like it is tonight.

President Melcher: — then they'll be first.

Bill Jeffers: Right. I would like to thank everyone for coming down. I know that it's not easy to find a parking spot through that traffic at 5:00, but at least you got to hear one of the biggest whoppers ever told on the face of the earth by Stephen Melcher that I'm the best Surveyor in the State.

President Melcher: No, I talk to other Commissioners, and they don't get half the detail that we get.

Bill Jeffers: Well—

President Melcher: They said they wished they had a Surveyor.

Bill Jeffers: I've met some really good Surveyors in this State, I don't want to be put on top of the heap.

President Melcher: There's only one that was challenging me and that was over around the New Albany area. No, it wasn't New Albany, yeah, it was New Albany.

Bill Jeffers: Oh, that's in Ohio.

President Melcher: No, it's Indiana. They kept saying they've got the greatest, and I said, well, one of us does and the other one's got second.

Bill Jeffers: There's some good ones up north too, there really are, but, anyway I do appreciate the compliment. I'm just poking at you.

LEED-Sheffer Subdivision: Old Seib Road

Bill Jeffers: Also the second agenda item, Sheffer-LEEDS, I would like, I just got the revised plan today from Justin Shofstall, and we agreed it would be better if we table that one also until the next meeting.

President Melcher: Okay, that's not even on—

Bill Jeffers: It's not on the Commissioners agenda any longer. So, it would be more appropriate to table that until the next meeting as well.

President Melcher: That's what we'll do.

Bill Jeffers: No motion needed.

Delores Rapp Obstruction Petition Update

Bill Jeffers: As far as my updates go, I have them bullet pointed for you. The Delores Rapp petition, I'm meeting with Daniel Goldbach, the respondent tomorrow, Wednesday at 5:00 or a little after 5:00 p.m. at his home to suggest what work would satisfy the Board's order to remove the pipe and restore the open swale. The neighbors will be meeting at the same time with us.

Helen Murray Obstruction Petition Update

Bill Jeffers: On the Helen Murray petition, I viewed the lake and the lake outlet yesterday morning, and the obstruction has been removed. The lake's about a foot lower than before. All of the piers are clearly out of the water. You can see air underneath all of them. But the work that was done by Mr. Jewell exceeds what I recommended or suggested for correction and it leaves the outlet channel subject to extreme erosion in the future, during high water events. You probably will recall, and the minutes will reflect that I suggested either a pipe outlet or a concrete structure to prevent erosion and control the outlet flow, and while this Board or my office cannot enforce those suggestions under the statute, I made them after viewing the heavily eroded north end of the channel as it flowed into Pigeon Creek and cautioned Mr. Jewell against removing all of the vegetation, that was the only thing protecting the outlet channel from erosion. Instead, Mr. Jewell trenched through the dam, to lower the lake, and I just want to make sure that I go on record to the extent that no one in the future holds the county liable for actions that were taken outside your specific order and our recorded recommendations.

President Melcher: I agree with you. You showed us the pictures—

Bill Jeffers: Right.

President Melcher: — you showed a picture of that going down to the creek and that was really wide and (Inaudible) out. So, I agree with you wholeheartedly.

Bill Jeffers: I plan on writing him a letter, of course, I'll supply a copy to you and your Recording Secretary, detailing why I have those concerns and suggesting once again that the outlet channel be stabilized with at least a rock chute and so forth, just to make sure that we're covered.

Guoyuan Huang's Obstruction Petition Update

Bill Jeffers: On the Guoyuan Huang's petition, unfortunately I made an error in my initial recommendation for a remedy to this complaint. I read the wrong contour lines on the plan that was submitted by Justin Shofstall from Easley Engineering. I inadvertently suggested to drain the property to the south, when, in fact, the property should drain west as sheet flow and north as channel flow. I've talked to Justin

Shofstall this afternoon at Andy Easley Engineering, who works for Andy Easley Engineering and to rectify the plan we will move forward with an alternate plan that he's going to carry to the contractor.

President Melcher: Okay.

Bill Jeffers: Sorry for that mess up. It just has caused a delay, and some misunderstanding between Mr. Huang and myself, which I hope I can straighten out.

Audubon Estates Lake Erosion Issue Update

Bill Jeffers: On the Audubon Estates lake, you remember Mr. Feightner coming in last meeting. I'm meeting with Brian Mundy, an engineer from Wessler Engineering at 1:30 Friday afternoon at the lake and asking Mr. Mundy to update his recommendations for repairing the lake. I'll deliver those findings to your Board and to Mr. Feightner as Mr. Mundy provides them to me.

Pond Flat Main: Emergency Repairs

Bill Jeffers: On Pond Flat Main, emergency repairs are underway over the past couple of days to patch a breach in the south embankment of Pond Flat Main. Work to dredge out the original Big Creek and Pond Flat Ditch, beginning about 100 years ago, and subsequent dredging of the, in the latter part of the century created a high embankment on the south side of Pond Flat Ditch. That embankment was maintained over a period of the past, of all that time, up until the past few decades when increased storm water runoff from developing watersheds on 41 has put a lot more pressure on the embankment in a bend northwest of Bixler Road. On the screen you can see the area. Bixler Road is on the right, the wooded area through which the Pond Flat Ditch flows, that wooded area was, I think they call it, it's not a certified forest, but at one time it was a forest of good, hard wood that's now been harvested. However, that forest shaded the creek and kept grass from growing on the embankments as densely as the rest of the creek in the open fields, and a lot of sediment builds up on the north side of the channel because it's on the slow side of the bend and a lot of pressure is being exerted on the south embankment. This year's high water events, a series of high water events finally breached the embankment, and water was cutting out across the agricultural fields, and that was highly disconcerting to the farmers. It required that I take immediate steps to make emergency repairs, which I am doing. Together with Allen Relleke, our contractor, who is moving the accumulated soil off the north bank to relieve pressure being forced against the south bank, and he's using the spoil from that activity to patch and reinforce the south bank. I believe the work will cost right at \$20,000, which is why I'm bringing it to you today, to notify you that I've initiated an emergency contract for approximately \$20,000, and that price is dependent upon how much clearing of the wooded area is required to get in there and move the dirt. I will say that we're going to minimize the clearing to avoid any regulatory feedback. That takes care of my updates on issues that our office is currently working on, unless you have any questions or comments.

Commissioner Melcher: Do we need to make a motion on that \$20,000, up to \$20,000, or do you want to bring it back when....since it's an emergency and you've got to do it—

Bill Jeffers: Why don't I bring the claim back, or you can do as your attorney advises you, but this is an emergency, and—

President Melcher: No, I understand that, that's why I was asking.

Bill Jeffers: — it's probably the only contract of its specific kind that will be done this year, unless another emergency comes up.

President Melcher: Ted, do you think it's okay to just wait?

Ted C. Ziemer, Jr.: Well, I mean, how, you say it's an emergency, what do you mean? When does this have to be repaired?

Bill Jeffers: Well, before we get another high water event, and I initiated it, I think the last high water event was the latter part of June, and that's when it broke through. So, I went out and found, I went out, excuse me, I obtained prices from two of our regular contractors, Vieira Brothers and Allen Relleke, and chose Allen Relleke because of the price, and because of the means by which he was going to correct the problem.

Ted C. Ziemer, Jr.: I would like to advise you, I'm, tomorrow is my emergency day, I think. I would like to advise you about this tomorrow as well.

President Melcher: Okay, but you're already doing it.

Ted C. Ziemer, Jr.: \$20,000 though is the price, is that correct?

President Melcher: That's what—

Bill Jeffers: That's what I estimate it to be right now.

Ted C. Ziemer, Jr.: Well, is that what, but you received a bid for that amount?

Bill Jeffers: Well, the bid was for \$38,000, but I took out \$18,000 worth of rip rap. I said no to the rip rap.

Ted C. Ziemer, Jr.: Yeah.

Bill Jeffers: So, that left \$20,000 is what I'm estimating the remainder to be. The dirt work was bid in at \$20,000, the rip rap work was bid in at \$18,000, but I have no idea where he was putting the clearing, do you see what I'm saying? So, it might be a little more or a little less than \$20,000.

Ted C. Ziemer, Jr.: I know that emergencies depend upon who's making the determination. In this case you're determining that it is an emergency, is that correct?

Bill Jeffers: Yes, I determined that it was an emergency that needed immediate action. I'm not asking for you to do anything other than receive my notice that I'm informing you of this.

President Melcher: Right.

Ted C. Ziemer, Jr.: When would you begin the repairs?

Bill Jeffers: They are under way.

Ted C. Ziemer, Jr.: Oh, they are under way?

Bill Jeffers: Yes, sir.

Ted C. Ziemer, Jr.: Okay.

President Melcher: That's why I asked what I did, because he's already doing it. So, I think we just accept the claim when you bring it.

Bill Jeffers: You can do as you wish. I would do what your attorney advises you to do.

Ted C. Ziemer, Jr.: But, how far, I mean, is it about finished? Or where are you ?

Bill Jeffers: It should be finished within 48 hours from right now.

Ted C. Ziemer, Jr.: Okay. Let's complete it.

President Melcher: That's kind of where I was going. That's why I asked what I did.

Ted C. Ziemer, Jr.: Yeah, okay, thank you.

Bill Jeffers: I put you on the spot, but I don't want to put you on the spot. Let's leave it at that.

Ditch Maintenance Claims

Bill Jeffers: There are a packet of claims up here that were all bid, under the normal process, and it represents work that was completed under contract, and it's all been inspected and the paperwork , the normal paperwork is attached and I recommend that they be paid.

Commissioner Winnecke: Motion to approve.

President Melcher: Second. All in favor say aye.

Commissioner Winnecke: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: Do you got anything else, Bill?

Bill Jeffers: I do not.

Public Comment

President Melcher: Anybody in the public? I don't see anybody.

Update on Low Cord Elevation for Old Boonville Highway Bridge

Bill Jeffers: Oh, wait a minute, I do have one thing.

Ted C. Ziemer, Jr.: If it's an emergency, you can forget about it.

Bill Jeffers: It's not an emergency. I'm sure that the Commissioners and John Stoll have been wondering why it's taking us so long to get the low cord elevation on the Boonville-New Harmony, the Old Boonville Highway bridge. I spoke with Bill Butz today, because one of his claims showed up here for the survey work, which is complete, but they are having one heck of a time understanding how the State determined the flow rates and how they assigned that the creek, where the creek begins and ends, even though the work was done to extend the creek and change the flow of the creek in 1980. Here 30 years later they still haven't reassigned the correct, or existing, I call it correct, existing, beginning and end of these creeks and ditches. All I can tell you is that goes back to the FEMA study and they're having one heck of a time trying to work it out so we get the lowest possible floodplain elevation determined in that, on that project. They do believe they will be able to get that done in the next few weeks.

President Melcher: Thank you.

Bill Jeffers: It's just a mathematical nightmare out there. That's on Eastside Urban.

Commissioner Winnecke: Don't we know, there's nothing worse than a mathematical nightmare?

Bill Jeffers: Is that a bankers point of view?

Commissioner Winnecke: No, it's just a personal point of view.

Ted C. Ziemer, Jr.: An emergency mathematical problem.

Commissioner Winnecke: Touche.

President Melcher: I would entertain a motion to adjourn.

Commissioner Winnecke: So moved.

President Melcher: Second. All in favor?

Commissioner Winnecke: Aye.

President Melcher: Aye.

(Motion approved 2-0)

President Melcher: We are adjourned.

(The meeting was adjourned at 6:01 p.m.)

Those in Attendance:

Stephen Melcher

Ted C. Ziemer, Jr.

Others Unidentified

Lloyd Winnecke

Madelyn Grayson

Members of Media

Bill Jeffers

Patricia Scott

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
SEPTEMBER 13, 2011**

The Vanderburgh County Drainage Board met in session this 13th day of September, 2011 at 6:27 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Yes, we're going to go ahead and start the Drainage Board. Normally we leave a few minutes in between, but we're not even done with the other meeting yet. So, it's September 13th and we're getting ready to start, it's about almost 6:30. I've got an agenda, unless it's changed.

Commissioner Winnecke: I do not. I didn't bring mine. Thank you, sir.

Approval of the August 23, 2011 Drainage Board Meeting Minutes

President Melcher: Is there a motion to approve the minutes of the previous meeting?

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Thank you.

(Motion approved 3-0)

500 and 512 Gish Drive: Ditch Piping Request: Withdrawn

Bill Jeffers: Good evening. The first item on the agenda is 500 and 512 Gish Drive, the ditch piping request, has been withdrawn by the applicant. I understand the pipe will be removed from the easement, along with the dirt that was holding the pipe in place. That leaves only the issue of the pipe that pre-existed it on another piece of property that was not, has never had a request for piping. We'll deal with that later.

LEED-Sheffer Subdivision: Old Seib Road: Final Drainage Plan

Bill Jeffers: The second item is LEED, or Sheffer-LEED Subdivision. It's on your screen. You've discussed it and you have approved the road plan in the Commissioners portion of your meeting. I have a new drainage plan that was submitted last week that brings it up to date with all of the drainage requirements, according to code, along with what we call the SWP3 erosion and sediment control plan, along with the pollution prevention plan for the construction phase and the post construction phase. That's for, the drainage plan, the final drainage plan that's presented here is for all five lots. It comports with the drainage code. The storm water pollution prevention plan and erosion control plan is for the Marathon station lot only. That will be brought back to you, or it will be approved in-house by the

County Engineer. At this time, the County Surveyor will say that I have reviewed the drainage plan multiple times, including this latest version presented by Justin Shofstall from Andy Easley Engineering, Incorporated, and find it comports with the drainage plan and recommend approval.

President Melcher: Are there any questions?

Commissioner Winnecke: I would make a motion to approve.

Commissioner Abell: Second.

President Melcher: Okay, we have a first and second. All in favor say aye.

Commissioner Winnecke: Aye.

Commissioner Abell: Aye.

President Melcher: Opposed. No. So, it passes two to one.

(Motion approved 2-1. President Melcher opposed.)

Cameron Creek Subdivision: Final Drainage Plan

Bill Jeffers: The second item on the agenda is Cameron Creek. It's a two lot commercial sub on the south side of Kansas Road. It will shortly be on your screen. There it is. Lot one will be, is proposed to be a Huck's fueling station and convenience store, and lot two will remain vacant until a subsequent developer decides what will be put there. However, the drainage plan is for both lots. It will drain into a detention basin that will then discharge into the lake you see there, the borrow pit. Again, the County Surveyor has recommend, has reviewed the drainage plan, finds all details of it comport with the drainage code, and recommends approval of the final drainage plan for Cameron Creek, a two lot subdivision, shown on your screen to be on the south side of Kansas Road, west of State Road 57.

President Melcher: Any discussion?

Commissioner Abell: I have a question.

Bill Jeffers: Yes, Ma'am?

Commissioner Abell: I was out there last week, and have you, I guess, you've been, you live close to there, have you been seeing that they've been raising the ground?

Bill Jeffers: I have noticed, over the course of several years that there was fill brought in there and left in mounds, and I think they're now spreading it around. Are they—

Commissioner Abell: Yeah, they told me that they've, I think they said they brought it up four feet. They plan to bring it up to the level of Kansas Road.

Bill Jeffers: I believe so. It's in the flood plain, it has to be raised up to a specified, an elevation specified by the flood plain management code, which is administered by the Building Commissioner.

Commissioner Abell: So, that won't change your opinion of the drainage plan if they bring it up that high?

Bill Jeffers: No, Ma'am.

Commissioner Abell: Okay.

Bill Jeffers: That would be part of the plan, and part of what they have to do. I would caution them that some of the fill that was brought over there was sediment scooped off the streets in a nearby subdivision after a flood, and it might not be suitable fill, but, you know, I think they need to consult a soil scientist on that, and I am not he.

Commissioner Abell: Well, they've mentioned to us that they're willing to give a little extra land for an easement on Kansas Road, and I just didn't know if that was going to impact the drainage in any way.

Bill Jeffers: If they do that, I would caution the County Engineer to pay very close attention to the type of soil that they're bringing in to the portion of the property that would become any part of county right-of-way, because that should be good, solid "B" borrow, compactable and compacted before we assume ownership of it—

Commissioner Abell: Okay.

Bill Jeffers: — and put a paved road over top of it.

Commissioner Abell: I suspect he heard you. He's sitting right behind you.

Bill Jeffers: That's why I said it as loudly as I did.

President Melcher: Is there any other discussion?

Commissioner Abell: Thank you, Bill.

Bill Jeffers: Yes, Ma'am.

President Melcher: Anybody from the audience? I would entertain a motion.

Commissioner Winnecke: I would entertain a motion to approve, or I would make a motion to approve. Sorry.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Looks like it passes, Bill.

(Motion approved 3-0)

President Melcher: Next.

Surveyor's Updates on Various On-Going Issues

Bill Jeffers: Okay, unless the Board members have any questions of the various petitions, complaints and projects upon which our office is continuing to work, I will withhold any update statements at this time.

President Melcher: Okay, what about claims?

Bill Jeffers: I have no claims today to bring before your Board.

President Melcher: Any other business?

Bill Jeffers: Not from our office.

Public Comment

President Melcher: Any public comment from anybody in the audience? Okay, I would entertain a motion to adjourn this meeting.

Bill Jeffers: Hold on.

Audubon Lake Estates: Kolb Ditch Evaluation & Recommendations

Bill Jeffers: Oh, I'm sorry. I do have one. Audubon Lake, I'm very sorry, I almost went past that one. Two meetings ago you heard a concern stated by Roger Feightner, who lives on Audubon Lake, through which Kolb Ditch discharges on its way to the Ohio River. He had some concerns about erosion. I stated that most of the work that needed to be done was within the confines of the lake that is under private ownership, and that the county had done what we could, up until 2007, to correct conditions that were in the transition area between our ditch and the lake itself. Basically, the Board advised Mr. Feightner that there was a situation where the private property owners are responsible to make certain improvements and maintain the lake, and that the county was not responsible for that and would not participate in it. I offered to bring back an updated evaluation of the lake from the same consulting engineer who produced it the first time around, to show you what's developed since 19, or since 2007 when that report was published. Here we have it, along with Dave Schmenke, who represents Wessler Engineering, if there's any questions. Basically, on the right hand, or left hand side of your screen shows you what the outlet from the lake looked like when the lake held more water. The outlet remained submerged, now the outlet is dry, because the lake has lowered itself about eight feet since 2007. It fluctuates with the water table. No longer holds water. What other pictures do we got? This is the area that Mr. Feightner, it's on his property, this is the area that we repaired once when the lake was still seven or eight feet deeper than it is now, and this rip rap shoot extended down to the water level. It no longer does. The water has receded so far, that now every time it rains the rush of water coming down Kolb Ditch has undermined everything that we spent several thousand dollars to protect. This is the source of his concern, because it's on his property, in an area that used to be submerged and under the lake, but now is dry land. On your right side of the screen is the lake as it exists now. It's only a couple of feet deep, and all of the vegetation that covers the land, it used to be under water. On your left, let's see, okay, that's okay, keep going, on your left is a picture of Reno mats, which are basically gabion mattresses filled with stone, wire mesh

mattresses filled with stone to line a channel. That's one of the recommendations that's being made by Wessler, to line this channel over here with gabion mattresses to prevent that erosion that you earlier saw. I'm not going to say at this time that it's our obligation to line that channel. I'll try to cover that towards the end of the, of my statements. Is that all of the pictures that we have? Okay, pardon me?

Brenda Jeffers: (Inaudible. Not at microphone.)

Bill Jeffers: Okay, again, over here on the left, in 2006 the lake had already receded about four feet below pool elevation. On the far side of the lake you can see a bare area of shore line, four or five feet below, the water's four or five feet below the original water line. This is after we'd lined the entrance to protect it from erosion. Over here on the right is now, 2011. On the left, again, in 2006 the water had already receded well below the elevation of that dock that used to, you used to be able to walk right off the end of that dock into the lake. Over here on the right you can see it's gone down another eight or ten feet, and all of that's become, just a grass embankment. Again, you can see how far the water has receded from its designed elevation. Okay, where you started here on the left, when the water first receded, between 2004 and 2006, the pipes discharging into the lake from the street system collapsed down into the lake, and on the right I have filled that collapsed area with rip rap so that the, well, that end section of pipe is gone. The utility companies have come out and tried to repair their pedestals, but they keep sinking into the lake. Basically, what I told you at the last meeting was that we could spend another \$10,000 just to dump rip rap in that hole that Mr. Feightner is concerned about. Or we could follow the recommendation of this report, which on page five shows you that that work that I'm talking about would cost about \$8,400. No, \$5,600¹. We could use Reno mattresses, which would cost \$92,000. Then, the reason I'm so concerned about this, is that the first time, back in 2006 or 2007, I informed the landowners, specifically Mr. Feightner, that if they would get together and seal that lake, we could return it to its previous pool elevation, and the county would be glad to fix up, dress up a little bit the entrance, the inlet to that lake and the outlet to that lake, both of which we've already done. At that time, the estimate was around \$92,000 to seal the lake, okay? That would have been done by taking a motor launch, a motor boat launch, and floating around the lake with a trolling motor and dumping Bentonite out the back of the boat, through the wake of the trolling motor, so that it spread out and settled and sealed the bottom of the lake. But, as you can see, there's not any lake left to do that, so, now the estimates come in from Wessler Engineering, to basically finish draining the lake, going in there with excavation equipment, cleaning out the bottom of vegetation, and either sealing it with Bentonite for a cost of \$131,400, or sealing it with a native clay liner, which would be basically bringing in one foot of dense clay and compacting it onto the bottom of the lake for \$178,600. I had planned on Mr. Feightner being here, I notified him that we were having this demonstration. I don't know if he's here in the audience, but I do have a copy that I will mail to him—

Commissioner Winnecke: He's here.

President Melcher: He's right here.

Bill Jeffers: He's here? Okay. Good, hi, Roger. Thank you for coming. Also, as I said, I have Mr. Schmenke here, if there are any technical questions to be answered. He has all of those answers about this report. My recommendation is to protect our

¹Should be \$56,000.

county against any liability that's determined to exist at this time, but not to spend any more money than we have to on Reno mattresses, or other expensive structural improvements to the inlet to the lake until such time as that lake level is brought back to its designed elevation, and can be preserved at that pool elevation by sealing the lake. Because we could spend \$100,000 on Reno mattresses, or whatever the estimate is back here. Let me look at that again. The rip rap would be \$64,700 alone, the Reno mattresses would be \$106,000 that we would have to spend, okay? I would, and a concrete spillway, out of the question, \$138,000, I'm not even going to talk about that. But, to put the Reno mattresses down would be \$106,000, I wouldn't even begin to consider that type of investment until that lake is stabilized at its designed pool elevation, because even Reno mattresses can be undermined when the underlying soil is pure sand. So, that's my portion of the presentation, and as I said, Mr. Feightner is here, and I will present him with a copy of the plan, and Mr. Schmenke is here if there's any technical questions. Thank you.

Roger Feightner: Actually the name is spelled, is pronounced Feightner. The number eight is spelled out inside the name. I live at 1950 Plaza. I see the pictures, unfortunately, the 2006, 2011, I would say that was probably 2001. That's what it looked like long before 2006. We have been after a lot of different things over several years. Unfortunately, a lot of the stuff that's going on, and I'm just finding out tonight, I really don't know what it all means. I would like to say I did. I had asked Bill prior to coming out to the property to inform me, so that I could be there with him, kind of discuss things to see what was capable, or what was feasible, what was economical. I'm dealing with a whole lot of other people, that becomes quite crazy. You individuals deal with a few hundred, you know, a couple hundred thousand people, you know what it's kind of going to be like, and I've only got 11. So, unfortunately, when I told Bill I would be back into town, I had a funeral to go to, and he showed up while I was not there. I talked to him last week, they'd already been there. They talked to it, from my understanding from one of my neighbors, someone was there today looking at things. Comments were made, I haven't been able to be informed of what was made, so, I can't make an intelligent aspect of what's going on. I understand it's our property. What we're trying to do is ask for some type of assistance other than getting all of this engineering stuff. You know, we don't know. I know Mr. Ziemer tried to give us some information the other time, you know, is it something that was not done correctly from the get go? That's what we're trying to find out. I'm not blame, blame on the city, I'm not laying blame on the county, well, it's not the city, it's the county. I'm not laying the blame on anybody, but we just need to know how to proceed. Is there a flaw? If there was a flaw, where did it start? That can give us some recourse or some idea of where to go by. Whether we do what he's suggesting and spending a hundred and some thousand dollars, it gets a little expensive. I'm not a rich guy, none of my neighbors are rich guys. So, I appreciate the time. Thank you.

President Melcher: Is there anything else to be said on this?

Commissioner Winnecke: I just wonder if it's, given the complexity, maybe we can take this under advisement until—

Bill Jeffers: Yeah, we can do that, and give us an opportunity to, if Mr. Feightner, I apologize for mispronouncing his name, because my name has been mispronounced, as simple as it seems, all my life.

Commissioner Winnecke: Bill?

Commissioner Abell: Bill?

Bill Jeffers: Bill, yeah. Jeffries or what ever.

Commissioner Winnecke: Oh, surely you've been called worse.

Bill Jeffers: Oh, I've been called much worse and that's fine too. No, but, I'm sorry I mispronounced his name. Everybody is proud of their name, and it should be pronounced correctly, but, yeah, if you want to give me some more time to discuss it with him and come back at some time when we have a better grasp of the situation, and I have a financial statement of our account balance and that type of thing, look into what was discussed during the original design of the Audubon Lake, what portion that we agreed to maintain, and what portion that remains the responsibility of the property owner, I can give you a more definitive situation there. If that would help Mr. Feightner and his neighbors make a decision, but it remains my assertion that the damage to that lake was caused when the rerouting of drainage water by INDOT's construction of the I-164 caused back water to rapidly flush into the outlet channel, that we showed you in these pictures, and scour out a huge area of the overlaying silty and clay loam, and exposed the sand layer that's about eight feet down. Once that happened, the lake water had a direct connection to the subsurface ground water, and it now fluctuates with the water table. That remains my assertion. I'm not going after the State, because the damage was not done to the county's portion of the drain. I don't believe the county has any liability in this, although we do have some measure of participation in the maintenance of Kolb Ditch, and I'll bring that back to you at a later time after Mr. Feightner and his neighbors have had time to examine this report and I've had time to compile some more data for you.

President Melcher: Well, that sounds about the best, fairest way to end this evening.

Bill Jeffers: Okay.

President Melcher: Are you okay with that? Alright.

Commissioner Winnecke: Do you want a motion, Steve?

President Melcher: Yes.

Commissioner Winnecke: I make a motion to table this until a later date.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Bill Jeffers: I don't guess we had any other public comment. So, if you want to reconvene your Commissioners meeting, I guess, it's time to adjourn this one.

President Melcher: We could convene this one, just say move for adjournment, say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: We're adjourned.

(The meeting was adjourned at 6:50 p.m.)

Those in Attendance:

Stephen Melcher

Bill Jeffers

Brenda Jeffers

Members of Media

Lloyd Winnecke

Ted C. Ziemer, Jr.

Roger Feightner

Marsha Abell

Madelyn Grayson

Others Unidentified

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
SEPTEMBER 27, 2011**

The Vanderburgh County Drainage Board met in session this 27th day of September, 2011 at 5:54 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and start the Vanderburgh County Drainage Board. It's Tuesday, September 27th, and it's six minutes till six.

Linda Freeman: We should be done by six.

Approval of the September 13, 2011 Drainage Board Meeting Minutes

President Melcher: So, do we have a motion to approve all of the minutes of the last meeting?

Commissioner Winnecke: So moved.

President Melcher: Second. All in favor say aye.

Commissioner Winnecke: Aye.

President Melcher: Aye.

(Motion approved 2-0. Commissioner Abell stepped out temporarily.)

Approval of Ditch Maintenance Claims

President Melcher: Claims, do we have a motion to approve claims?

Commissioner Winnecke: So moved.

President Melcher: Second.

Commissioner Winnecke: I did have a question.

President Melcher: Yes?

Commissioner Winnecke: The claims are all—

Linda Freeman: Yes, we have checked them and all parties have been looked at, and we're all happy with it.

Commissioner Winnecke: Okay, so moved.

President Melcher: Do we have a second?

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Other Business

President Melcher: Okay, other business?

Linda Freeman: I have no other business.

President Melcher: Does any Commissioner have any other business?

Commissioner Winnecke: No, I tell you what, I do have, I received late this afternoon a text on a drainage issue that maybe you could run down for me.

President Melcher: Oh, I got that one too.

Commissioner Winnecke: I will, could I give you the address?

Linda Freeman: Yeah.

Commissioner Winnecke: 6503 Colonial Avenue.

Linda Freeman: Okay.

Commissioner Winnecke: I'm not, the text is a little unclear as to exactly what the issue is.

Linda Freeman: Okay, do you have a number or a name?

Commissioner Winnecke: I don't have a telephone number, but I have the resident there is John Gannon, G-a-n-n-o-n.

Linda Freeman: Oh, okay.

Commissioner Winnecke: The picture looks to be, I can't tell what the picture is really.

Linda Freeman: Okay.

Commissioner Winnecke: It looks like there's some sink holes in a field.

Linda Freeman: Okay.

Commissioner Winnecke: But, beyond that, there's no explanation.

Linda Freeman: Okay, so, no phone number?

Commissioner Winnecke: I'm sorry. I do not have a phone number.

Linda Freeman: Okay.

President Melcher: I was thinking I had an e-mail or something today—

Linda Freeman: So, did the text come from the individual?

Commissioner Winnecke: It came from a City Council member.

Linda Freeman: Okay.

President Melcher: Oh, then I've got a different one then.

Linda Freeman: Okay.

President Melcher: I'll have to get that one then.

Commissioner Winnecke: It came from Councilman Watts.

Linda Freeman: Okay.

Commissioner Winnecke: So, maybe if you could reach out to him, and he probably has their, he did not include that, and this came literally late today.

Linda Freeman: Okay, that's cool. I'll try to get a hold of B.J. and see if he can send me the information on it.

Commissioner Winnecke: Thank you.

Linda Freeman: I'll get a hold of the gentleman.

President Melcher: I've got something too, and I'll forward that to you.

Linda Freeman: Okay, great, I can check into it.

Public Comment

President Melcher: Okay, any public comment from anybody? Okay, we need a motion to adjourn.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: We're adjourned.

(The meeting was adjourned at 5:58 p.m.)

Those in Attendance:

Stephen Melcher

Linda Freeman

Others Unidentified

Lloyd Winnecke

Ted C. Ziemer, Jr.

Members of Media

Marsha Abell

Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
OCTOBER 10, 2011**

The Vanderburgh County Drainage Board met in session this 10th day of October, 2011 at 4:00 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and get started with the Vanderburgh County Drainage Board meeting. It's the 10th of October at 4:00. Bill?

Approval of the September 27, 2011 Drainage Board Meeting Minutes

Bill Jeffers: You have some minutes, I believe, to approve.

President Melcher: Yes. Do we have a motion for that?

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

Poet's Square: Final Drainage Plan

President Melcher: Now it's Poet's Square, final drainage plan.

Bill Jeffers: Right, and here is the plan, on your screen is the layout of the subdivision. This is across Peck Road from the new North High School athletic fields. You'll recall the discussion of the preliminary plan. There have been several fine tunings made in response to concerns sent to the engineer, the design engineer, by John Stoll, particularly in the alleys and the street rights-of-way. The plan comports with the drainage code for a final plan. The County Surveyor's recommendation is to approve the final drainage plan for Poet's Square. If you have any questions, the design engineer, Glen Merritt from Cash Waggoner is in the audience for you to ask.

President Melcher: Any questions?

Commissioner Winnecke: What minor modifications have been made?

Bill Jeffers: Do you want to speak to that, Glen? There were some specific inlets and connections and stuff that John Stoll had concerns about.

Glen Merritt: My name is Glen Merritt with Cash Waggoner. I submitted road plans to John about two weeks ago, and those alleys, you know, they're kind of something different. Most of them are on a down slope, it's not a sag in the roadway. We just

changed some inlet castings to allow more water to collect in those area drains instead of...we were a little worried about water bypassing some of them and overloading downstream area drains. So, we adjusted castings on, I do believe four area drains, and then the downstream ones adjacent to those we also altered those castings to allow more water into those. I think that's pretty much the main comments. We really didn't change anything on the roads, we just really some structure sizing for the storm sewer and a couple of elevations we lowered just a little bit to create more of a sump where those area drains are located. That's about it.

Commissioner Winnecke: Okay.

Glen Merritt: Any other questions?

Bill Jeffers: There was a neighbor that had a concern about their, a couple who lived immediately north of this, and had a concern about their driveway entrance pipe. I drove out there last week and took a look, and it appears that the source of the water that is washing through their, across their driveway, came from the west side of Peck Road. It's a little bit higher on the west side, it did not come from this proposed development.

President Melcher: Is that because, is that the School Corporation property?

Bill Jeffers: Yes.

President Melcher: Was that the same couple that came before us?

Bill Jeffers: Yes, sir.

President Melcher: That's what I thought.

Bill Jeffers: It looked as if the School Corporation had upgraded their erosion and sediment control for the ongoing construction around the athletic fields, but we had had that two day heavy rainfall which, you know, will necessitate that they do it once again.

President Melcher: So, they are going to do it again?

Bill Jeffers: I'm sure they will. Mike Wathen would be the person who would over, would pass along the requirement to restage their erosion and sediment control facilities after a heavy rainfall.

President Melcher: Okay.

Glen Merritt: I've got one comment. Glen Merritt with Cash Waggner again, regarding that culvert, I know I was here with the preliminary drainage when that couple come in and was concerned about their driveway. I've seen what's wrong with it. I mean, it gets washed out regularly. We've got a culvert for our future entrance to Peck that's a quarter mile upstream of that culvert and it's a 48 inch is what it was sized for, and the culvert downstream is a 30. So, I mean, and it's corrugated metal also. So, I think their culvert is severely undersized, just for the area that it's in. I don't know if it was sized when they put it in, you know, if somebody just, that's what pipe they had and they, you know, threw it over their driveway, but we have detained quite a bit of water at that northwest corner that's going to be coming off of our subdivision, which might help it, but, like I said, our

culvert's a 48 and theirs is a 30. So, it's undersized for where it's at, in that drainage watershed. That's all I have.

President Melcher: Okay, any other questions? I would entertain a motion then.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Opposed? It passes.

(Motion approved 3-0)

Lee Subdivision Primary Plat: Preliminary Drainage Plan
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President Melcher: The Lee Subdivision.

Bill Jeffers: Yes, pardon me, Lee Subdivision is located on north St. Joe Avenue, a little ways south of Locust Creek Bridge. It's a three lot subdivision, technically, you have one large lot down here, lot one, and it fronts on St. Joe Avenue. That's the site of that old Corvette shop, I'm not sure what it is right at the moment, but the Corvette shop was there. The rest of this lot one is totally undeveloped, it's just grass. Then, up here facing Lexington Street there is a small, industrial development, like one industry and it takes up about half of that lot, and the rest of that lot is vacant. Then, there's lot three, basically, what's going on here is a required subdivision to satisfy Area Plan Commission and the subdivision code's requirements for a subdivision to separate the ownership of lot one and lot two. Lot three, basically, is carved out of lot two. It's a small lot adjacent to some residential property, and one of the neighbors wished and expressed the desire to maintain that as a green buffer between the neighborhood and the industrial development. That was facilitated by the owners, to allow that, but when you have three lots that goes from being a minor subdivision to a major subdivision, it requires drainage review prior to hearing the primary plat this Thursday at Area Plan Commission. My recommendation is that it does not need a formal drainage plan, even though it is a three lot subdivision, because, essentially, the third lot is going to remain green grass maintained by this fellow, this neighbor, and the other two subdivisions are already developed under the proper zoning. So, I asked Keith Poff from Sitecon, who is here in the audience to explain anything if you have questions, to compose that letter that's on your desk, and it's a commitment that any future development of lot one, two or three, any expansion, increase of hard surface will require a formal drainage plan presented at the time of commercial site review. That would be in conjunction with the soil and water pollution prevention plan that would go through John Stoll's office, and a drainage plan that would come through my office to explain, or to give the actual details of any new hard surface drainage into the existing facilities. I think that would be sufficient as a drainage plan for a preliminary approval. I conveyed to you in an e-mail that there might be people who were previously notified of our meeting tomorrow, rather than today, and may not have seen the notice in the newspaper. I don't anticipate too many people, but if they were to show up tomorrow, you may tell them that if they still have concerns about drainage, that they may address them

to Keith Poff who has agreed to be here tomorrow, during the Commissioners meeting. So, if you make the announcement before the meeting that they may meet with Keith out in the hallway, if they do have any concerns, he will convey those to me and I will see to it that their concerns are adequately addressed in a final drainage plan which must be approved, either in our office or by your Board before the plat could be recorded. I really don't anticipate anything, because the industries that are out there exist, and until such time as they were to expand there's no need for any additional drainage planning. So, with that, I recommend approval of the preliminary drainage plan as this narrative you have on your desk.

President Melcher: Any questions?

Bill Jeffers: That would allow it to go to Area Plan Commission for plat review this Thursday, and, of course, if there are any remonstrators that have drainage comments they would also be directed to speak with Keith to incorporate those into the final plan.

Commissioner Abell: Bill, I have a couple questions. The little piece that sticks out to St. Joe, and then there's a cut back and then goes back, is that a private parcel?

Bill Jeffers: Yeah, the little notch?

Commissioner Abell: Yeah.

Bill Jeffers: That's a separate parcel from this subdivision, yes.

Commissioner Abell: Is there a house on it?

Bill Jeffers: I'm going to let Keith answer those questions. We don't have an aerial photo, I wish we had an aerial photograph, but we don't at this time.

Keith Poff: Good afternoon. Keith Poff with Sitecon, Incorporated. Yes, the piece that juts out to St. Joe, north of that that is a residential lot, there's a house on it.

Commissioner Abell: Those people don't have any problems with any of this? Or do we know?

Keith Poff: I haven't received any contact from them, no.

Commissioner Abell: Okay.

Keith Poff: So far.

Commissioner Abell: Is there, does the creek run behind this, parallel with St. Joe?

Bill Jeffers: It's a couple of streets to the north--

Commissioner Abell: Okay.

Bill Jeffers: --before you get to the creek.

Commissioner Abell: Okay, I was just trying to figure out in my mind where it is. Thank you.

Bill Jeffers: This is before, this is south of the Plumbers Union Hall by at least one street.

Commissioner Abell: Okay. Thank you.

President Melcher: Any other questions? I need a motion for that.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Opposed? Thank you.

(Motion approved 3-0)

Keith Poff: Thank you.

President Melcher: Good luck.

Commissioner Winnecke: Thanks, Keith.

Huston's Modified Plan: Re: Huang's Drainage Complaint

Bill Jeffers: The last piece of business I have to bring before you is Cindy Huston's¹ modified plan for her portion of the drainage easement behind her house and adjacent to the Huang's property. The Huang's had a drainage complaint that water was coming off Ms. Huston's property. This is her property on the right hand side of the exhibit. She has a swimming pool in the northwest corner of her property, and the Huang's primary, pardon me, primary concern was that water was coming off the swimming pool deck and the stone wall, crossing the easement, running up against their fence, down through their yard and causing a drainage concern for them. The original grading plan showed the water to come off Ms. Huston's property, flow directly on to the Huang's property and be directed around both sides of their house and out to Sunflower Drive, or Sunflower Circle. There was a little provision at the very north end of the, up here in the north end of the drainage easement, for some portion of that water to flow to the north. There was a little provision down here for it to flow to the south, but the majority would have flowed across the lot line, because this is the very top of the hill up here. There shouldn't have been that much water, but once the grass was covered with patios and swimming pool decks, etcetera, that caused a little more water. So, what Ms. Huston has done, basically, to be very brief about it, Justin Shofstall is here, he designed the plan and if there are any specific questions he can address those, but what essentially she's going to have to do is run a curbing from the southwest corner of her property right directly along the property line there will be a standing curb six inches tall all the way to the north property line. That will intercept quite a bit of water that washes off her property, and they'll be intermediately spaced inlets that will drop that water down into a pipe, convey it to the north, and she is purchasing an easement from Tim Scheu, the developer of

¹Should be Candie Huston.

Fawn Ridge Subdivision, and that easement will carry that pipe out to Buck Ridge Trail and dump that water into that street. This is quite an expensive plan. I believe Ms. Huston is doing it in order to preserve her swimming pool, because a portion of the wall and the deck is in the easement. My personal opinion is a 15 foot wide easement is substantially wider than necessary to convey the amount of water that would run off a hilltop lot, so I don't have a problem with her submitting an encroachment agreement for you to consider, at a later meeting, to allow the portion of her wall that is within the easement to stay there. Likewise, with the Huang's, if they would like to come back after their fence is removed and this project is complete and ask for their fence to, for you to allow them to re-fence a portion of the easement, I would say they should be entitled to an equal portion of the easement to encroach as Ms. Huston is going to be allowed, if you so do. That would not create a problem, because Justin's plan accounts for all of that. Basically, they'll just have to come back with some encroachment agreements after all this is done. As I said, the curb will be directly on the line, there will be some construction on the Huang's part of the, there will be a foot in the back of the curb on their part of the ground, a foot or so, maybe two feet. There will some backfill up against that curb on their portion of the ground, but the face of the curb, the gutter, the pipes and the inlets will all be on Ms. Huston's portion of the ground and through the easement she's purchasing from Tim Scheu. I believe Tim Scheu and Ms. Huston have concluded their negotiations for the purchase of the easement, and the plan comports with, substantially with the requirements of the drainage code, and I recommend approval of it to avoid a formal hearing to resolve what was filed as an obstruction, but which I think is, was previously an unauthorized encroachment of a drainage easement is the way I view it. This plan would resolve that.

Commissioner Abell: Bill, I thought this was around Evergreen Acres, but I must be incorrect. Where is this?

Bill Jeffers: Oh, this is way out on the west side off Eickhoff Road, Ashley–

Justin Shofstall: Ashley Place.

Bill Jeffers: Ashley Place, right, the next thing you see from here is the University Parkway.

Commissioner Abell: Oh.

Bill Jeffers: Way out there.

Commissioner Winnecke: I would move approval.

Commissioner Abell: Second.

President Melcher: Any further discussion? All in favor say aye.

All Commissioners: Aye.

President Melcher: Opposed? It passes too.

(Motion approved 3-0)

President Melcher: Any other business?

Ted C. Ziemer, Jr.: I just have a question, Bill. So, the Huang's are not here, can we expect them to come to a later meeting and have their comment regarding this? Or, if there are no further problems regarding this—

Bill Jeffers: Well, I had asked for and have not received a signed statement from them agreeing to allow this construction to take place, partially on their property, and I believe the contractor is wanting a statement of release from them, basically for what you might call a temporary working easement. Justin had a two hour conversation with the Huang's last week, and they indicated that they are in agreement with all of this, but I have not yet received it in writing.

Ted C. Ziemer, Jr.: Maybe that's why they're not here. Can we expect them to do that?

Bill Jeffers: I told them that I would be recommending this plan to be approved, but that I didn't want it to, I didn't want the construction to go forward until I had a signed document from them agreeing to the work that would have to be done on their property, even though it's in the drainage easement.

Ted C. Ziemer, Jr.: If they would not agree to that, what's the status of this?

Bill Jeffers: Well, they, I advised them that if they weren't, if they did not sign a document showing agreement that I would assume that they did not agree with the plan and were not satisfied with the actions of the County Surveyor to obtain this plan on their behalf and on behalf of the Drainage Board and that they might want to retain legal counsel and seek a better solution in court, because this is the best I could do.

Ted C. Ziemer, Jr.: So, if they decided not to agree then there would be nothing for Mrs. Huston (Inaudible. Microphone not on.) and the matter is over unless a judge would order otherwise, is that correct?

Bill Jeffers: Well, it's a little complicated. I, and I can see that you can understand the complication, they filed an obstruction petition, which entitles them to a hearing, and we've never set a hearing date, because I advised the Board that I did not find an obstruction of a natural surface watercourse or drain. I found an encroachment of a drainage easement, a major encroachment by Ms. Huston, and some minor encroachments by the Huang's, and that I would try to resolve this as an encroachment that could become authorized by the Drainage Board, rather than through an order of the Drainage Board to remove the obstructions, because, number one, I did not find an obstruction, and, number two, if you were to order the removal of what they consider an obstruction, you would be removing a swimming pool and improvements that was a major investment by this property owner.

Commissioner Abell: There's someone at the door.

Bill Jeffers: Is that Mr. Huang?

Justin Shofstall: No.

Bill Jeffers: It looks like possibly someone who came to the office with Mr. Huang, but I'm not sure. I was not sure you wanted to do that, and I wouldn't be recommending you do that.

Ted C. Ziemer, Jr.: I just was wondering what kind of closure we're bringing this evening if, in fact, the Huang's determine not to sign.

Bill Jeffers: Well, then we've got a problem. Since they initiated this with a petition, I would somehow want to come to the point that, if either, the statute allows either party dissatisfied with the conclusion of the Board to appeal it to the Circuit or Superior Court, because I really feel that this is the best I've been able to do, and I think Justin Shofstall has done an excellent job of addressing what I asked for, and Ms. Huston is making a substantial investment, not only in the plan itself, which is an expensive plan, but the purchase of an easement and the construction of the plan. It's a substantial investment to protect her previous investment of the swimming pool. So, to ask her to remove the swimming pool, if you did determine it was an obstruction, which I don't believe it is, but if the Board determined it was an obstruction, and ordered the removal of it, you would be substantially damaging her, monetarily.

Ted C. Ziemer, Jr.: But, I understand that as a professional who advises this Board, you do not believe there is an obstruction.

Bill Jeffers: No, I do not, other than possibly, very, you know, I don't see it this way, but possibly it could be construed that some of the loose gravel and rock in the drainage easement might represent an obstruction. All that comes out with the plan. There's some landscape rock and some rip rap and stuff that happens to be out there as a part of all this, that all is addressed by this plan, but I won't even consider it an obstruction by definition, because there's no mutual drain or natural surface watercourse extent at the property.

Ted C. Ziemer, Jr.: I guess, I just wanted the Drainage Board members to understand that while they approved this tonight, have you voted yet? You have not?

Commissioner Winnecke: Yeah, we just did.

Ted C. Ziemer, Jr.: You just did, they've approved it—

Bill Jeffers: The plan.

Ted C. Ziemer, Jr.: — this could not be the end of things.

Bill Jeffers: It may not. They've approved a plan which I find to be sufficient and have recommended as sufficient to cure a problem that I assessed a certain way.

Ted C. Ziemer, Jr.: Thank you.

Commissioner Abell: Did you see the e-mail he sent to you today?

Bill Jeffers: How long ago?

Commissioner Abell: 1:13 p.m.

Bill Jeffers: I don't believe so.

Commissioner Abell: Do you want to see it? I hadn't seen it either. Madelyn saw it.

Bill Jeffers: I was at Nation's Pharmacy at 1:13. Yes, I'm sorry, I did see this. It doesn't, it indicates that he's happy with the solution, but I don't have, "I will allow", you know. I hereby, you know, my wife and I or whoever, the undersigned persons hereby, you know, grant a temporary construction easement.

President Melcher: Maybe they don't think they have to do that.

Bill Jeffers: There could be some minor, this man is very intelligent, but I have had some language difficulties, which could be my use of language, or his understanding of my use of language.

Ted C. Ziemer, Jr.: I can't imagine that it's the former.

Bill Jeffers: I can.

President Melcher: Justin, did you want to say something?

Justin Shofstall: If I may.

President Melcher: I noticed you was trying to get up there.

Justin Shofstall: Justin Shofstall with Easley Engineering. Friday I did have a very, very lengthy conversation with the Huang's, and had informed them...one of their main concerns was as far as what their cost was going to be. As I explained to them, as far as we had to file a counter obstruction because their fence is an obstruction, it is encroaching in the easement, it has to be removed in order for this work to be performed. It's shown in the construction plan, as far as with what's being proposed. I reiterated to him again, as far as what was initially requested from our office as far as his acknowledgment, if he's acceptable to this plan, would be formal right-of-entry. That was requested to protect the contractor, because we have a set limit on the size of an easement. Say this is the easement, the contractor steps like this, well, technically he's trespassing. We've been involved with other jobs to where this type of dispute between neighbors, because, I mean, there's no way to candy coat it, this is certainly a dispute between neighbors that has escalated to this point, to protect that contractor to where they wouldn't have to worry about the Sheriff coming out and going, he says you're trespassing, I can see you're doing work. I requested, I said, if you weren't going to sign anything or couldn't have anything signed prior to the meeting, if he could at least attend the public meeting to where he could on public record state that he had no objections to the plan and that, you know, verbally granting right-of-entry to the contractor to do that work. Because his other concern was, where's the pointer on this, Bill?

Brenda Jeffers: Down at the bottom.

Justin Shofstall: The bottom? Oh, okay. Is it turned on?

Bill Jeffers: There you go.

Justin Shofstall: That right there is his yard barn, which is also encroaching, technically the contractor said that he would be able to get in and not have to move that yard barn. That's in a perfect world, and we all know contractors are never mistaken and they're always right, but as far as, that was one of the things that we were going to try to inform to him too that there would be the potential for that yard barn, which is a temporary structure, would have to be relocated in case we could

not get the equipment or men all the way through. That would be the other reason for the right-of-entry. At that point with that discussion with Mr. Huang, he had stated as far as if your contractor is confident that we could get in there without having to move his yard barn that he would still grant the right-of-entry and that he just simply wanted this resolved. So, with that being the case, unless he does come up with something after the fact, I hope he doesn't, I believe that everybody else is prepared to move forward in finalizing the plan.

Bill Jeffers: The reason I'm pushing this today, I don't know if you followed my e-mails between Mr. Huang and myself for the past couple of weeks, but I'm pushing this because we've had such wonderful weather for construction and I just don't, in other words I'll tell you just like I told Mr. Huang, if we don't get this done in this kind of weather that we're experiencing right now, which is the most beautiful construction weather I've seen in many years, if we don't get it done now it could be next summer before you even think about it again. He'll have to go through another rainy season. This will fix his problem, and it can fix it right now, but if we don't do it right now it might be this time next year before the problem is fixed and he may experience several more rain storms between now and then. So, I'm pushing for approval of the plan today. You have done that, and I appreciate that. The contractor will not be moving onto the site until we obtain this temporary right-of-way agreement and signed confirmation that he's okay with the plan. He's voiced that, but I want to see it in writing.

President Melcher: Any other questions?

Other Business

President Melcher: Is there any other business to come before us this evening?

Public Comment

President Melcher: Public comment? Seeing none, I will take a motion to adjourn.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: We're adjourned.

(The meeting was adjourned at 4:30 p.m.)

Those in Attendance:

Stephen Melcher
Bill Jeffers
Brenda Jeffers
Justin Shofstall

Lloyd Winnecke
Ted C. Ziemer, Jr.
Glen Merritt
Others Unidentified

Marsha Abell
Madelyn Grayson
Keith Poff
Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDERBURGH COUNTY
DRAINAGE BOARD
OCTOBER 25, 2011**

The Vanderburgh County Drainage Board met in session this 25th day of October, 2011 at 5:30 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll go ahead and start the Vanderburgh County Drainage Board. It's Tuesday the 25th, 2011. It looks like it's around 5:30.

Approval of the October 11, 2011 Drainage Board Meeting Minutes

Bill Jeffers: Alrighty. Your minutes, I'm sorry, I left that off the minutes.

President Melcher: That's alright. We can make a motion on it. Is there a motion to approve?

Commissioner Winnecke: I would make a motion to approve the minutes as presented.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: It passes.

(Motion approved 3-0)

Creekside Meadows III: Modified Final Drainage Plan

Bill Jeffers: Okay.

President Melcher: Drainage Plans?

Bill Jeffers: The second order of business, Creekside Meadows, Section III, this is a modified, final drainage plan, and all it really is, you've already approved the final drainage plan for Creekside, Section III, but the developer is reducing the lot size to make the lots more marketable in today's market, and that requires it go back to Area Plan Commission for a plat approval. Area Plan Commission requires drainage plan approval prior to considering the plat. The only things that have changed in the drainage plan is in order to make the lots smaller they had to shift some curb inlets to match the lot lines, and they shifted some area drains along the back of the lots to match the curb inlets so the overflowing water from the street would go between the houses in an emergency situation along the new lot lines. Other than that it's a lot size modification, and Glen Merritt from Cash Waggner and Associates is in the audience if there's any further questions. He can answer them. The County Surveyor has reviewed the plans and recommends approval.

Commissioner Winnecke: Motion to approve.

Commissioner Abell: So moved.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Thank you.

(Motion approved 3-0)

Windemere Farms V: 2510 & 2522 Gavins Lane: Modified Plan

Bill Jeffers: Okay, the next drainage plan is for Jeff Kinney, owner of 2510 and twenty.... 2510, no, he's the owner of 2522 Gavins Lane. The owner of 2510 is joining with him for this approval of this drainage plan. They both own the lots behind them. I could give you a copy of the plan, but they own some empty lots behind them that has a huge oak tree in it they are trying to preserve. In order to preserve the oak tree they are building a wall along the drainage easement line, they're not encroaching the easement with the wall, to hold the soil back up for the roots of this huge oak tree that they want to remain as green space rather than take the tree out and build two houses. They've submitted a plan, because Mike Wathen and I discovered, in one of our inspection tours, that the pipe was being put in without authorization. So, we asked them to present a plan. They did so, and it came from Cash Waggner again, with Glen Merritt here to explain it. Basically, they sized the pipes in accordance with the upstream and downstream pipes that already exist and were approved by the Drainage Board, and they've added some inlets to the plan as required by the code. If anything were to encroach this easement other than what's shown on this plan, they will have to come back to you with an easement encroachment agreement, but at this time I'm only recommending that this plan, as shown with the addition of 18 and 24 inch pipes and the inlets designed by Cash Waggner be approved. I recommend it be approved.

Commissioner Winnecke: Motion to approve as presented.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: Opposed?

(Motion approved 3-0)

President Melcher: Thank you.

Approval of Ditch Maintenance Claims

Bill Jeffers: I have claims from your ditch contractors. There are quite a few claims in here because we're at the end of our maintenance season for 2011. All of this work has been inspected by our inspectors, the appropriate paperwork is attached, and the County Surveyor recommends approval of these claims.

Commissioner Winnecke: Motion to approve.

Commissioner Abell: Second.

President Melcher: Any questions? All in favor say aye.

All Commissioners: Aye.

President Melcher: Opposed? That's it. Thank you.

(Motion approved 3-0)

Update on Structurepoint Work on Crawford Brandeis Ditch

Bill Jeffers: Before we move to the next order of business, let me see if I have anything else that might be brief. Oh, Structurepoint was doing a job for the County Surveyor, the Drainage Board, and the County Engineer, determining the low cord elevation for the bridge you are building on Old Boonville Highway. They completed that, but in the course of completing our work for the County Surveyor and the County Drainage Board, they discovered that the backwater from Pigeon Creek into Crawford Brandeis Ditch that backs up all the way to Morgan Avenue is such that the 100 year flood elevation cannot be reduced, even though we've improved our ditch substantially. We made many improvements under the Structurepoint plan, but the improvements we made increase the ability we have to convey water to Pigeon Creek more effectively, but it does not reduce the backwater that backs into the ditch, so we can't lower the floodplain anymore than we already have. Having discovered that, they decided they wouldn't go forward with the rest of the \$47,000 contract, they want to terminate the contract because they think spending anymore money would be wasteful, and I agree with them. So, they are terminating it with the last invoice of \$17,850, which you will see in another 30 or 60 days come before you. We have a retention fee involved. That leaves you \$29,150 that was allocated, unused. So, you have \$29,150 savings out of that contract. Just wanted to bring that to your attention. You'll see the claim in the next, within the next 60 days. I'm just checking to see if there was anything else that...I think I've covered most everything else in e-mails to you.

Update on Huang-Huston Obstruction Petition & Proposed Plan

Bill Jeffers: The only other thing I have then would be the request, the petition from the Huang's on Sunflower Court. We have a plan that you approved that came from Candie Huston, was designed by Justin Shofstall, and I've been sending e-mails back and forth between the various parties to this plan. The contractor has asked, the contractor has given Ms. Huston a bid, she's accepted that bid. She wants to move forward with installing the plan. The County Surveyor's office wants to move forward with installing the plan, but I had told you at the last meeting I wanted a signed consent from the Huang's indicating their agreement with the plan before we move forward, because the contractor wants to enter across the Huang's property and can't do so totally within the drainage easement because of some trees and the location of some other objects which need to be preserved at their location. So, we needed a temporary easement or agreement of some sort from the Huang's. I've been unable to obtain a document satisfactory to that intent or that purpose. I'm unable to write one myself, and so I have decided that what would probably be the better course of action is to say that we have a plan, the plan is sufficient to address

the drainage problem, we have approved the plan, the contractor has given a bid on the plan, Ms. Huston is paying for the design of the plan and the implementation by the contract, and all that remains is an agreement across, a property line agreement between Candie Huston and Mr. and Mrs. Huang agreeing that all parties are okay with the plan and agree to allow the contractor to cross back and forth and do the work that's required to fully implement the plan. I've decided that it would be best if the two parties to this plan, Ms. Huston and the Huang's, come up with their own written agreement using their own legal counsel, or counsels, to produce that agreement and bring it to us signed so that we can record it and move forward with the plan. Until we receive such a document, everything is put on hold. I'm not asking for a motion, I'm not asking for your action on that, just that that's my recommendation, and I would appreciate your support, if need be, unless Mr. Ziemer has a suggestion that would more appropriately address the situation.

Ted C. Ziemer, Jr.: I mean, it's a private matter between the Huang's and who's the other party?

Bill Jeffers: Candie Huston, H-u-s-t-o-n.

Ted C. Ziemer, Jr.: The contractor is ready to do this, but he doesn't want to go on the Huang's property without a temporary easement for that purpose. He doesn't want to go on the Huston's property without a temporary easement for that purpose. The way they do that is to ask their lawyers to prepare a document that satisfactory to the two of them. It was suggested that maybe the attorney, the County Attorney's office do that, but we're not attorneys for private individuals, and this is really a private matter. It's not that we don't want to do it, but we would be preparing agreements for half the people in town if we do that, if we did this for everybody.

Bill Jeffers: Right, I would prefer that you represent your clients, which I hope includes me.

President Melcher: It does.

Ted C. Ziemer, Jr.: Glad to do that.

Bill Jeffers: Okay, so, that's where we stand, and that was the last order of business I had to bring before you, unless someone else had a comment on that or any additional information regarding that.

President Melcher: Go ahead and come up. You want to come up to the microphone and state your name for the record.

Guoyuan Huang: This is Guoyuan Huang and I live in Sunflower Circle, 741 Sunflower Circle in Evansville. So, first, I want to express my sincere thanks for what Surveyor Jeffers and all of you, (Inaudible), and your time, your effort and your help in this issue, okay, this is first one. The second one, you already know that and everything in between Surveyor Jeffers and me and we have a lot of e-mail exchange. Just like today, you also received that, right? Yesterday you know that, yesterday, I gave an e-mail to Mr. Jeffers, as well as you, and expressed my opinion about these things, but I surprised, okay. This morning at 9:57 I receive an e-mail from Mr. Jeffers says that the photographs you provide of your fence removal progress indicate that there may be a need for a temporary construction easement agreement from both of you and Ms. Huston, as there appears to be cross property work onto each other's land by both of you. He said, I will contact you with a copy

of the official documents when our attorney provides me with them. But, just about one hour later I received another e-mail, and he said something, seems like I have a responsibility for delay the job, the project implementation. So, I want to give an explanation about this one. Later on, around 1:17 p.m. I gave an e-mail to Mr. Jeffers, as well as you, and said, gave some explanations. Here, I just want to briefly say a couple of things about that. First, as I expressed to you in my previous e-mails, I said that I have been waiting for Mr. Jeffers to forward a temporary construction easement agreement document to me to sign. So, before I receive this documentation I can't do any assignment or agreement, right? So, this is one I want to explain. So, but up to this point I haven't received that documentation, okay, this is one. The second one I want to present to you, actually I already removed almost all of the fence. As you see the pictures and I gave you yesterday's e-mail, I already remove that one. Only the posts, why, because the posts is what is involved in, because the fence is close to property line, you know, dig out the posts need (Inaudible) and space. Okay, so, probably, I guess, probably what will involve in (Inaudible) to Huston's property. So, this is what I can't do that without her permission and without what it is about ten or one or ten inches or one feet worth and this earth or rock curves or railroads or something like that, without remove that things, I can't remove (Inaudible) and posts. So, that's why I want to give something to Mr. Jeffers for his consideration. It doesn't mean I will not sign this agreement. So, this is the second one I want to express. Third one, I think, because to implement this project it involves the use of our easement or property, something like that, or, involve like remove yard barn or remove something like that, okay. So, I think this documentation should be created by someone else, but not me, okay, but not me. So, I don't know what to think I should do. Okay, so, I think I also want a moment, just a few minutes ago I heard, okay, and this type agreement is actually available in county, and is available. So, I just want to ask what, and the county or the Surveyor's office, or like Ms. Huston give us this type of documentation and let me (Inaudible) and sign up. So, this is what I think I want to express to you. Thank you very much.

Ted C. Ziemer, Jr.: Mr. Huang? Please. What is needed here is, and I'm going to forget all of the e-mails that have gone back and forth—

Guoyuan Huang: Okay.

Ted C. Ziemer, Jr.: — I'm just going to tell you the way it is right now.

Guoyuan Huang: Yeah, yeah.

Ted C. Ziemer, Jr.: The contractor is going to have to go somewhat onto your private property to do some of this work, and the contractor is going to have to go somewhat onto Ms. Huston's private property to do this work. The contractor does not want to go on anybody's private property without their consent. They want that in writing because, without that, if there's some damage to your property, you may claim that the contractor did this without your consent. Okay, that kind of document is called an easement. It's a temporary construction easement. Yes, the county does use temporary construction easements when the county is constructing something. Here the county is not constructing anything. Therefore, our suggestion is that you contact your attorney, and, if necessary, Ms. Huston's attorney and between the two of you come up with a temporary construction easement satisfactory to your mutual attorneys, get it signed and bring it back to this meeting, and then the work will go forward. That's all that's needed. We don't, for example, know how far on your property the contractor is going to have to go, we don't know the description of your

real estate to use in preparing the easement, and none of that is the responsibility of the county. So, I think maybe it was misunderstood through some of the various e-mails, but this particular problem, I think I've explained to you as clearly as I know how, and when you come up with that document, prepared and signed, then the work can go forward.

Guoyuan Huang: I just think about that, I don't know anything about that what I should sign. So, I just think—

Ted C. Ziemer, Jr.: Your lawyer will—

Guoyuan Huang: Lawyer don't know the issues in about this one, and I just consider what, because say that agreement is already available in county. Just let me see that, okay. Just let me see that one agreement, I will be ready for sign for that, okay. Actually is what I already verbally, actually, accept for that one is what use our in order to implement this project and will be involved in use our easement, or something like that, actually is what you can, I also talked to Mr. Shofstall about that, and he said actually what is between us we already talk about that, I said verbally, I said I can accept that, because what in order to implement this plan. So, this is what I don't know what kind of things I should agree. So, this type document should be come from either the contractor, or someone else and say, okay, this document you need to agree with that one, then I can agree. Otherwise, I don't know what kind things I should agree.

Ted C. Ziemer, Jr.: Or, you can ask your contractor, probably, to come up with this document, and he will have his attorney do it, and then he will charge you for that. That's acceptable as well. It's just that the county isn't going to do that for you.

Guoyuan Huang: Because what, you know, I already talked to Shofstall and he said he presented one to Ms. Huston. Okay, so he can do this one, and, or another way, okay, in other ways. I don't know that, also what I just think of this is simple things and just provide me the documentation of what I should agree, I just sign the name. It's very easy and simple way. Why should I ask, and in terms of I have no any knowledge about this one, what kind of things, what kind of items I should agree. I have no idea about that.

Ted C. Ziemer, Jr.: Your lawyer will know.

Guoyuan Huang: No, lawyer don't know about this type of issues, okay.

Commissioner Winnecke: Yes, they do. Your attorney would know. They would become educated about it.

Guoyuan Huang: So, how can I do that is because what you just give me what kind of stuff and I should want and sign and an agreement in order to implement the—

Ted C. Ziemer, Jr.: Let me try to, just try one more thing to explain this to you. Say that you wanted to deed a piece of property to the county. We would expect you to go to your lawyer and have your lawyer prepare a deed to deed that property to the county, we wouldn't prepare it for you. The same thing is true of this easement. It's a legal document which will grant permission for the contractor to go on your mutual properties. It's not a document that we have floating around in the air somewhere that we can give you a copy of. We don't have. So, I don't know what else to say.

Guoyuan Huang: Yeah, I understand that, but based on the first time, the first plan, the older plan, and Mr. Jeffers gave to me just said, okay, before implement the plan, the older plan and you must remove the fence. At that time (Inaudible) ask me to sign any documentation or something like that. So, I think this is what is very simple things, and you just want to let me know, okay, the documentation or agreement documents and just let me know what kind of things I need to sign, I will sign. Okay, this is not involved in anything, because what, this is just for what for implement the plan.

Commissioner Winnecke: But, sir, what you're asking us to do is do the work on behalf of you and your neighbor, when, in fact, it's not county business.

Guoyuan Huang: Okay, but—

Commissioner Winnecke: The document, excuse me, the documentation—

Guoyuan Huang: Yeah.

Commissioner Winnecke: — that's required should be generated by you and agreed upon by your neighbor.

Guoyuan Huang: According to Mr. Shofstall, and he said he already prepared documentation from Ms. Huston's. He already say that. He say that is already prepared for that.

Commissioner Winnecke: Then, is that, do you agree to the terms in that document?

Guoyuan Huang: No, I don't know anything, terms or whatever. I don't know that. I think is I just want and am responsible for my parts.

Commissioner Winnecke: Well, it seems like, if he has prepared a document on her behalf, and if you agree to the terms in that document, and then you sign that, then everything is, we have everything we need to proceed.

Guoyuan Huang: But, he told me actually, if I'm not to misunderstand, he told me he already prepared for her, but not for me. To me, is what because...and I was asked what and request by Mr. Jeffers and says, just before today's e-mail, okay, before that, what I received says that he will send me, forward documentation, document to me, let me sign. That's before today. Okay, what I know, so that's why I said I have been waiting for the agreement or the document and for sign. So, that's what I, this is what and I receive before today, okay, the documentation as what and an e-mail what received at 11:20, okay, this morning, and I what get the information is and he will forward to me.

Commissioner Winnecke: This is Mr. Shofstall?

Guoyuan Huang: The documentation. No, Mr. Jeffers.

Commissioner Winnecke: Okay.

Guoyuan Huang: As what, and the e-mail said that. This is e-mail is 9:57 this morning.

Commissioner Winnecke: Well, maybe the best thing to do here is to ask Mr. Jeffers to contact Mr. Shofstall to get a copy of the document that he apparently has prepared on behalf of Ms. Huston, and then—

Ted C. Ziemer, Jr.: Sounds like the unauthorized practice of law to me.

Commissioner Abell: I was wondering how Mr. Shofstall could do anything, he's not an attorney.

Commissioner Winnecke: Well, I mean, someone prepared it for him, I guess. I don't know.

Ted C. Ziemer, Jr.: I'm kidding.

Guoyuan Huang: Because what—

Bill Jeffers: I'm thinking that what possibly Justin Shofstall is referring to is that he prepared some documents for, that will eventually be presented to the Drainage Board on behalf of Ms. Huston requesting permission to allow the encroachments of her retaining wall and swimming pool deck within the drainage easement. I'm not sure he prepared any temporary right-of-way documents, or legal descriptions.

Ted C. Ziemer, Jr.: Okay, as you well know, Mr. Jeffers, the county does have a standard form of drainage encroachment agreement—

Bill Jeffers: Right.

Ted C. Ziemer, Jr.: —and if that is the document anybody is talking about, yes, we can easily provide that, but that isn't the document we're talking about, we're talking about the document that allows the contractor to go onto each others property, which is a different thing.

Bill Jeffers: Right, that would be different.

Ted C. Ziemer, Jr.: Yeah.

Bill Jeffers: I'm just surmising that that's what Justin is talking about when he says he's already prepared the things he needs to sign, he needs to have signed for Candie. In other words, I think that's what he means that he's prepared that.

Ted C. Ziemer, Jr.: I could offer this, if you want to have your lawyer call me, I'll be glad to explain to your lawyer what is needed, and he'll be able to do it just without any problem at all.

Guoyuan Huang: No, this is my thought, okay, I don't know anything about this area, okay, so, but, this is my thought, because this request is come from contractor, right? Let us allow him or the contractor use our property and easement, right. So, I think this documentation document should be created by contractor, okay. What type things and you request me would allow to do that.

Ted C. Ziemer, Jr.: Let me explain—

Guoyuan Huang: So, after I receive that one, I can (Inaudible) and sign.

Ted C. Ziemer, Jr.: Let me explain why that's not the case. The contractor's been retained to do some work, but he is not going to do any work on your property unless he gets a legal consent to do that. That is called an easement. That is what he wants from you. The contractor can say I'm sorry I can't do the work because the people won't give me permission to get on their property.

Guoyuan Huang: Yes, I totally understand what you are saying.

Ted C. Ziemer, Jr.: Okay, alright.

Guoyuan Huang: If I understand correctly, but my meanings, my thought is this, is this, I don't know anything about that, what kind of things I should agree. Okay, so, should be what let them specify such as okay, we will use what you are an easement, or something like that, actually is what Mr. Shofstall already talk about that, such things are actually what, just what let (tape flip) do the work legally and protect them. Okay, and also protect county. So, I understand that. I'm ready, okay, and I'm ready, I have been waiting for this type of document, and after I receive that I will sign, but I really don't know the contents of the documentation for that I should sign. So, it's, I think it's hard for me to do that, because this is a request that come from Huston side, but not me, because they request me well in order to implement this plan and need to use my property in easement. So, I shouldn't know that only what I sign the documentation only I receive such document. That's my thought.

Ted C. Ziemer, Jr.: The only way you're going to know you're satisfied with the document is if your lawyer prepares it.

Guoyuan Huang: No, it's not related to what my—

Ted C. Ziemer, Jr.: That's what you should have done.

Guoyuan Huang: — lawyer, it's not related to my lawyer.

Commissioner Winnecke: Absolutely it is.

Guoyuan Huang: Because, what this is use my property, okay—

Commissioner Winnecke: Well—

Guoyuan Huang: — so, they need to, even though I use my lawyer, so, still is what is the other side, the contractor's side, okay. I'm not what specifically say as a contractor. Huston side should prepare such a document, and then is what let me sign. Or, if it involves my lawyer, I will ask my lawyer do it. I believe this document should let me prepare that. I don't know anything about that.

Commissioner Winnecke: That's why you should talk to your lawyer about it. Your lawyer will tell you what you need to know about it.

Guoyuan Huang: Because this is, I think what I feel is like is not logical, because what this is just a request because in order to implement this plan and the need to use our side of the property and easement, or something like that—

Ted C. Ziemer, Jr.: Maybe we say this then, the plan is to get this finished, apparently you want it finished, I think Mrs. Huston wants it finished, it's not going

to be finished until this document is done. This Commission, this Drainage Board can do nothing about that. So, I think we just wait, Bill, until—

Guoyuan Huang: (Inaudible) like this way, as what Mr. Jeffers suggest, maybe can create some kind of document and let me see whether or not this is good, and then is what, and something like that. Or, like ask what Mr. Shofstall and present what some kind of ideas about this one related area and see whether or not can solve the problems. I still request is what and supply me the document and then I will what, actually my attitude for the plan and implement of the plan is a positive. I already say that before today, what I received is what is Mr. Jeffers say to me is he will forward a document to me to let me sign.

Commissioner Winnecke: What Mr. Jeffers has clarified tonight is that this body, local government will not provide the documentation. It's going to be provided, agreed upon between you and Mrs. Huston, or Ms. Huston. So, and, I think, based on Mr. Jeffers recommendation and Mr. Ziemer's recommendation that's the logical way to proceed. This, local government is not going to provide the documentation for you.

Guoyuan Huang: So, this is, I just ask what, because I, as well as my lawyer don't know anything about this area, okay. Then, so whether or not can let what and ask what Mr. Shofstall and prepare for this type of documentation or for the Huston's. Then is what let me see it, just like you said, okay, you said, and just like that one and let me see if I agree, I will sign that. This is easy way and fast way, I think.

Commissioner Winnecke: Right.

Guoyuan Huang: How about that?

Commissioner Abell: (Inaudible. Microphone not on.)

Commissioner Winnecke: That's what he's saying. I agree with that.

Commissioner Abell: Bill, who's benefitting from this....I've lost all track of this project over the period of time.

Bill Jeffers: Okay, if the plan that was approved—

Commissioner Abell: What started this, maybe that's probably—

Bill Jeffers: What started this was that the Huang's own a house on Sunflower Circle that is downhill from the houses on Trillium Way. All the water flows downhill from the houses on Trillium Way, across the properties on Sunflower Court. The drainage ordinance has provisions that show a developer exactly how to grade the property in the backyards around the sides of the homes on the downhill side of a hill, how to notch the building site into the hillside and horseshoe grade a pattern of flow around the homes. Some developers are better at doing that than other developers are. In this case the water was designed to leave Mrs., or Ms. Huston's property and flow onto, directly onto Mr. Huang's property, and as it crossed his backyard in a downhill direction it was supposed to be captured by this horseshoe shaped grading pattern and carried around each side of his home out to Sunflower Court. I don't know to what extent that was completed adequately, but it should have established a protective grade for Mr. Huston's home, or, excuse me, Mr. Huang's home sufficiently to keep water from banging up against the foundation. The previous

owner of Mr. Huang's home erected a fence right on the property line, inside the seven and one half foot drainage easement on his side of the line. Ms. Huston built, had a swimming pool built, partially within the seven and a half foot easement on her side of the line. Together those two seven and a half foot easements, one on each property, combined to form a 15 foot wide drainage easement, which is plenty wide enough for a small area to create some sort of a drainage facility to carry water in any direction, north and south or whatever. So, when the problem occurred and was brought to our attention that the Huang's had a drainage problem, it appeared that the easiest way to address the problem and allow both parties to allow to have their improvements remain in the easement partially, rather than moving a \$30,000-\$50,000 swimming pool on one hand, and rather than, which was never granted permission to be put in the easement, and rather than to remove the fence completely from the other side and remove the yard barn over there, the best thing to do was to put an intercepting pipe system right along the property line and carry the water to the north, which then necessitated that we obtain an easement from Tim Scheu to get the water into his street, because there was never intended to be a pipe to carry it to his street. So, there wasn't an easement on his property. So, we went through all of this at great expense of time and money, all of this cost a lot of money for Ms. Huston, but she was willing to do it because she was going to come back to you, after it was done, and ask you for permission to encroach the drainage easement permanently with her swimming pool, retaining wall. I assume the Huang's would come back to ask you to re-erect their fence, be allowed to re-erect their fence and put their yard barn back, partially within the drainage easement. My idea was since the drainage system would only take up about a total of four feet each side of the property line, that the Huang's would be able to put their fence back up an equal distance from the property line and within the easement as we're allowing, we would possibly allow Ms. Huston to leave her swimming pool wall. So, each person would be treated fairly. So, we secured a good plan, we approved that plan, the contractor came in and said, okay, I can do this, and then Mr. Huang asked that the trees that happen to exist in a clump down here at one place in the easement not be removed. The contractor said in order not to knock out those trees and not to have to disturb the utilities that are, you know, the telephone and power utilities that are in the easement, that would be fine, as long as I can pull the yard barn back out of the way a little bit to get my Bobcat dozer in there, and that would necessitate that the contractor get onto Mr. Huang's property outside the 15 foot easement and onto his private property. Mr. Huang then said before I sign onto anything, before I say I'm okay with this plan I want pre-approval that I can put my yard barn back where it's going to be, and I can have pre-approval, I can put my fence right back up on the property line. I said, well, you can't get pre-approval, but you can get, you can enter into an encroachment agreement, the same as Ms. Huston is going to enter into one for her swimming pool wall. I've never seen that, the paperwork. I also said before the contractor gets onto your property he wants a temporary easement to indemnify himself, or that indemnifies him against any damage, although he will put it back the way he found it, and he'll put your yard barn back to where he scooted it away from. I could not produce an adequate document that was legal, because that document has to be prepared by an attorney, and that attorney has to indicate at the bottom of the document that he prepared it. So, that brings us almost to this point except to say 15 feet of easement would be adequate without having gone through any of this if there weren't a retaining wall within four feet of the line over here on this side, you know, three and a half feet inside the easement, and a yard barn and a fence inside the easement. We could have, and if we could have just knocked the trees down, we could have just gone ahead and done it, but I'm trying to satisfy everyone, and I've come to the conclusion that that's impossible, and so I'm saying I recommend that the parties who are, who continue

not to be in 100 percent agreement bring the documentation to us signed to show that they are in 100 percent agreement, and at that time we'll authorize the contract to go forward.

Commissioner Winnecke: I agree.

President Melcher: I do too.

Guoyuan Huang: Could you let me explain something? This afternoon the e-mail, I already say that, and I have been waiting for that document. I didn't want to disagree something, I just want and give some thoughts and for Mr. Jeffers consideration, for he to consider, but that doesn't mean what I insist for that. Okay, for example, if say that they replace the yard, replace the fence back to easement and I could withdraw for that, okay. I can put back and to beyond the easement. I could do that way. I just for what, for Mr. Jeffers consideration, okay, consideration. So, before today, what I have received since October 10th, what I received is what and Mr. Jeffers will send me the documentation, a document and let me sign. So, I'm what and have been waiting for that.

Bill Jeffers: If I gave Mr. Huang, I'm sorry to interrupt you, but if I gave you an impression that I was going to be able to do something that, in fact, I wasn't able to do, I apologize, but I am not able to do what you are asking for, and I stated that to you today, by e-mail, and again in our office when you came down after you received the e-mail, you came down to our office. I sincerely apologize if, in any situation, I represented that I could deliver something to you that, in fact, I cannot deliver to you because I'm not an attorney.

Guoyuan Huang: Yeah, I understand that—

Bill Jeffers: I can't represent the county in any legal way. I just attempted to do something that I was not able to do.

Guoyuan Huang: I understand that, but if possible whether or not as Mr. Lloyd suggested and let Ms. Huston's side, because what Shofstall, Mr. Shofstall (Inaudible) as her what (Inaudible) area, or something like that, prepared such document. That means what and will use my, in order to implement this project, will use my easement, or something like that, I will (Inaudible) and ready for sign for this type of things. This is one, the second one, as you see, I'm very positive, and already remove the fence, already remove that. So, that indicates I'm supportive for this type of plan. So, this is my request, I think (Inaudible) let her side and prepare for Mr. Jeffers thinks is difficult for him to create such a document (Inaudible), then what and create such a document and let me see and I will (Inaudible) sign for agreement.

Bill Jeffers: Well, I'll just have to say at this point though, the reason I came to the, the reason I remain convinced, as I am convinced, is because we have never found any fault in what Ms. Huston did, other than encroach the easement with her swimming pool, retaining wall, not knowing that she was doing so, because the drawing that she submitted, when she submitted it to Area Plan Commission, somehow or another she got the impression that the easement was a total of six feet wide when, in fact, it was 15. I think whoever gave her that impression, or however she arrived at that impression was due to the fact that there is a six foot easement along her north line, but along her west line it's much wider. So, in order for her to preserve her investment in the swimming pool and her property and the

improvements of her property, which were at great expense in the first place, now in the second place she has expended several thousand dollars to plan and complete a plan. I cannot, with any good conscience, when I've been asking you to simply agree in writing to this project, to go back to Ms. Huston and ask her to spend several hundred dollars more on top of the several thousand dollars she's indentured by to come up with a simple document that I believe you should come up with. That's my feeling from my point of view. I just can't recommend to this Board to go back and ask Ms. Huston to spend even more money now to carry this any farther ahead when the benefit that I see, you being much more greatly benefitted by this project than Ms. Huston.

Guoyuan Huang: So, I didn't completely understand what you're meaning and what you want me do.

Bill Jeffers: Deliver us a document showing that you agree to allow the construction of this plan on your property and on Ms. Huston's property and to allow us to, that you agree with the plan and you allow the contractor to enter onto your property, as necessary, to carry out the plan, and that you sign that document and enter into that agreement.

Guoyuan Huang: Yeah, I agree with that.

Bill Jeffers: That's what I'm asking for.

Guoyuan Huang: Actually I—

Bill Jeffers: A legal document that indicates that, by your signature and your wife's signature, the owners of the property, that you allow this plan, you agree to this plan and you allow it go to forward by allowing the contractor to enter onto your property to complete the plan.

Guoyuan Huang: Yeah, that's what—

Bill Jeffers: And you don't hold him liable for anything that he has done, unless he exceeds the legal limits of malicious trespass, if that's the right word.

Guoyuan Huang: That's, I think that is what, I already express that I have been waiting for the document for me to sign, this is one. Second, I think this document should be created by her, so let me know (Inaudible) know which one, which items I should agree.

President Melcher: Here's what I think. It's not going to go anywhere unless you do it. If I was you, as a homeowner, I would want to make sure that my attorney knew what I was signing was correct. I would want him to do it. I mean, just me personally. If somebody's going to go in my ditch, I want to make sure that I'm protected. I'm not going to let somebody else do my work and I just sign it not knowing, I would want my attorney to tell me it's okay. Like I didn't buy my house until the attorney told me it was alright. You know, I just think you really need to have an attorney representing you in this, and it's not going to be that much, I don't think, to get that done, and the way Mr. Jeffers says you're going to benefit the most out of this. What's happening now, we're getting into winter and it's going to probably take longer, or they might even have to wait until spring. I really think, to protect your interests and your own property, you need to have this done.

Guoyuan Huang: Yeah, I understand that, but I just want to know what kind of documentation, okay what kind of conditions should let me agree with.

President Melcher: What's going to happen, all the attorneys in Evansville, a lot of them, they know what you already need.

Guoyuan Huang: Okay.

President Melcher: They've got what they call boiler plate paperwork, all they've got to do is kind of fill in the blanks, some of it. Don't get mad, and some of that is already done, and they might have to go somewhere and get some longitude, latitude stuff, but it's all going to be there. I think you would want to do it to protect your interests.

Guoyuan Huang: Okay.

President Melcher: So, I think if you would go get that, you would feel more comfortable signing something that you know you participated in. If you don't do that, then we're done. We can't do anything here. We're just trying to help you, you're going to come out ahead, you need to make sure your interest is protected and your family's interest is protected.

Guoyuan Huang: Okay, is it possible that I would ask Mr. Shofstall and prepare such documentation, because he knows more about that.

President Melcher: Well, if he'll do....I guess, if he'll do it, then he'll do it.

Guoyuan Huang: Okay.

President Melcher: But, it has to come from you. It can't come from any of us, we don't own your property.

Guoyuan Huang: Okay.

President Melcher: The one that owns the property has to do it. Nobody's coming on my property, you know, unless I agree to it.

Guoyuan Huang: Okay.

President Melcher: Okay?

Guoyuan Huang: Okay, thank you.

President Melcher: Appreciate you coming this evening.

Guoyuan Huang: Yeah, thank you.

President Melcher: Thank you. Bill, do you have anything else coming this evening? Alright, anybody else? I'll take a motion to adjourn.

Commissioner Winnecke: So moved.

Commissioner Abell: So moved.

President Melcher: Second, third?

Commissioner Winnecke: Second.

President Melcher: All in favor aye.

All Commissioners: Aye.

President Melcher: Thank you. Thanks for coming.

(The meeting was adjourned at 6:20 p.m.)

Those in Attendance:

Stephen Melcher

Bill Jeffers

Guoyuan Huang

Lloyd Winnecke

Ted C. Ziemer, Jr.

Others Unidentified

Marsha Abell

Madelyn Grayson

Members of Media

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
NOVEMBER 1, 2011**

The Vanderburgh County Drainage Board met in session this 1st day of November, 2011 at 6:41 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we will go ahead and start the Drainage Board meeting immediately. Bill, do you have an agenda?

Approval of the October 25, 2011 Drainage Board Meeting Minutes

Bill Jeffers: I didn't bring an agenda, because all you have to do is approve the minutes of the last meeting.

Commissioner Winnecke: Motion to approve.

Commissioner Abell: So moved, I mean, second.

President Melcher: So, we have a first and second. All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Other Business

Bill Jeffers: The only reason I left the Drainage Board on the docket, without an agenda, is in anticipation of anyone coming forward with right-of-way agreements or documents regarding the issue we spoke to last week. Mr. Huang has retained the services of Ed Johnson, Jr. and Mr. Johnson called me and we discussed what was, what the issues were. I thought I would leave the opportunity open for them to bring it forward in the interest of construction season, but not seeing anyone in the audience to bring that right-of-way document forward, I would say I have no further business and we'll take it up at our next meeting.

Public Comment

President Melcher: So, does anybody else have any business for the Drainage Board ? Seeing none, I would entertain a motion to adjourn.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye

.

(Motion approved 3-0)

President Melcher: So be it, we're adjourned.

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

Those in Attendance:

Stephen Melcher

Bill Jeffers

Others Unidentified

Lloyd Winnecke

Ted C. Ziemer, Jr.

Members of Media

Marsha Abell

Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
NOVEMBER 15, 2011**

The Vanderburgh County Drainage Board met in session this 15th day of November, 2011 at 5:29 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: Okay, we'll go ahead and start the Drainage Board. It's Tuesday, November 15, 2011. It's probably about 25 after, or something like that, five.

Approval of the November 1, 2011 Drainage Board Meeting Minutes

President Melcher: We need a motion to approve the minutes of the previous meeting.

Commissioner Abell: So moved.

President Melcher: Second. All in favor say aye.

Commissioner Abell: Aye.

President Melcher: Aye. It passes. Against?

(Motion approved 2-0)

Update on Royal Car Wash Drainage Issue: Eagle Plaza

President Melcher: An update on the Heath Rupp, Royal Car Wash, Eagle Plaza.

Bill Jeffers: This is with regard to Home Depot West, off Pearl Drive, and the improvements they're making to the service road and the entrance to capture more storm water before it flows out into Pearl Drive and then back through the car wash. I've been out to watch the progress, they've installed several new and much larger inlets, and they're doing the paving, they had hoped to do it, and pretty much be finished tomorrow. I got a phone call from Wisconsin to meet a fellow out there, I have a doctor's appointment at 10:00, I will try to meet him, but one way or the other we will take a look at it and give our opinion to you and to the construction company over the next week and before the next meeting. That's all I have to say on that. It looks like it has a lot of promise. I certainly hope it works. Maybe, I'll get some comments from eye witnesses to last night's event, rainfall event.

President Melcher: Oh, that's right, last night was a big one, wasn't it?

Bill Jeffers: Right. If the pavement has been finished, that would be a good test, yes.

Update on Huang-Huston Obstruction Proposal

President Melcher: Then next is the Huang and Huston update.

Bill Jeffers: Yeah, on the Huang and Huston—

President Melcher: Huang, I'm sorry.

Bill Jeffers: – update, I did receive a hard copy of an agreement drafted by Johnson Carroll Norton Kent and Straus attorneys, Edward W. Johnson is the attorney who drafted it. I received it in the mail yesterday afternoon, looked at it today, Justin Shofstall, the engineer who designed the plan for Huang, or for Ms. Huston received his copy today in the mail, and I discussed it with him around 2:00 this afternoon. There's a couple of items in the agreement that may be of some concern to Ms. Huston and her potential contractor, and Justin Shofstall has not been able to get a response from Ms. Huston for the last several messages he's sent to her, and has told me that at this time the contractor has not been retained by Ms. Huston. You know, the contract has not been signed, the bid was turned in, and it's most likely that that will be the contractor, but he wants the contractor and Ms. Huston to have a look at this temporary construction easement agreement. For example, one issue I agree with, it says for a period not to exceed six months from the date of execution of this easement by the owners. Well, the next four months are totally outside the construction season. I don't expect anything to happen between now and the end of March. So, just some little things like that probably need to be addressed before I bring this to you for final approval.

President Melcher: Okay.

Bill Jeffers: But, I did tell your attorney I would speak to you about that tonight.

President Melcher: Okay.

Warrick County Drainage Board Discussion

Bill Jeffers: Warrick County Drainage Board met yesterday at 2:00, and I assume discussed Pigeon Creek and whether they want to, once again, join with us and the City of Evansville for the improvement of Pigeon Creek. I got a call from the attorney for the Warrick County Drainage Board, and we had a nice discussion yesterday afternoon before the meeting, and I told him that I assured him that the Vanderburgh County Drainage Board would be open to any productive discussion about improving Pigeon Creek as a major waterway serving both our counties, as well as the City of Evansville, but that any discussion should be agreed upon ahead of time to be a serious discussion that would include the discussion of a comprehensive engineering study, because we need not only to know where the logjams are located, we need to know....for example, what quantity of water during a 100 year event can flow through the Lynch Road waterway opening. I believe that to be, and I conveyed that to the attorney for the Drainage Board, Warrick County Drainage Board, I believe Lynch Road waterway opening to be the controlling factor in the floodway for Pigeon Creek in our joint jurisdiction with the City of Evansville. They are also going to discuss things like creating a, they would like to discuss creating a canal from Lloyd Expressway and I-164 thence south directly to the river, basically along the course of I-69. Great idea, multi-million dollar idea. It should have been done before we built I-164. It's been discussed for 40 years. So, again, I encouraged the attorney to convey my thoughts, which I hope you share, that any discussion we have is a reasonable, logical, meaningful discussion that's going somewhere other than just to say we had a discussion. The most important thing I see in all of this is that the area between Epworth Road and Bell Road in Warrick County is going to develop and should develop, for example, I hear there's a major hospital land purchase immediately east of the Deaconess facility and they cannot

develop without improving the water conveyance, the storm water conveyance system through Warrick County and into Pigeon Creek. That should happen. That's a regional concern to all of us that that area develop in a safe and productive way for jobs for both of our communities, whether it's Warrick County, whether it's in Vanderburgh County. We're ready to go with our land, like the Martin development, we're ready to go. If people would rather locate their hospital facilities in Warrick County, we need to work together in a meaningful way to see that that happens for the regional community. So, that was, that's the basics of our discussion with Morrie Doll, the attorney for the Warrick County Drainage Board. I will probably call him tomorrow and see how the discussion with the Commissioners in Warrick County went and which way they would like to go. I think they want to seek, they want to initiate, I hope, a long term, 10-20 year program towards improving Pigeon Creek, and seek federal funds to do so.

Commissioner Abell: Bill, you might want to, when you schedule a meeting with Warrick County, you might want to include Greg Wathen's group, somebody from the Economic—

Bill Jeffers: Yes.

Commissioner Abell: – that Coalition.

Bill Jeffers: Right, they've been very helpful in the past assisting us and giving us guidance towards how to, which funds, you know, which grants to pursue and how to do so. They've been very helpful. I just wanted to give you my thoughts and hear your thoughts, if any, so that we could reassure them that we are open to a meaningful, serious discussion about a well engineered plan towards improving Pigeon Creek in both of our counties. You do have that joint Drainage Board where you can meet together, if you would like.

President Melcher: No, I don't have a problem with meeting, I just want us all being up front and whatever grants we go after we go after together.

Bill Jeffers: Right.

President Melcher: Not individually.

Bill Jeffers: Exactly. An interlocal agreement would have to be between Warrick County, Vanderburgh County and the City of Evansville to really get anything done.

Approval of Ditch Maintenance Claims

Bill Jeffers: I have claims here from our ditch contractors. These are mainly from the farmers groups, Union Township and up in Armstrong Township, Scott Township, completing their annual maintenance and the paperwork. The ditches have been inspected, the paperwork is attached and the County Surveyor recommends approval.

President Melcher: So, with that recommendation I'll entertain a motion.

Commissioner Abell: I move for approval.

President Melcher: Second. All in favor say aye.

Commissioner Abell: Aye.

President Melcher: Aye.

(Motion approved 2-0)

Other Business

Bill Jeffers: I have an item that I thought I included on the agenda, but I don't see it on this one I gave you. Mrs. Murray from Pine Lake came into the office this morning and reported that last night's rain storm raised that lake. Now that's, Mr. Jewell owns the lake—

Commissioner Abell: Oh, yeah.

President Melcher: Oh, okay.

Bill Jeffers: – and Commissioner Abell visited the lake with me, and you know Mrs. Jewell¹, you know where she lives, okay. She said the water came up, the street was slow to drain last night, water came up and started to get into her yard. She was alarmed. She went down there and looked at it later, after the rain had stopped, and she described, she says that Mr. Jewell has re-introduced some gravel into the outlet and that the water was just trickling through there, rather than flowing through there as quickly as she thought it should flow. I told her that the Drainage Board had concluded its hearing and ordered the removal of the obstructions at that location and that they had been removed. That I, in fact, thought they were, it was overdone, but that I would pass the word along to the Drainage Board tonight and respond to her tomorrow with whatever directions you may give me. Whatever you want me to do, and I would tell her tomorrow what that is. Now, I will say, I was at the gym last night during the storm, and I heard it hitting the roof of the gym and I looked outside and I saw it hitting the pavement, and that's about a half a mile from Pine Lake where I go to the gym there behind the, on Congress Avenue, behind Wesselman Park, or Wesselman Woods. It rained as hard as I've ever seen it rain. So, I'm sure it rained very hard in Pine Lake as well, but, that's what I've got to say.

Ted C. Ziemer, Jr.: Is it likely, Bill, that the sediment or whatever, rocks that's been re-introduced there has flowed there from the water passing through. I mean, I can't understand that he would go out and clean it out to your satisfaction, in fact, more than your satisfaction—

Bill Jeffers: Right.

Ted C. Ziemer, Jr.: – and then turn around and put it back again.

Bill Jeffers: All I can say at this time is I can't imagine what has happened without taking a look.

Ted C. Ziemer, Jr.: Yeah, right.

¹Should be Mrs. Murray.

Bill Jeffers: He has put up “No Trespassing” signs, etcetera, so, I said I would bring it to your attention. I told Mrs. Murray that I would bring it to your attention and I would follow whatever directions you gave me.

Commissioner Abell: Sorry about that.

Bill Jeffers: My phone turns itself back on, even after I’ve turned it off it will turn itself back on.

Commissioner Abell: I’ll use that excuse.

Bill Jeffers: It’s a smart phone, and I’m not smart enough to figure it out.

Ted C. Ziemer, Jr.: It’s the smartest phone I’ve ever seen.

Commissioner Abell: Wouldn’t it be likely that maybe that water is back down now?

Bill Jeffers: That’s what I’m hoping to see. They said it was up over the docks, and then today when they came in, they said it was back down just below the, you know, it wasn’t over the top of the dock any longer, but wasn’t down as low as it had been this summer. Then, when they went to look at it, it was just trickling out. So, maybe tomorrow it will be back down to a normal level and the alarm will no longer exist.

Commissioner Abell: Well, that day you and I were out there I thought it was too low.

Bill Jeffers: It was way too low.

Commissioner Abell: It looked awful.

Bill Jeffers: Right. Hopefully, it flushed itself out last night.

President Melcher: I think we just need to give it more time.

Commissioner Abell: Yeah, like a year.

Bill Jeffers: If I’m in the neighborhood, I’ll take a look at it.

President Melcher: Okay.

Bill Jeffers: I have no other business.

Public Comment

President Melcher: Any public comment? Joe, you got any? Seeing none, we’ve got everything done. We have to sign some, that sheet. Okay, I make a motion to adjourn.

Commissioner Abell: So moved.

President Melcher: Second. All in favor say aye.

Commissioner Abell: Aye.

President Melcher: Aye.

(Motion approved 2-0)

(The meeting was adjourned at 5:41 p.m.)

Those in Attendance:

Stephen Melcher

Ted C. Ziemer, Jr.

Members of Media

Marsha Abell

Madelyn Grayson

Bill Jeffers

Others Unidentified

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY
DRAINAGE BOARD
DECEMBER 20, 2011**

The Vanderburgh County Drainage Board met in session this 20th day of December, 2011 at 6:45 p.m. in room 301 of the Civic Center Complex with President Stephen Melcher presiding.

Call to Order

President Melcher: We'll go ahead and start the Drainage Board this evening, of Vanderburgh County.

Approval of the November 15, 2011 Drainage Board Meeting Minutes

President Melcher: Do we need a motion for approval of the minutes?

Commissioner Abell: So moved.

Commissioner Winnecke: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: So be it.

(Motion approved 3-0)

Commissioner Winnecke: So be it.

President Melcher: That's right. Let it be written.

Darmstadt West II Subdivision: Final Plan

President Melcher: Go ahead, Bill.

Bill Jeffers: Okay, our next order of business, Darmstadt West Subdivision. You'll find that aerial photograph, an aerial display of that in the packet I just handed you. It's a two lot subdivision, but because it adds a cul-de-sac as a public road, it's a major subdivision and requires a drainage plan. The drainage plan has been submitted by Koester Engineering of Fort Branch, Indiana and found to be compliant with the code. The County Surveyor recommends approval of the final plan for Darmstadt West II Subdivision.

Commissioner Winnecke: Motion to approve as presented.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

President Melcher: It passes. Go ahead.

(Motion approved 3-0)

Heckel Road Commercial Subdivision: Preliminary Plan

Bill Jeffers: The other drainage plan is for Heckel Road Commercial Subdivision. It's a 17 lot commercial subdivision with a roadway through the middle. It's shown on the second display. It has a drainage plan that was presented years ago, but the preliminary plat was never recorded as a final plat, and another developer, I suppose, has taken up the cause and wishes to place a lake adjacent to the subdivision, as outlined by the blue outline. There is a lake there presently. This is an aerial photograph from 2005. We don't have any updated aerial photographs at this time. The roadway has been completed from Heckel Road up through to the soccer park. The only comments I had on this, as a preliminary plan, is that, yes, it's sufficient according to the code as a preliminary plan, and in order to become a final plan it will have to have an easement recorded around the lake, and there will have to be documents recorded into the chain of title covering the maintenance and repair of the lake and all of the structures in perpetuity by an assigned entity, hopefully an association of lot owners in the commercial subdivision. That's what I'm asking for. Other than that, it's a preliminary plan sufficient to go forward to Area Plan Commission at their next meeting, and the County Surveyor recommends approval of the preliminary plan for Heckel Road Commercial Subdivision.

Commissioner Winnecke: So moved.

Commissioner Abell: Second.

President Melcher: Okay, we have a first and second. Any other discussion?

Commissioner Abell: I have a question. Why are they building the lake? Do they need it for drainage purposes? Or are they just doing it to—

Bill Jeffers: Well, they built the lake to acquire fill.

Commissioner Abell: Oh, okay. So, it's not really a lake.

Bill Jeffers: Oh, it's a lake.

Commissioner Abell: It's a borrow pit.

Bill Jeffers: It's a pretty good...yeah, it's a borrow pit—

Commissioner Abell: Okay.

Bill Jeffers: — that is now filled up and looks like a lake, you know, to anybody fishing in it, they'll think it's a lake. So, it will have to be retrofitted to become a detention basin. It drains into the soccer park's detention lake as well. So, there's not going to be any problem, it's just a matter of long term maintenance of it, as connected to the...in other words, the 17 individual lots will not have to have individual detention lot by lot, they can all drain into that lake.

President Melcher: They will be responsible for the maintaining of the lake?

Bill Jeffers: Yes, either there will be an entity created that maintains the lake and then collects a proportioned assessment from all 17 lots, or the 17 lot owners can get together and form an association with annual dues, that kind of thing.

President Melcher: Well, you know, we've been having a lot of trouble lately—

Bill Jeffers: Yes, we have a lot of trouble.

President Melcher: That's the reason why I wanted to get it on the record tonight.

Bill Jeffers: Right. Yes, all of these things are done in the plan, and then, for some reason never seem to last more than a few years. So, yes, you're right.

Commissioner Abell: Bill, that was why I, because of the borrow pit over on the east side that we had so much problem with.

Bill Jeffers: Right, they're everywhere like that, yeah. Some worse than others.

Other Business

Bill Jeffers: Okay, I don't have any other business, unless Ted wants to discuss something that we discussed on the telephone regarding an ongoing hearing, which can be carried over into next year as far as I'm concerned at this time.

Ted C. Ziemer, Jr.: I don't want to discuss it.

Bill Jeffers: Okay, good.

President Melcher: Alright, we'll just carry it over.

Approval of Ditch Maintenance Claims

Bill Jeffers: Then, I do have a large folder of claims, almost all of which are to ditch contractors for work that has been performed in 2011, inspected, the paperwork is attached, and the County Surveyor recommends approval of all of them, including the one for Structurepointe for their ongoing construction plans and monitoring of the Eastside Urban project that's an ongoing project.

Commissioner Winnecke: Motion to approve the claims as presented.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

Public Comment

Bill Jeffers: Okay, under public comment, I've really enjoyed working with Lloyd Winnecke as, on the Drainage Board. I'll say it, I've said it before and I'll say it again, Ted Ziemer is the best County Attorney I've every worked with since 1981. I didn't work here before 1981. There is a map over here of the County Council districts. What was going on there was just a little tweaking of, for example, the State renumbered the Pigeon townships outside the city limits. They didn't like the fact that we had three, one, two. So, they renumbered them one, two, three. So, that was part of it, and there was some other things about annexation that was corrected in the order that Mr. Ziemer read to you as correct. But, if the person who turned in that original list would like to reassure himself and everyone else that we did not change anything by striking out and writing in, there's a map of the County Council districts laying over here that shows what you approved tonight. Merry Christmas.

Ted C. Ziemer, Jr.: Did you give Madelyn those?

Bill Jeffers: I'll hand it to Madelyn, along with, this is, this shows the date...oh, you already have that. I'm sorry, you've already got that. Merry Christmas.

President Melcher: Since we're talking about that, did the city, did they redo their boundaries?

Bill Jeffers: Not that I know of.

President Melcher: Okay.

Bill Jeffers: What they have the authority to do, as the City Council, as you know—

President Melcher: They'll probably do theirs next year, because I don't think you can do it in the year you run. That's probably why they didn't.

Bill Jeffers: That's why you guys had to do it this year.

President Melcher: Right. Okay, any other business to come before the Drainage Board for 2011?

Commissioner Winnecke: Motion to adjourn.

Commissioner Abell: Second.

President Melcher: All in favor say aye.

All Commissioners: Aye.

(Motion approved 3-0)

President Melcher: Thank you.

(The meeting was adjourned at 6:50 p.m.)

Those in Attendance:

Stephen Melcher

Bill Jeffers

Others Unidentified

Lloyd Winnecke

Ted C. Ziemer, Jr.

Members of Media

Marsha Abell

Madelyn Grayson

**VANDERBURGH COUNTY
DRAINAGE BOARD**

Stephen Melcher, President

(Not in office when approved.)

Lloyd Winnecke, Vice President

Marsha Abell, Member

(Recorded and transcribed by Madelyn Grayson.)